

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

**Minutes of Meeting on TEAMS
October 24, 2025**

The meeting was called to order by Judge McDonald-Cady. Present were Committee members: Judge Jennifer Barrett, Judge Justin Jiron, Magistrate Barry Peterson, Maggie Villeneuve, Laura Bierley, Kyle Hatt, Ashley Harriman, Emily Zukauskas, Nate Hine, Sharon Gentry 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 the Supreme Court has appointed Attorney Breanna Weaver to replace Sue Buckholz on the Committee. Attorney Weaver was unable to participate in today's meeting. She expects to be on maternity leave at the beginning of the year so may not be able to join the Committee until the April meeting.
2. Approval of draft minutes from the July 11, 2025 meeting: the draft minutes were unanimously approved.
3. Status of proposed amendments:
 - a. 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. At the July 11 meeting, the Committee approved the amendment to Rule 9(c) and voted to recommend to the Supreme Court that it be sent out for comment. Comments were due October 3. Judge McDonald-Cady reported that she had received no comments. Committee voted to recommend promulgation to the Supreme Court.
 - b. Amendment to Rule 4.2(e) Related to Venue for Post-Judgment Motions: Pursuant to the Committee's request, the Supreme Court promulgated a proposed amendment to Rule 4.2(e) related to venue for post-judgment motions on November 6, 2024, as an emergency rule. On July 11, the Committee voted to approve a further amendment to the rule and to recommend to the Supreme Court that it be promulgated. The Supreme Court sent the new proposal of amendment out for comment. Comments were due on October 3. Judge McDonald-Cady reported that she had received no comments. Committee voted to recommend promulgation to the Supreme Court.
 - c. 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 favorably reviewed by the Legislative Committee on Judicial Rules on March 28, 2025. On July 11, the Committee voted to propose promulgation to the Supreme Court. The Supreme Court promulgated the amendment on August 4 with an effective date of January 1, 2026.

- d. 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. The proposed amendment was sent out for comment by the Supreme Court. Comments were due by July 7, 2025. On July 11, the Committee voted to propose promulgation to the Supreme Court. The Supreme Court promulgated the amendment on August 4 with an effective date of January 1, 2026.
- e. 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 were due by July 7, 2025. On July 11, the Committee voted to propose promulgation to the Supreme Court. The Supreme Court promulgated the new rule on August 4 with an effective date of January 1, 2026.
4. 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). Another lively discussion ensued with focus on three issues: (1) whether the filing should be a motion or simply a notice to the court that the party intends to call a child as a witness (the current draft contemplates a motion); (2) whether the motion or notice be set for a hearing or a status conference (the current draft contemplates either); and (3) whether the party calling the child be required to first establish the three factors required in domestic proceedings, i.e., that the testimony of the child is necessary to assist the court in determining the issue before it; that the evidence sought is not reasonably available by any other means; and that the probative value of the testimony outweighs the potential detriment to the child from being called as a witness. See V.R.F.P. 7(d)(2). Members expressed a concern that in a CHINS or TPR proceeding, the parents might seek to call a child as a witness in order to intimidate the child. The subcommittee will meet to discuss these issues. J. Barrett, Susan Ellwood, J. Waples and Kyle Hatt indicated interest in participating in the subcommittee discussion.
5. Applicability of V.R.Cr.P. 41.1 (Non-Testimonial Orders) to Juvenile Proceedings. 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 is or may be charged as a delinquent child. Judge McDonald-Cady reported that the NTO subcommittee (Judge McDonald- Cady, Marshall Pahl, Emily Zukauskas and Judge Davenport) has met once following the joint meeting with the Criminal Rules Committee to discuss how to proceed. The subcommittee has concluded that the best way to proceed is to recommend an amendment to Criminal Rule 41.1 to the Criminal Rules Committee and is currently discussing some draft suggestions by a subcommittee of the Criminal Rules Committee. The draft raises a number of issues including whether an attorney should be appointed for the juvenile. The NTO subcommittee will meet again to work on a proposal for the review of the full Committee.
6. 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. A subcommittee (Mag. Peterson, Kyle Hatt and Judge Davenport) continues to work on an amendment to Rule 4.3(b)(2). A draft proposal should be ready for review by the full Committee at the January meeting.
7. 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: Mag Peterson reported that the subcommittee has concluded that a rule change was not necessary or feasible. The Subcommittee recommends, however, that judges should be reminded to indicate that a child support hearing should be scheduled when physical PRR is modified or when there is a significant change in parent child contact. In addition, litigants should be notified on the court form that they can request a review of the child

support calculation when there is a change in PCC. OCS can provide this service free of charge. Magistrate Peterson will ask Judge Valente to incorporate this issue into the curriculum for Judicial College. Susan Ellwood will propose an addition to the form for PRR/PCC modification motions to the Family Oversight Committee.

8. 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.
9. On Hold:
 - a. 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: The proposed amendment to align the rule with the statute with respect to scheduling a hearing is on hold pending potential legislative action to amend the statute.
10. 2025 Meeting Schedule: The Committee unanimously approved the proposed schedule for Committee meetings in 2026: January 23, April 24, July 17 and October 23.
11. The meeting adjourned at 3:01 p.m.