

**VERMONT SUPREME COURT
ADVISORY COMMITTEE ON THE RULES OF EVIDENCE
JANUARY 24, 2025 MINUTES**

The Vermont Advisory Committee on the Rules of Evidence held a virtual meeting on January 24, 2025 at 2:00 p.m. via Microsoft Teams. The following members were present at the meeting: Mimi Brill, Dickson Corbett, Michelle Donnelly, John Evers, Cristina Mansfield, Pamela Marsh, Liz Miller, Beth Novotny, and Ian Sullivan. The following member of the public was present: Maia Young.

Minutes. The minutes from the September 2024 meeting were approved.

Membership. Attorney McAndrew declined to be reappointed to the committee, and a new member will be needed to take her place. Professor Rushlow also resigned as reporter, and a new reporter will need to be appointed. The committee thanked Atty. McAndrew and Prof. Rushlow for their long and valued service to the committee. The committee furthermore agreed that the process for selecting a new member should involve (1) Judge Corbett reaching out to attorneys who were previously nominated for appointment to the committee and asking them if they wished to be nominated again and (2) a public solicitation for recruitment of interested candidates.

Old Business

Amendments to V.R.E. 502, Lawyer Referral Privilege. The Vermont Supreme Court issued a proposed order for public comment, and no public comments were received by the deadline. Judge Corbett also presented the proposed order to LCAR, who had no substantive comments. Judge Marsh moved to submit the proposed rule to the Vermont Supreme Court for promulgation without further revisions, and Atty. Miller seconded the motion. The motion passed unanimously.

Amendments to V.R.E. 106, Rule of Completeness. Judge Corbett reported that the proposed amendment was submitted to the Vermont Supreme Court to publish for public comment. The next action step will be to receive any public comments, receive any comments from LCJR, and then consider whether to recommend the rule for promulgation.

Amendments to V.R.E. 615, Exclusion of Witnesses. Federal Rule 615 has been amended to clarify that judges have authority to prohibit trial counsel from disclosing trial testimony to sequestered witnesses. The committee has been discussing whether Vermont Rule 615 should be amended as well. At the September 2024 meeting, a draft was prepared and circulated for comment. At the January 2025 meeting, the draft continued to generate comment, with concern as to whether the proposed language would be understood (or misunderstood) as affecting trial preparation or applying to conversations that take place after a hearing (or during an adjourned hearing, such as a multi-day hearing where the first day and second day of the hearing are separated by days, weeks, or months). It was suggested that this concern could perhaps be addressed in a reporter's note—along with additional clarification as to whether expert witness should be expressly excluded from sequestration orders. Judge Corbett agreed to draft a proposed reporter's note for consideration at the next meeting.

Amendments to V.R.E. 702, Expert Opinion. Federal Rule 702 has been amended, and the committee has considered several times whether Vermont Rule 702 should be likewise amended. It remained the view of the committee that the federal amendment does not change the standard and that no amendment to the Vermont Rule is necessary at this time.

New Business

No new proposed amendments were considered.

Public Comment

V.R.E .403, Introduction of Lyrics and Black Expression as Evidence. Maia Young presented to the committee again about her work on the courtroom uses of lyrics and other forms of Black expression as character evidence. The committee received the information and thanked Ms. Young for the presentation.

Adjourned. The next meeting of the committee will take place on May 16, 2025, at 2:00 p.m. via Microsoft Teams.