

**VERMONT SUPREME COURT
ADVISORY COMMITTEE ON RULES FOR FAMILY PROCEEDINGS**

**Minutes of Meeting on TEAMS
January 26, 2024**

The meeting was called to order by Judge Kerry McDonald-Cady. Present were Committee members: Judge Jennifer Barrett, Judge Kate Kennedy, Laura Bierley, Margaret Villeneuve, Rachel Strecker, Jessica Seamen, Ashley Harriman, Kristin Gozzi, and Susan Buckholz. Also present was Justice Nancy Waples as liaison with the Vermont Supreme Court and ex-officio member, Eddie Poff, from the Vermont Network Against Domestic Violence. Judge Amy Davenport (ret.) was present as the Reporter.

1. Approval of draft minutes of the meeting of October 20, 2023: the draft minutes were approved with abstentions from members who were not present at the meeting.
2. Status of proposed amendments:
 - a. Draft Amendment to V.R.F.P. 1(i)(2)(B) and (7) related to respectful language: The proposed rule amendment is out for comment. The comment period ends February 12, 2024. To date no comments have been received.
3. Rules related to Juvenile Proceedings
 - a. Amendment to V.R.F.P.(1)(b)(1) to provide enforcement of the requirement in the rule to provide race and ethnicity data at the time of filing a delinquency petition. Judge Davenport reported that a new version of Odyssey will be deployed in the next month or two which will have the ability to require that race and ethnicity data be entered when a criminal case is filed. The IT division is hoping that Vermont can also configure this requirement for juvenile delinquency cases. The Supreme Court's Commission on Diversity, Equity, and Inclusion supports this change.
 - b. V.R.F.P. 1(a)(3): applicability of V.R.Cr.P. 11(c)(8) advice collateral consequences to delinquency cases. At its last meeting the Committee agreed that the draft prepared by Judge Carlson and Marshall Pahl should be sent to the Family Oversight Committee with a recommendation that it be reviewed by a linguistics expert. This has not yet been done. Judge Davenport will coordinate with Marshall Pahl and Judge Carlson to send the draft colloquy to Judge Warren who is the Chair of the Family Oversight Committee.
4. Rules related to Special Immigration Juvenile Status (SIJS). See 4 V.S.A. § 33(18), 4 V.S.A. § 35, 14 V.S.A. § 3098. S.163/Act 98 which went into effect on July 1, substantially amends 14 V.S.A. § 3098 and adds a new section related to children in juvenile proceedings.
 - a. Proposed Amendment to Rule 4.1(3) Related to the Scheduling of Case Manager Conferences: The Committee discussed a draft of a proposed rule to amend Rule 4.1(3) to clarify that motions for SIJS findings should be heard and decided before a case manager conference is scheduled. The Committee decided to package this amendment with an amendment to Rule 4.1(2) related to service of process for SIJS motions. (see below)
 - b. Proposed Amendment to Rule 4.1(2) Related to Service of SIJS Motions: 14 V.S.A. § 3098(c) permits a judge to waive service pleadings that include a motion for SIJS findings. Currently the provisions in Rule 4.1(2) do not permit a waiver of service. The Committee discussed whether such a rule should outline criteria that would need to be met in order to obtain a waiver. A subcommittee was formed to work on a draft. The

subcommittee includes Judge McDonald-Cady, Judge Kennedy, Ashley Harriman, Attorney Buckholz and Judge Davenport.

5. Proposal to review Family Rules for respectful language: The Committee discussed various ways in which the rules could be reviewed for respectful language. It was decided to make a final decision on the process for the review at the Committee's April meeting. Meanwhile, Judge Davenport will send out the information from the Legislative Council that was previously distributed to the Committee.
6. Amendment to Rule 9 Related to Complaints for Extreme Risk Protection: At the Committee's October meeting, Attorney Ellwood on behalf of the Family Oversight Committee, requested that the Committee make certain provisions related to the confidentiality of contact information applicable to Extreme Risk Protection Orders (ERPOs). 13 V.S.A. § 4052 provides that jurisdiction for the issuance of an ERPO lies with the Family Division. 13 V.S.A. § 4052 provides that proceedings for the issuance of an ERPO "be in accordance with Vermont Family Rules." The statute does not specify a particular rule. The Committee discussed the fact that the process for the issuance of an ERPO is very similar to the process for issuing an RFA order under Rule 9 and much of Rule 9 is probably applicable. A subcommittee to review the applicability of the provisions of Rule 9 to ERPO proceedings was formed. It includes: Judge McDonald-Cady, Rachel Strecker, Sue Buckholz, Laura Bierly, Judge Davenport and Kristin Gozzi.
7. New Business:
 - a. Amendment to Remove V.R.F.P. 15(i): Rule 15(i) requires attorneys to include their eCabinet registration number (ERN) on any filing that constitutes a first appearance. With the advent of Odyssey, ERNs are obsolete. The Committee considered a draft amendment to Rule 15 eliminating this provision and voted unanimously to recommend to the Supreme Court that it be circulated for comment.
 - b. Amendment to Rule 4.2(e) Related to Venue for Post-Judgment Motions: The Court Users Group (CUG) and the Change Advisory Board for the Court's IT Division has requested that the Family Rules Committee consider an amendment to the venue provisions for post-judgment motions to accommodate changes in the system due to the advent of the Odyssey case management system. The current rule allows a litigant to file a motion in a county other than the county where the original judgment was issued unless the opposing party still resides in the original county or neither party is a resident of the state. The framework of the new e-filing system requires a change of venue to be filed in the original county in order for a case to move to another county, but the current rule does not require this. It was decided that this issue be placed on the agenda for discussion at the April meeting.
 - c. Amendment to Rule 4.2(f): Attorney Strecker requested that the Committee also consider an amendment to Rule 4.2(f) to require the scheduling of an automatic child support hearing not only in cases where physical responsibility has been modified, but also in cases where the extent of physical contact has been modified. This issue will also be on the agenda at the April meeting for discussion.
8. 2024 Meeting Schedule: Committee agreed to change the April meeting to April 19. The July and October meetings will remain the same. The schedule will be: April 19; July 19; October 25.
9. The meeting adjourned at 2:50 p.m.