

VERMONT SUPREME COURT
SPECIAL ADVISORY COMMITTEE ON REMOTE HEARINGS

Meeting Minutes – December 2, 2022

Committee Chair Scott Griffith called the meeting to order at 12:03 p.m. via Teams. Members present included Cedric Baele, Ashley Beach, Julie Bronson, Justice William Cohen, Amelia Darrow, Roger Garrity, Maegan Hubbard, David Koeninger, Laura LaRosa, Marshall Pahl, Marcia Schels, Judge Timothy Tomasi, Judge Helen Toor, and Margaret Villeneuve. Court Administrator's Office staff Andrew Campbell and Jessica Van Buren were also present, as was Supreme Court Deputy Clerk Emily Wetherell.

I. Welcome and Approval of October 4, 2022 Meeting Minutes

Scott Griffith called for a motion to accept the October 4, 2022 meeting minutes. Amelia Darrow moved to accept the minutes and Marshall Pahl seconded. Scott called for discussion. Hearing none, the minutes were considered accepted and approved.

II. Update on Committee Report to Supreme Court

Scott reported that he submitted the Advisory Committee's Report to the Supreme Court last month. The Court asked Scott to make edits to the Committee's charge and designation based on recommendations in the report. The Court will consider the revised charge and designation at their December 12 Administrative Meeting.

III. Update on Proposed Rule Amendments

Emily Wetherell reviewed the memo sent to Committee members November 23 regarding proposed changes to V.R.C.P. 43.1 and V.R.F.P. 17.

a. V.R.C.P. 43.1

Judge Toor suggested removing the two introductory sentences in (d). She also suggested changes to (d)(1)(A), replacing "good cause" with "due consideration" in the case of standing orders. Judge Toor further suggested changes to (d)(2)(B), changing "required" to "required or permitted."

Ms. Wetherell pointed out there is inconsistency between the language in V.R.C.P. 43.1(j) regarding stalking and V.R.F.P. 17(e) regarding abuse prevention. Committee members agreed the language should be consistent. Judge Toor suggested using the language in V.R.C.P. 43.1(j) rather than V.R.F.P. 17(e). Judge Tomasi suggested removing the words "with permitted participation by video or audio conference" in (j).

Judge Toor suggested adding a new (j) to state "jury selection shall be governed by the provisions of this rule applicable to evidentiary proceedings."

Judge Toor moved to accept the amendments of the Civil Rules Committee and the four changes discussed by the Committee. Judge Tomasi seconded. The motion passed unanimously.

Ms. Wetherell will send out a revised draft incorporating the changes from today's meeting. Any objections must be sent to Ms. Wetherell by email before noon on Tuesday, December 6.

During the discussion of the rule, Roger Garrity said he was happy to see the addition of a factor related to public interest and public access. He said the rule adequately addressed those participating in hearings, but that it does not address those observing hearings. He urged the Judiciary to provide information on the public calendar about how a hearing will take place (in person, remote or hybrid), and made in person hearings available to livestream. Scott Griffith said Judge Zonay and staff from Trial Court Operations were aware of these concerns.

Ms. Wetherell asked if the committee would like notice of the proposed changes to V.R.C.P. 43.1 and VRFP 17 to be distributed to a broader audience. One option allowed under the Administrative Order regarding notice is to put a notice in the newspaper. Notice could also be sent out on the court's social media accounts, such as Twitter and Facebook. Committee members agreed this was a good idea.

b. VRFP 17

Ms. Wetherell summarized the changes to V.R.F.P. 17.

Judge Tomasi suggested adding to the reporter's notes that juvenile delinquency and youthful offender proceedings impact constitutional protections such as the defendant's right to be present and to confront accusers, and that any remote or hybrid hearing would have to comply with those rights.

Marshall Pahl moved to accept the amendments by the Family Rules Committee with the addition of the reporter's note regarding constitutional confrontation and presence requirements, and to make the language in V.R.F.P. 17(e) consistent with the language in V.R.C.P. 43.1 (j). Judge Toor seconded. The motion passed unanimously.

Ms. Wetherell will send out a revised draft incorporating the changes from today's meeting. Any objections must be sent to Ms. Wetherell by email before noon on Tuesday, December 6.

IV. Other Business and Adjourn

The meeting was adjourned at 1:02 pm.

Submitted By:
Scott Griffith
Committee Chair