

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

**Minutes of Meeting on TEAMS
October 20, 2023**

The meeting was called to order by Judge Tom Carlson. Present were Committee members: Judge Michael Kainen, Judge Kerry McDonald-Cady, Mag. Barry Peterson, Judge Kate Kennedy, Laura Bierley, Margaret Villeneuve, Penny Benelli, Susan Ellwood, Nate Hine, Jody Racht, Kristin Gozzi and Marshall Pahl. Also present was Justice Nancy Waples as liaison with the Vermont Supreme Court and 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 July 21, 2023: the draft minutes were unanimously approved.
2. Status of proposed amendments: No amendments currently proposed.
3. Report from Subcommittee on Juvenile Proceedings (Marshall Pahl, Judge Kerry Mc-Donald-Cady, Jody Racht, Kristin Gozzi)
 - a. 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 delinquency petition. Judge Davenport reported that a new version of Odyssey will be deployed in the next month or two which will have the ability to require that race and ethnicity data be entered when a criminal case is filed. The IT division is hoping that Vermont can also configure this requirement for juvenile delinquency cases. The Supreme Court's Commission on Diversity, Equity, and Inclusion will release its final report in November, and it is anticipated that this will be one of its recommendations related to data.
 - b. V.R.F.P. 1(a)(3): applicability of V.R.Cr.P. 11(c)(8) advice collateral consequences to delinquency cases. The Committee reviewed a draft of a judicial colloquy on collateral consequences in juvenile cases prepared by Marshall Pahl and Judge Carlson. The Committee discussed the need to have it reviewed by a linguistics expert for comprehension by youth in juvenile case. Marshall pointed out that there needs to be an additional paragraph that is solely for cases involving sex offenses. The Committee agreed that it should be sent to the Family Oversight Committee with a recommendation that it be reviewed by a linguistics expert.
4. Joint subcommittee with Probate Rules Committee to consider whether legislation giving family and probate divisions jurisdiction to make findings related to Special Immigration Juvenile Status (SIJS) 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 and Judge Kennedy). Judge Kennedy reported on the meeting in August with Prof. Diaz from VLGS. There are two issues that need to be addressed by Family Rules: the timing of a case manager conference when a motion for SIJS has been filed and service issues when the noncustodial parent resides in another country at an unknown address. Judge

Davenport will draft an amendment to Rule 4.1 to clarify that a hearing on a motion for SIJS should be given scheduling priority over a case manager conference. A question was raised with respect to service and whether this triggers the Vienna Convention consular notification rules. A subcommittee consisting of Marshall, Judge Kennedy, Judge Carlson and Judge Davenport will work on this.

5. Proposal to review Family Rules for respectful language:
 - a. Draft Amendment to V.R.F.P. 1(i)(B) related to respectful language: Laura Bierley reported that attorneys who practice in this area prefer the term “mental health condition,” but what is defined in statute is “psychiatric disability.” See 1 V.S.A. § 147. After discussion, it was agreed to include “mental health condition” in the amendment to Rule 1(i)(2)(B).
 - b. Respectful language review of all family rules: Committee discussion re process for review. Judge Carlson and Judge Davenport will review the rules and report back to the Committee.
6. Committee Vacancies: Vote on recommendation to Supreme Court regarding lawyer(s) to fill vacancy created by the resignation of Althea Lloyd. Discussion re vacancies created by the retirements of Penny Benelli and Jody Racht. According to the Committee’s Charge and Designation, Penny Benelli’s position will be filled by the incoming chair of the VBA’s Family Law Committee. Jody Racht has served as the designee of the Attorney General. It was agreed that the Committee should recommend Susan Buckholz to fill the vacancy created by Althea Lloyd. The Committee will also include the names of two attorneys who have indicated a desire to serve on the committee: Andrew Schmidt and Amanda Mowle.
7. New Business
 - a. Name change orders in divorce cases – Penny Benelli. Discussion of this issue was continued until next meeting.
 - b. Complaint for extreme risk protection order - Susan Ellwood. An amendment to Rule 9 will be necessary in order to preserve the confidentiality of the plaintiff’s contact information. Judge Davenport will draft an amendment to be reviewed at the next meeting.
8. 2024 Meeting Schedule: Committee agreed upon the following meeting schedule for 2024: January 26; April 26; July 19; October 25.
9. The meeting adjourned at 3:35 p.m.