

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

**Minutes of Meeting
February 5, 2026**

The meeting was called to order at 2:00 p.m. on Teams by Hon. Kathryn Kennedy, Chair. Present virtually were Livia DeMarchis, Esq., Register Terri Deuso, Danielle Fogarty, Esq., Matthew Getty, Esq., Mark Langan, Esq., Hon. Pamela Marsh, Amy Menard, Esq., Harry Parker, Esq., Chasity Stoots-Fonberg, Esq. Also present was Hon. Joanne M. Ertel, Reporter.

1. Preliminary Matters

Judge Kennedy asked whether anyone else could assume scheduling the meeting on Teams. Mr. Langan offered because he has a computer savvy assistant.

The newest member of the Committee, Harry Parker, Esq., was introduced to the Committee.

Hon. Annette Lorraine, the Caledonia Probate Judge, has been recommended to join the committee.

Judge Kennedy has not yet been informed who the new Supreme Court liaison to the committee will be.

2. Minutes of Meeting on November 23, 2025 - After a couple of minor corrections, the minutes of the meeting were approved unanimously by those who were present.

3. Continuing Matters

a. V.R.P.P. 13 - The comment period ended on December 6, 2025, and the committee received no comments. The committee voted unanimously to recommend the rule amendment to the Supreme Court for promulgation.

b. V.R.P.P. 60(c) - The comment period ended on February 4, 2026. The committee has received no comments. The committee voted unanimously to recommend the rule amendment to the Supreme Court for promulgation.

c. V.R.P.P. 80.4 - Judge Kennedy reported on behalf of the subcommittee. An issue identified was whether Registers are or should be looking to see if a will is on file when a petition is filed. Mr. Getty wondered if someone prepares a new will and leaves a former will on

file with the probate division, will the Register check to see if there is an old will. Mr. Parker emphasized the importance of checking for wills by relaying an anecdotal story in which a fiduciary was appointed on an intestate despite the fact that a will was on file with the court which would have achieved a different result. According to Ms. Deuso, not all registers will check for wills when a petition is filed. Ms. Deuso suggested that there should be a statewide index for all wills filed. If wills were filed after the introduction of VTADS to the probate court, they were transferred to Odyssey and there should be an electronic record. Some courts file wills by dates and some file wills by name. The subcommittee considered whether any rule amendment should distinguish between the custodian of a will by a named executor from the custodian of a will who is not the named executor. Everyone agreed that there should be consistency among the probate divisions and thought that an informal survey of the practices of court operation managers and registers would be helpful. Finally, the committee believes that V.R.P.P. 80.4(b) could benefit from further delineation.

c. Standby guardianships - It is Judge Kennedy's ongoing understanding that no standby guardianships have been filed. Ms. Menard indicated that the subcommittee has not met and wondered if it is premature to draft a rule for a statute that hasn't been implemented. Both Addison and Franklin probate divisions have noticed a decline in the number of petitions for a guardianship for a non-citizen vulnerable child. Mr. Parker suggested that Jill Martin Diaz, director of the Vermont Asylum Assistance Project, might be a good resource on the current status of standby guardianships. Legal Aid was also suggested as a resource.

d. Spendthrift guardianships - Ms. Corsones was not present to report on the status of the abrogation of spendthrift guardianships. The committee discussed whether there was any need for such a statute or whether there had been any use of the statute. No one on the committee had experience or familiarity with a spendthrift guardianship. While members could envision scenarios where it might be appropriate, the issue can be addressed through a limited financial guardianship or a spendthrift trust. Mr. Getty reminded the committee that parts of the statute had been repealed and only a few anachronistic provisions remain. Ultimately, the committee agreed that abrogation of the statute was appropriate, and Judge Kennedy will convey the committee's opinion to Ms. Corsones.

e. 15 V.S.A. § 658(e) - Ms. Corsones was not present to report on any resolution of the issue raised by Ms. Deuso at the November meeting with respect to the implementation of 15 V.S.A. § 658(e). The statute requires the probate division to provide notice of consent to adoption to the Office of Child Support. However, the probate division has been recently directed not to send any such notice in apparent contravention of the statute. The question has also arisen over when the child support obligation terminates after a consent to adoption. The committee decided that it was a statutory issue that the rules committee could not address. Mr. Langan offered to reach out to the chair of the family law section of the Vermont Bar Association.

4. New matters

a. Legislative Rules Committee Meeting - Judge Kennedy reported that the Committee considered the amendments to Rules 54, 60(c) and 13 at its meeting on December 12, 2025. While the committee had a few questions, the committee had no objection to promulgation of any of the rules.

b. Confidentiality of emancipation proceedings - Mr. Langan noted that there can be tension regarding ownership of a minor's income. Judges Kennedy and Marsh believe that there should be some level of confidentiality in emancipation proceedings. Judge Kennedy does not think that the proceeding should be sealed entirely because emancipated minors who are applying to college may need to provide proof of emancipation. Ms. Fogarty and Mr. Parker queried whether confidentiality of emancipation proceedings would be better addressed by statute than by rule. It was noted that the confidentiality of evaluations in involuntary guardianships is addressed in the statute. Judge Kennedy will report back to the Public Access Committee that the Rules Committee believes that there should be some level of confidentiality in emancipation proceedings but that it should be addressed by statute.

5. Other business - The committee discussed who to recommend as a new attorney member on the committee. It was decided that Judge Kennedy would recommend Damian DiNicola, Esq., Hethba Fatnassi, Esq., Sarah Haselton, Esq., and Mark Melendy, Esq.

Mr. Getty asked if the committee were interested in creating a streamlined estate procedure when a creditor petitions to open an estate because the heirs have no interest and the only asset is real estate. The committee did not perceive any need for a change.

6. Next meeting - The Reporter will circulate potential dates for a next meeting in early May.

The meeting adjourned at 4:08 p.m.

Respectfully submitted,

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