

**STATE OF VERMONT  
VERMONT SUPREME COURT  
JANUARY TERM, 2009**

**Order Promulgating Emergency Amendments to the Vermont Rules of Criminal Procedure**

Pursuant to Chapter II, Section 37, of the Vermont Constitution and 12 V.S.A. § 1, it is hereby ordered:

1. That Rule 5(f) of the Vermont Rules of Criminal Procedure be amended to read as follows (deleted matter overstruck; new matter underlined):

**RULE 5. APPEARANCE BEFORE A JUDICIAL OFFICER**

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(f) **Determination of Arraignment Date.** If the defendant is not discharged under subdivision (c), the judicial officer shall, upon consultation with the prosecuting officer and the defendant or his counsel, set a date and time for arraignment which shall be within a reasonable time, but in no event less than 24 hours, after the time of such determination, except at the request of the defendant. ~~If the~~The judicial officer ~~is a Superior or District Judge sitting in a superior court or territorial unit of the District Court having jurisdiction of the offense, he~~ may, if the defendant so requests, conduct the arraignment forthwith as part of the proceedings under this rule. ~~or he~~ Otherwise, the judicial officer shall either may order the defendant to appear before him or her at a later date and time or ~~Otherwise, the judicial officer shall~~ order the defendant to appear for arraignment in the court having jurisdiction in the county where the offense occurred at the date and time set.

**Reporter's Notes – 2009 Emergency Amendment**

Rule 5(f) is amended to provide for regional arraignments. This amendment would allow the court to take appropriate steps to reduce the costs of transporting defendants for their first appearance and arraignment in court by ordering the defendant to appear in the court nearest the correctional center in which the defendant is detained.

2. That Rule 18 of the Vermont Rules of Criminal Procedure be amended to read as follows (deleted matter overstruck; new matter underlined):

**RULE 18. PLACE OF PROSECUTION AND TRIAL**

Except as otherwise permitted by statute or by these rules, the prosecution shall be had in the county or territorial unit in which the offense was committed. With the exception of an initial appearance and arraignment under Rules 5 and 10, ~~the~~ trial of a

proceeding in the district court shall be held either in the circuit in which the proceeding was filed or in any contiguous circuit within the territorial unit.

**Reporter’s Notes – 2009 Emergency Amendment**

Rule 18 is amended to provide for regional arraignments. This amendment would allow the court to take appropriate steps to reduce the costs of transporting defendants to court. It makes clear that Rule 5 and Rule 10 proceedings do not need to be held in the county or territorial unit in which the offense was committed.

3. That these emergency amendments are prescribed and promulgated to become effective on February 1, 2009. The Reporter's Notes are advisory.

4. That the Court finds that these emergency amendments must be promulgated without resort to the notice and comment procedures set forth in Administrative Order No. 11, because it is necessary to allow the court to take appropriate steps to reduce the costs of arraignments in the face of economic exigencies. The Court's Advisory Committee on Rules for Criminal Procedure is directed to consider and report to the Court pursuant to Administrative Order No. 11 by September 30, 2009, on any comments that may be received on these emergency amendments.

5. That the Chief Justice is authorized to report these emergency amendments to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont, this 14<sup>th</sup> day of January, 2009.

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Paul L. Reiber, Chief Justice

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John A. Dooley, Associate Justice

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Brian L. Burgess, Associate Justice