

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

**Minutes of Meeting on TEAMS
July 21, 2023**

The meeting was called to order by Judge Tom Carlson. Present were Committee members: Judge Michael Kainen, Judge Kerry McDonald-Kerry, Mag. Barry Peterson, Laura Bierley, Margaret Villeneuve, Penny Benelli, Jessica Seamen, Alycia Sanders, Nate Hine, Jody Racht, Kristin Gozzi 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 April 21, 2023: the draft minutes were unanimously approved.
2. Status of proposed amendments:
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. In June, the Committee voted via email to approve a new draft amendment to V.R.F.P. 17 which revised the provision related to delinquency proceedings that had earlier been sent out for comment by the Supreme Court. At their administrative meeting in July, the Supreme Court approved the revised amendment submitted by the Committee. Judge Davenport reported to the Committee that the amendment to V.R.F.P. 17 was promulgated on July 10 and will become effective October 2, 2023, along with the amendments to V.R.C.P. 43.1 and the new V.R.Cr.P. 26.2.
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 to the Committee that the current plan with respect to the court's electronic filing system is to upgrade Odyssey in December of 2023. The upgrade would require that race/ethnicity data be submitted when a juvenile case is filed along with other required information such as name, date of birth, etc. What is still undecided is whether the race options will include an option to state that race is "unknown".
 - b. V.R.F.P. 1(a)(3): Applicability of V.R.Cr.P. 11(c) (8) advice collateral consequences to delinquency cases. Judge Carlson reported that he and Marshall Pahl are working on a standardized colloquy for delinquency cases. The colloquy for youthful offender cases is similar to the colloquy in criminal cases. For delinquency cases the colloquy is different and more complex. Sex cases and some drug cases will need slightly different colloquies. It was suggested that once completed it be included as part of the packet with the petition and affidavit. Next step: Judge Carlson will circulate a draft to the committee via email.
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. (Judge Carlson, Marshall Pahl and Jody Racht) The joint subcommittee will meet with immigration attorneys from Vermont Law and Graduate School. Subcommittee members will report on progress at the October meeting.

5. 4.1(e) Waiver of Final Divorce Hearing for self-represented litigants. Judge Carlson withdrew his initiative to modify Rule 4.1(e) to require the same process for parentage and divorce with children proceedings. While all acknowledge that the current rule imposes a double standard for cases with minor children depending on whether it is a divorce or parentage case, requiring final hearings in parentage cases where parties are unrepresented would impose too great a burden on the court system. It was pointed out that it would also be very difficult to compel parties to attend a final hearing in parentage cases.
6. Proposal to review Family Rules for outdated terms. The Committee reviewed a draft of Rule 1(i)(B) which replaces the term “mental illness” with “psychiatric disability” based on guidelines from the Legislature with respect to respectful language. There was discussion as to whether the appropriate term is “psychiatric disability” or “mental disability.” Laura Bierley agreed to get feedback from Vermont Legal Aid’s mental health project. There was also concern about use of the term “disability” and whether it should be defined. The federal ADA has a definition of “disability” that may be narrower than the terms used currently in the rule. It was agreed that an explanation in the Reporter’s Notes for the change would be appropriate. Next steps: Laura Bierley will report back to Judge Davenport and a new draft will be circulated.
7. New Business: Althea Lloyd has resigned. It was agreed that the Committee should recommend that her position be filled by an attorney with mediation background. Penny Benelli suggested Susan Buckholz or Deb Kershway. Penny Benelli also notified the Committee that she will be retiring at the end of 2023. She currently chairs the Family Section of the VBA. Her replacement as Chair of the Family Section has not yet been determined.
8. Future Meetings: The Committee has one more meeting scheduled in 2023 on October 20 from 1:30 – 3:30 pm. A meeting schedule for 2024 will be determined at the October meeting.
9. The meeting was adjourned at 2:49 p.m.