

FINAL

VERMONT SUPREME COURT
ADVISORY COMMITTEE ON RULES FOR FAMILY PROCEEDINGS

Minutes of Meeting on TEAMS
January 20, 2023

The meeting was called to order by Judge Tom Carlson. Present were Committee members: Judge Michael Kainen, Judge Kerry McDonald-Cady, Judge Gregory Glennon, Susan Ellwood, Laura Bierley, Margaret Villeneuve, Alycia Sanders, Jody Racht and Marshall Pahl. Also present was ex-officio member: Eddie Poff from the Vermont Network Against Domestic Violence. Judge Amy Davenport (ret.) was present as the Reporter.

1. Approval of draft minutes of the meeting of October 18, 2022: the draft minutes were unanimously approved.
2. Status of proposed amendments:
 - a. Amendment to V.R.F.P. 4.3(a)(3) to allow for automatic consolidation when divorce filing precedes an RFA proceeding. The amendment was sent out for comment by the Vermont Supreme Court. Comments were due by January 9, 2023. Judge Carlson reported that he had not received any comments. Committee voted unanimously to recommend to the Supreme Court that the amendment be promulgated.
 - b. Draft amendments to V.R.F.P. 17 related to remote participation in family proceedings proposed to the Supreme Court's Special Advisory Committee on Remote Access. The amendment to V.R.F.P. 17 related to remote proceedings is out for comment along with the amendment to V.R.C.P. 43.1. Comments related to either or both are due to Scott Griffith, Chair of the Special Advisory Committee on Remote Proceedings by February 13, 2023. After a discussion about the Special Advisory Committee's amendment to Rule 17(e), the Committee voted unanimously to send a letter to Scott Griffith endorsing the draft rule.
3. Amendment to V.R.F.P.(1)(b)(1) to provide enforcement of the requirement in the rule to provide race and ethnicity data at the time of filing a petition. (Marshall Pahl, Judge Kerry McDonald-Cady, Jody Racht, Kristin Gozzi). Marshall Pahl reported that the juvenile subcommittee has not met yet, but a meeting is scheduled in the next couple of weeks. He anticipated that the Committee will have a report by the next meeting of the full committee.
4. Joint subcommittee with Probate Rules Committee to consider whether legislation giving family and probate divisions jurisdiction to make findings related to Special Immigration Status (SIJ) requires rules. See 4 V.S.A. § 33(18), 4 V.S.A. § 35, 14 V.S.A. § 3098. S. 163/Act 98 which went into effect on July 1, substantially amends 14 V.S.A. § 3098 and adds a new section related to children in juvenile proceedings (Judge Carlson, Marshall Pahl and Jody Racht). Judge Carlson reported that the joint subcommittee had met and discussed whether a rule was necessary. Judge Glennon reported that he has had a couple of cases requiring findings on special immigration status and that he has found the statute easy to follow. One issue is the fact that the statute is in Title 14 with a companion statute for juvenile proceedings in Title 33. Practitioners in divorce and parentage proceedings who are familiar with the provisions of Title 15, but not necessarily 14, may not be aware of its existence.

5. 4.1(e) Waiver of Final Divorce Hearing for self-represented litigants. Under the current rule, self-represented litigants with children cannot obtain a final divorce without a hearing unless both are represented by an attorney. Judge Carlson raised the question of whether self-represented litigants with children shouldn't be able to request a waiver of a final hearing particularly in those cases where the parents have been separated for a considerable amount of time and were getting along well with each other. A lively discussion ensued with arguments made on both side of the issue. Judge Carlson volunteered to draft an amendment for the consideration of the Committee which would give judges discretion to waive the final hearing in cases where parties were not represented if certain criteria were met.
6. Proposal to review Family Rules for outdated terms. Judge Davenport has been in touch with Legislative Council regarding the statutory review for "respectful terms." It appears that the attorney who oversaw that project may no longer be working for the Council. Judge Davenport will continue to explore.
7. New Business: There were no items of new business.
8. Future Meetings: The Committee has two more meetings scheduled in 2023: July 21 and October 20. Both meetings are from 1:30 – 3:30 pm.
9. The meeting was adjourned at 2:50 p.m.