

APPROVED

**VERMONT SUPREME COURT
ADVISORY COMMITTEE ON RULES FOR FAMILY PROCEEDINGS**

**Minutes of Meeting on TEAMS
February 19, 2021**

The meeting was called to order by Judge Michael Kainen. Present were Committee members: Penny Bennelli, Laura Bierley, Maggie Villeneuve, Judge Gregory Glennon, Sarah Haselton, Magistrate Christine Hoyt, Karen Reynolds, Susan Ellwood, John Wilson and Judge Megan Shafritz. Also present were ex-officio members: Justice Beth Robinson and Eddie Poff from the Vermont Network; Judge Amy Davenport (ret) was present as the Reporter.

1. **Approval of draft minutes of the meeting of December 18, 2020;** the minutes were unanimously approved as previously distributed.
2. **Status of proposed amendments**
 - a. Proposed Amendment to Family Rules to Make Them Consistent with Amendments to V.R.C.P. 3.1. Recent amendments to V.R.C.P. 3.1 which became effective August 18, 2020, replace all references to “proceedings in forma pauperis” with “waiver of filing fees and costs.” This proposal amends V.R.F.P. (2)(a)(2) and V.R.F.P. 4.0(b)(3)(B) so that the Family Rules are consistent with civil, probate and appellate rules. The proposed amendment has been forwarded to the Vermont Supreme Court.
3. **Vermont Rules for Public Access to Court Records and Live Streaming in Family Court.** Atty Bennelli reported that the Subcommittee had not had time to meet, but she hoped they would have a report by the next meeting of the Committee. There was a general discussion regarding the streaming of Court proceedings whether by Webex or “wide streamed” so that they could be more generally accessible to the public. Justice Robinson shared some of the policy issues that are currently under consideration by the Supreme Court. Certain proceedings are of great interest to the press and the public and the issue is whether and how to make access more widely available. Thus far, the focus of the Supreme Court has been on the criminal and civil docket, not the family docket.
4. **Rules for Legislation Related to Raising the Age of Juvenile Jurisdiction and Youthful Offenders in the Family Division (Act 45 of 2019, Act 201 of 2018 and Act 72 of 2017).** Atty. Pahl indicated that the Juvenile Subcommittee would have draft rules ready for consideration at the next meeting.
5. **Request from Justice Dooley re coordination between Advisory Committee on Electronic Filing and Family Rules.** Justice Dooley is seeking feedback from the all the rules committees with respect to Odyssey, the Court’s new case management system. Judge Kainen stated that he would follow up with Alan Keyes, the Reporter for the Civil Rules Committee. There followed a general discussion regarding the role out of Odyssey, the new case management system. A significant problem has arisen with respect to the filing of exhibits which currently can only be filed in Odyssey one at a time which takes a lot of time when there are many exhibits. Atty Racht

reminded the Committee that initially the Family Rules Committee was represented on the Advisory Committee on Rules for Electronic Filing. At some point this Committee reviewed all of the Family Rules to see if the advent of e-filing required any changes. She could not recall whether this Committee ever submitted anything to the Advisory Committee.

6. Amendment to V.R.F.P. 1(b)(1) to provide enforcement of the requirement to in the rule to provide race and ethnicity data at the time of filing a petition: Atty Pahl reported that the Subcommittee on juvenile proceedings had not had time to meet, but would have a proposal for this Committee's consideration at our next meeting.

7. New Business:

a. Amendment to § 1 of Administrative Order No. 29, Advisory committee on Rules for Family Proceedings promulgated by Supreme Court on February 8, 2021.

The Amendment reduces the number of lawyers in private practice on the committee from four to three.

b. Slate of Candidates to Fill Vacancy on Committee: The Supreme Court has requested a slate of three candidates to fill the current vacancy on the Committee. The current vacant slot is for a lawyer in private practice. The Committee discussed possible names to recommend to the Supreme Court. Justice Robinson clarified that the Court would check on whether an individual candidate was willing to serve.

c. Enforcement of Divorce judgments for property division. Issues raised by Justice Robinson's concurrence in **Blake v. Petrie**, 2020 VT 92 regarding the application of the requirement in 12 V.S.A. §506 for a "new and independent action" within eight years following rendition of the judgment. Judge Carlson discussed the issues raised by the Blake decision. It was agreed that the uncertainty over the process for the renewal of Family Court judgments can only be resolved by a statutory amendment to 12 V.S.A. §506 and that the VBA should take the lead on this. Meanwhile, it was agreed that this Committee should propose an addition to the Reporter's Notes for V.R.F.P. 4.2 to the effect that a filing under Rule 4.2 is not sufficient to renew a judgement pursuant to the ruling in Blake. Judge Davenport will draft a proposed amendment to the reporter's notes for consideration at the next meeting.

8. Other business.

a. Proposed Amendments to V.R.F.P. 6 and 6.1: Judge Glennon pointed out that the Supreme Court had recently adopted new probate rules regarding the appointment of GALs by the probate court in proceedings involving minor guardianships (See V.R.P.P. 80.9) and adult guardianships (See V.R.P.P. 80.10). These rules became effective in August of 2020. He suggested that this Committee should consider amending V.R.F.P. 6(a) and 6.1(a) to eliminate the applicability of our rules regarding GALs to probate proceedings. Judge Davenport will draft an amendment for consideration at the next meeting.

9. Next Meeting Dates. It was agreed that the Committee would meet again on May 21, 2021 from 1:30 to 3 pm.

The meeting was adjourned at 2:40 p.m.