

STATE OF VERMONT  
VERMONT SUPREME COURT  
\_\_\_\_\_ TERM, 2008

**Order Promulgating Amendment to the Vermont Rules for Family Proceedings**

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

1. That Rule 1(j) of the Vermont Rules for Family Proceedings be added to read as follows:

**(j) Withdrawal of Admission of Delinquency.** A motion to withdraw an admission of delinquency must be made prior to or within 30 days after the date of entry of an adjudication of delinquency. If the motion is made before a disposition order is made, the court may permit withdrawal of the admission if the child shows any fair and just reason and that reason substantially outweighs any prejudice which would result to the state from the withdrawal of the admission. If the motion is made after disposition, the court may set aside the adjudication of delinquency and permit withdrawal of the admission only to correct manifest injustice.

**Reporter's Notes—2008 Amendment**

Rule 1(j) is added to provide a procedure governing withdrawal of an admission of delinquency comparable to the provisions of V.R.Cr.P. 32(d) for plea withdrawal in a criminal case. In a parallel to the Criminal Rule, the motion must be made before or within 30 days after the entry of an adjudication of delinquency. The differing tests for allowing the motion use the disposition order as a determining point comparable to the imposition of sentence under the V.R.Cr.P. 32(d). The tests for allowance of withdrawal before and after disposition are identical to those provided in the Criminal Rule for allowance of withdrawal before and after sentencing. See Reporter's Notes to V.R.Cr.P. 32(d). Note that if withdrawal of the admission occurs after the court has given notice to a school superintendent or headmaster of the entry of a delinquency adjudication pursuant to 33 V.S.A. § 5536a (b), the court should promptly inform the superintendent or headmaster of the withdrawal and ask that the notice be removed from the school's file.

2. That these rules, as amended, are prescribed and promulgated effective \_\_\_\_\_, 2008. The Reporter's Notes are advisory.

3. That the Chief Justice is authorized to report these 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 \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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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