

**VERMONT SUPREME COURT
ADVISORY COMMITTEE ON RULES OF
PROBATE PROCEDURE**

Minutes of Meeting

November 13, 2025

The meeting was called to order at 2:05 p.m. on Teams by Hon. Kathryn Kennedy, Chair. Present virtually were Livia DeMarchis, Esq., Register Terri Deuso, Matthew Getty, Esq., Mark Langan, Esq., Hon. Pamela Marsh, Amy Menard, Esq., Justin Sheng, Esq., Chasity Stoots-Fonberg, Esq., Also present were Hon. William Cohen, Vermont Supreme Court liaison, and Hon. Joanne M. Ertel (ret.), Reporter. Terri Corsones, Esq. and Hon. Fred Glover joined the meeting at 2:30 p.m.

1. Minutes of the meeting on September 25, 2025 - The draft minutes of the meeting were approved unanimously by the voting members.

2. Continuing Matters
 - a. V.R.P.P. 80.3 - There have been no comments to the proposed emergency amendment. The comment period ends on December 6, 2025, and the amendment will be promulgated on January 1, 2026.
 - b. V.R.P.P. 54 - The proposed amendment was promulgated on October 6, 2025, and will become effective on January 1, 2026.
 - c. V.R.P.P. 13 - The comment period ends on December 6, 2025. To date, there have been no comments.
 - d. V.R.P.P. 4 - The comment period ended on November 1, 2025, and the committee has received no comments. The voting member of the committee voted unanimously to recommend the proposed amendment for promulgation.
 - e. V.R.P.P. 80.4 - The subcommittee looking at the rule has not met again. Ms. Deuso noted that the number of wills being filed for safekeeping in Franklin County has risen significantly. Ms. Menard indicated that the Vermont Bar Association is not in favor of attorneys keeping original wills. Mr. Langan noted that large Vermont firms still keep original wills. Ms. Menard believes that is neither fair nor sustainable in the long term for courts to be the repository for wills. However, in the meantime, procedural structure for filing wills for safekeeping needs to be in place. Ms. Deuso indicated that current procedures for accepting wills for safekeeping are inconsistent among the courts. In Franklin County, if the testator provides inadequate information when filing the will, Ms. Deuso will retain the will but seek the information. In some other counties, the Register will send the will back and ask that it be returned with completed information. Harry Parker, Esq. will be joining the subcommittee.

3. New Business
 - a. Standby guardianships - Ms. Menard who is a member of the subcommittee looking at the need for a rule attended a CLE that was very informative about the practice. She will

circulate the video to members of the committee. She will also contact Vermont Legal Aid, who was the CLE presenter, about their experience with the statute. Mr. Sheng suggested that a rule may need to coordinate communication between the probate and family divisions. It is certainly foreseeable that a minor might be taken into DCF custody at the outset before the standby guardianship is triggered. Judge Kennedy, who serves on the Family Court Rules Advisory Committee, will ask that committee if they believe a joint rule would be beneficial.

b. Abrogation of spendthrift statute, 14 V.S.A. § 2681-2693 - Ms. Corsones indicated that it was a good time to raise the issue because the Court Administrator's Office is compiling a list of statutes to be placed in a miscellaneous bill for the legislature to address. In response to Judge Kennedy's request that the legislative counsel look at the statute, Ms. Corsones indicated that she would speak with Erik Fitzpatrick who serves on the Vermont Legislative Counsel about the best approach to abrogation.

Judge Kennedy may start a running list of statutes that need changes as issues arise. Judge Glover read a timely email that he just received from Judge Zonay asking all relevant committees if they had identified bills that they would like introduced to the legislature.

c. V.R.P.P. 60(c) - Judge Glover suggested a one word change to the rule. The rule currently requires a motion to amend to be "served not later than 14 days after entry of the judgment." He suggested that it be amended to "filed not later than 14 days after entry of the judgment" which would make the rule consistent with V.R.C.P. 60(c). The voting members of the committee voted unanimously to recommend the change to the Vermont Supreme Court at their December administrative meeting.

d. Financial guardianships - Judge Kilgore has raised an issue of potential confusion in financial guardianships over social security income. In his experience, when the respondent's sole source of income is social security, the payee may be someone other than the financial guardian. In such cases, the so-called financial guardian is not actually in possession of any financial information. Judge Marsh suggested that the issue might be resolved through a form change. As she is a member of the Probate Oversight Committee, she will raise the issue at their next meeting.

e. 14 V.S.A. § 658(e) - Ms. Deuso has identified a conflict between the statute and a directive from the Court Administrator's Office. The plain language of the statute directs the Probate Division to notify the Office of Child Support of a consent to adoption. The Court Administrator's office has directed the Probate Division not to notify the Office of Child Support. Ms. Corsones recalls that the Oversight Committee had recommended that the statute be amended to eliminate the requirement that notice be sent to the Office of Child Support. Ms. Deuso and Judge Marsh do not believe that consents need to be sent to the Family Division because the consent does not terminate payment of child support. Ms. Corsones will re-examine the issue.

Other business

Judge Kennedy advised the committee that Harry Parker, Jr., Esq. has agreed to replace Michael Gawne, Esq. as a member.

Mr. Sheng advised that his term expires in December so that a new member will need to be appointed to replace him. Judge Kennedy thanked him for his service.

Ms. DeMarchis' advised that her term expires in January and she would like to be re-appointed.

5. Next meeting

The Committee's next meeting will occur on February 5, 2026.

The meeting adjourned at 3:27 p.m.

Respectfully submitted,

Hon. Joanne M. Ertel (ret.),
Reporter