

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

2025 Annual Report

I. Summary

The Advisory Committee on the Rules of Probate Procedure submits this report to the Vermont Supreme Court pursuant to Administrative Order No. 24, section 4. This report covers the Committee's activities for the calendar year 2025, including all the rules that became effective in 2025. The Committee met five times, on January 30, 2025, April 24, 2025, June 26, 2025, September 25, 2025, and November 13, 2025, to consider amendments or other issues pertaining to the Vermont Rules of Probate Procedure.

During the year the following new appointments were made to the Committee:
Hon. Pamela Marsh succeeded Hon. Jeffrey Kilgore as a designated probate judge.
Register Terri Deuso succeeded Register Bee Hesselbach as a designated Register.
Livia DeMarchis, Esq. succeeded Daniel Kimbell as the designated Trust Officer.
Chasity Stoots-Fonberg, Esq. was appointed as the designated Superior Court Clerk pursuant to the amendment to section 1 of Administrative Order 24 to add a Superior Court Clerk to the Committee. Harry Parker, Esq. succeeded Michael Gawne, Esq. as a member at large.

II. Amendments Promulgated by the Court on the Committee's Recommendation

The following rule amendments were promulgated by the Court during the year:

Rule 3(a) and (b)(3) - Rule 3(a) was amended to include references to alternatives to service upon all interested persons. Rule 3(b)(3) was amended to conform to 14 V.S.A. § 107 which provides that a will may be allowed without notice to all interested persons if the heirs at law and surviving spouse consent. The Order was promulgated on May 6, 2025, effective January 1, 2026.

Rule 54(a)- Rule 54(a) was amended to provide a list of probate orders and decrees that are appealable to the Civil Division. Due to the nature of the probate proceedings, many interim orders are final as to the subject matter and the inability to appeal immediately might result in irreparable harm. The list is not necessarily inclusive but provides guidance to the courts and to the litigants as to which orders are immediately appealable. Prior to this amendment, appealable probate orders were defined by case law. The order was promulgated on October 6, 2025, effective January 1, 2026.

Rule 80.3(g) - Rule 80.3(g) was amended to correct inaccurate cross references. The order was promulgated on October 6, 2025, effective January 1, 2026.

III. Rules Awaiting Promulgation

As of January 1, 2026, the following rule amendments had been recommended for promulgation but not yet acted upon by the Supreme Court:

Rule 4(d)-(h) - The amendment was sent out to the Vermont Bar Association for comment. The comment period ended on November 1, 2025, and no comments were received. The Committee voted unanimously to recommend the amendment for promulgation at the meeting held on November 13, 2025. The Committee anticipates promulgation of the amendment in early 2026.

IV. Pending Proposed Rules

As of January 1, 2026, the following proposed rule changes had been sent out for public comment but not yet acted upon by the Committee:

Rule 13 - This amendment re-organizes the rule relating to rights and allowances for a surviving spouse and minor children in an estate proceeding. The amendment separates the rights of the children and surviving spouse and provides timeframes for election of the various rights. As the homestead interest found at 27 V.S.A. § 105 differs from the other rights found in 14 V.S.A. §§ 316-319, it has been set out separately. Although there is no timeframe identified for the exercise of the homestead right, in the absence of legislative action, the Committee decided to include a timeframe to provide both for efficient administration of estates and also closure. The comment period for the amendment ended on December 6, 2025. As of the November 13 meeting, there had been no comments.

Rule 60(c) - This amendment replaces the word “served” with the word “filed” to clarify that the deadline for filing a motion to alter or amend a judgment is met by filing with the court. The language provides consistency with V.R.C.P. 59(e). At its meeting held on November 13, 2025, the Committee voted unanimously to recommend that the amendment be sent out for comment. Comments are due by February 4, 2026.

IV. Suggestions Referred to Other Entities

During the course of the year the Committee received a number of suggestions that the Committee determined were better addressed either by statutory change by the legislature or by form change by the Probate Oversight Committee. These suggestions included abrogation of the spendthrift statute which the Committee will recommend to

the Vermont Supreme Court for inclusion in a miscellaneous bill. The Committee also considered a potential source of confusion in financial guardianships wherein the guardian and the payee of the respondent's social security income differed. The Probate Rules Committee was going to recommend a form change to the Oversight Committee. A Committee member identified a conflict between a directive from the Court Administrator's Office and 14 V.S.A. § 658 regarding whether notice of consent to adoption needed to be filed with the Office of Child Support. Teri Corsones agreed to look into the issue.

V. Matters Remaining on the Committee's Agenda

Rule 4(d)-(h) - As of the end of 2025, the Committee was awaiting the Vermont Supreme Court's decision on promulgation.

Rule 60(c) - As of the end of 2025, the Committee was awaiting the Vermont Supreme Court's decision on promulgation.

Rule 80.4 - A subcommittee of the Advisory Committee is studying the need for a procedural structure for the filing of wills for safekeeping with the probate division.

Standby guardianships, 14 V.S.A. § 2622 - A subcommittee is studying the need for a rule that provides structure for the newly promulgated statute that creates standby guardianships for parents who may face deportation. Among the considerations is whether there needs to be a joint rule that addresses both family and probate division involvement.

In closing, the Committee wishes to thank all the members of the Vermont bench and bar, the members of the Legislative Committee on Judicial Rules, the Court Administrator, Therese Corsones, Esq., Deb Laferriere, Emily Wetherell, Esq. and others who have participated in the rule-making process through their thoughtful suggestions, comments, and assistance. The Committee also wishes to thank Justin Sheng, Esq., Hon. Fred Glover, Daniel Kimbell, Michael Gawne, Esq. and Daniel Kimbell for their valued service as members. Finally, the Committee also wishes to thank Hon. William Cohen for his service as the Supreme Court liaison.

Respectfully submitted,

Hon. Kathryn A.C. Kennedy, Chair
Hon. Joanne M. Ertel (ret.), Reporter