

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

**Minutes of Meeting on TEAMS  
July 11, 2025**

The meeting was called to order by Judge McDonald-Cady. Present were Committee members: Judge Jennifer Barrett, Judge Justin Jiron, Magistrate Barry Peterson, Rachel Streker, Laura Bierley, Kyle Hatt, Ashley Harriman, Marshall Pahl, Emily Zukauskas, Nate Hine, and Susan Ellwood. Also present was Justice Nancy Waples, liaison to 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. Membership Update: Judge McDonald-Cady informed the Committee that Sue Buckholz had tendered her resignation to the Supreme Court. The Court has sent Judge McDonald-Cady names of attorneys interested in being on the Committee. Judge McDonald-Cady will review the names and report on potential candidates at the October meeting. She also encouraged current members to submit names of possible candidates directly to her via email.
2. Approval of draft minutes of the meeting of April 25, 2025: The draft minutes were unanimously approved.
3. Status of proposed amendments:
  - a. Amendment to Rule 4.2(e) Related to Venue for Post-Judgment Motions: Pursuant to the Committee's request, the Supreme Court promulgated the proposed amendment to Rule 4.2(e) related to venue for post-judgment motions on November 6, 2024, as an emergency rule. The Committee reviewed a new draft amending the emergency rule to address an issue raised by Kyle Hatt in January regarding whether a moving party should have the ability to request a venue change to the county where the non-moving party resides if the moving party's address is confidential and the parties both reside in Vermont in counties other than the county that last heard the matter. The Committee discussed a revised draft based on suggestions at the April meeting which included minor changes to the proposed final rule and some additions to the Reporter's Notes. The revised draft was unanimously approved and the Committee voted to recommend promulgation to the Supreme Court. The Committee did not take a position on whether the proposed final rule should be sent out for comment given the proposed changes to the temporary rule. It was also noted that an additional section should be added to the post-judgment motion form requiring an affirmation by the moving party in cases where neither party resides in the county that last heard the matter. Judge Davenport will send a letter to the chair of the Family Oversight Committee.
  - b. Amendment to Rule 17(f) related to hybrid proceedings. The amendment to Rule 17(f) incorporates proceedings related to abuse maltreatment prevention for vulnerable adults (33 V.S.A. §§ 6931-694) into the rule that allows RFA proceedings to be hybrid unless otherwise ordered by the court. The amendment was sent out for comment by the Supreme Court. Comments were due by May 12, 2025. The amendment was also favorably reviewed

by the Legislative Committee on Judicial Rules on March 28, 2025. Judge McDonald-Cady reported that she had received no comments. The Committee voted unanimously to recommend to the Supreme Court that the amendment to Rule 17(f) be promulgated.

- c. Amendment to V.R.F.P. 1(b)(3) to allow the issuance of temporary conditions of release in delinquency proceedings prior to a preliminary hearing. Rule 1 does not currently authorize the issuance of conditions of release prior to a preliminary hearing. V.R.Cr.P. 5(b) which permits the issuance of conditions of release in a criminal proceeding prior to a preliminary hearing, is not applicable to delinquency proceedings pursuant to Rule 1(a)(1). The proposed amendment was sent out for comment by the Supreme Court. Comments were due by July 7, 2025. Judge McDonald-Cady reported that she had received no comments other than on an oral comment from Judge Kalfus that the amendment cover YO proceedings as well as delinquency proceedings. It was pointed out that the amendment would be applicable to youthful offenders through Rule 1.1(a). The Committee voted unanimously to approve the rule as it was sent out for comment and to recommend to the Supreme Court that it be promulgated.
  - d. V.R.F.P. 19 - Proposed Rule for Extreme Risk Protection Orders (ERPO): The proposed rule was sent out for comment by the Supreme Court. Comments are due by July 7, 2025. Judge McDonald-Cady reported that she had received no comments on the proposed rule. The Committee voted unanimously to approve the rule as it was sent out for comment and to recommend to the Supreme Court that it be promulgated.
4. Amendment to Rule 9(c) related to the issuance of ex parte temporary relief from abuse orders: The last sentence of this RFA rule entitles a plaintiff, prior to a denial by the court of motion for an ex parte temporary RFA, to present evidence to the court if the court decides there is insufficient evidence for the temporary order. Based on the discussion at the April meeting, the Committee reviewed a draft amendment that would instead allow the court to request supplemental information in appropriate cases. The committee voted unanimously to approve the draft amendment to the rule and recommend to the Supreme Court that it be sent out for comment.
  5. Amendment to Rules 2 and 3 related to the testimony of children. The Committee reviewed a draft amendment to Rule 2 prepared by the subcommittee (Ashley Harriman, Marshall Pahl, Judge Kennedy and Nate Hine). After a lively discussion which included questions about the impact of the rule on decisions on the determination of the competency of child witnesses, whether court rules and statutes should encourage the presence of children in court, and whether Rule 7 should apply to all child witnesses as opposed to applying only to children who are the subject of the proceeding, it was agreed that the subcommittee would meet to consider the point raised and prepare a new draft for the October meeting. Suggestions about a possible amendment to Rule 7 related to child witnesses in divorce/parentage proceedings will be included in the list of future projects.
  6. Applicability of V.R.Cr.P. 41.1 (Non-Testimonial Orders) to Juvenile Proceedings. Judge McDonald-Cady reported on a joint meeting on May 23 between the Committee's NTO subcommittee (Judge McDonald- Cady, Marshall Pahl, Emily Zukauskas and Judge Davenport) and a subcommittee from the Criminal Rules Committee. The Criminal Rules Committee has requested that this Committee draft an NTO rule applicable to juvenile

proceedings to replace V.R.Cr.P. 41.1(n) which governs the procedure for obtaining an NTO in a case pertaining to a person who are or may be charged as a delinquent child. It was agreed that the Subcommittee will meet to draft a rule that will be reviewed by the Committee and proposed to the Criminal Rules Committee.

7. Proposal to Amend Rule 16(c)(4)(D)(i) related to the scheduling of review hearings in child support contempt proceedings once a mittimus is issued: This rule requires the court to schedule a review hearing every 14 days when a child support obligor is incarcerated on a mittimus. The purpose of the hearing is to consider whether the obligor has the ability to pay the purge amount. 15 V.S.A. § 603 (h)(4)(A) requires a review hearing every 15 days in identical circumstances. The rule was amended in 2018 to change the scheduling of a review hearing from 15 days to 14 days consistent with the simultaneous 2018 amendment to V.R.C.P. 6 adopting the “day-is-a-day” counting system from the federal rules. (See Reporter’s Notes - 2018 Amendment). Judge Davenport reported that she had had a discussion with Emily Wetherell, the Deputy Clerk for the Supreme Court, who suggested that in lieu of revising the rule, the Court could request that the statute be amended in the 2026 Miscellaneous Judiciary legislation so that the statute and the rule would be consistent with V.R.C.P. 6. The Committee agreed to postpone further discussion of a change in the rule.
8. Amendment to V.R.F.P. 4.3(b)(2)(C) to resolve inconsistency between the rule and 15 V.S.A. § 783 with respect to the scheduling of wage withholding petitions. This matter was postponed as Judge Davenport is still working on a revised draft.
9. Amendment to Rule 4.2(f) to require an automatic scheduling of a child support hearing when the extent of parent-child contact is modified: This matter was postponed since the subcommittee (Mag. Peterson, Kyle Hatt (replacing Jessica Semen), Rachel Strecker and Judge Davenport as Reporter) has not had a chance to meet yet. The Subcommittee to report on progress at the October meeting.
10. Future Projects: The following projects have been on hold due to the amount of other work before the Committee:
  - a. Proposal to review Family Rules for respectful language. Judge McDonald-Cady will review the rules to determine the size and scope of the project.
  - b. Proposal to Amend Rule 7(d) related to child witnesses in divorce/parentage proceedings.
11. 2025 Meeting Schedule: The October meeting is scheduled for Friday, October 24. Judge Davenport will send out proposed dates for 2026.
12. The meeting adjourned at 3:10 p.m.