

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

**Minutes of Meeting by phone
March 13, 2020**

The meeting was called to order by Judge Michael Kainen. Present by phone were Committee members: Penny Bennelli, Laura Bierley, Anne Damone, Judge Gregory Glennon, Sarah Haselton, Magistrate Christine Hoyt, Jody Racht, Karen Reynolds, Alycia Sanders, Susan Ellwood, John Wilson and Judge Meagan Shafritz. Also present were ex-officio members: Justice Beth Robinson and Michele Olvera, Legal Director, Vermont Network; Judge Amy Davenport (ret) was present as the Reporter.

1. Approval of draft minutes of the meeting of March 13, 2020: the minutes were unanimously approved as previously distributed.

2. Status of proposed and recommended amendments.

A. Proposed new V.R.F.P. 6.2 (mental health proceedings). The rule was promulgated by the Supreme Court on February 10, 2020, effective April 13, 2020

B. Proposed new V.R.F.P. 4.3(f) (enforcement of money judgments). The rule and the Reporter's Notes have been revised to clarify the relationship between the proposed rule and statutory wage withholding remedies to secure child support. The revised rule has been reviewed and approved by Sarah Haselton on behalf of OCS. Upon motion, the Committee unanimously approved the revised rule. Judge Davenport will forward it to the Supreme Court for promulgation.

C. Proposed V.R.F.P. 4.3(b). Amendment abrogating subsection (1) in cases filed before effective date of Vermont Parentage Act, 15 V.S.A. 115A(d)(2) has been sent out for comment by the Supreme Court. Comments due by April 13, 2020. Judge Kainen to report on comments at the next meeting.

3. V.R.F.P. 6. Amendments made necessary by Act 170 of 2013 (Adj. Sess.) concerning minor guardianships. Judge Davenport reported that the Probate Rules Committee met on February 12, 2020 and has proposed to the Supreme Court new V.R.P.P. 80.9-80.12, adapting applicable provisions of V.R.F.P. 6, 6.1, 7, 7.1, to probate practice. Discussion of the proposed probate rule by the Committee focused on concerns about the lack of GALs for probate and family proceedings. Karen Reynolds reported that her court was struggling to find GALs for the CHINS docket.

Judge Davenport also reported that the Probate Rules Committee has proposed revisions to V.R.P.P. 3.1 to bring the Probate Rules into conformity with proposed V.R.C.P. 3.1 and V.R.A.P. 24 which replaces references to "in forma pauperis" with "waiver of filing fees and service costs." Judge Davenport will review V.R.F.P. for references to "in forma pauperis".

4. Vermont Rules for Public Access to Court Records and Live Streaming in Family Court.

Ms. Benelli reported on the work of the subcommittee on public access and live streaming which consists of herself, Ms. Olvera, Ms. Sanders and Mag. Hoyt. The subcommittee has met by phone on at least two occasions since the last meeting and has reviewed statutes and

rules in New York and Massachusetts related to the protection of confidentiality in divorce, parentage and relief from abuse proceedings. The subcommittee also plans to look at Maine's statutes and rules. The New York rule is very restrictive – all family records are sealed for 100 years unless the person requesting a record from the case is a party, attorney, prosecutor, court, OCS or DCF. Massachusetts also restricts access but is not as restrictive as New York. The Committee discussed whether any new restrictions on access in Vermont should be by rule or statute. Justice Robinson referred the subcommittee to a recent Vermont Supreme Court ruling, Oblak v. UVM Police Services, 2019 VT 56, 217 A.3rd 946 (2019). Ms. Benelli indicated that the subcommittee would prefer rulemaking to legislation. One issue that the subcommittee has discussed is whether court orders should be included in any restrictions. Ms. Ellwood indicated that she has a concern about any restrictions related to court orders and would follow up with the subcommittee. Judge Kainen indicated that this topic will be on the agenda for the meeting in May.

- 5. Act 72 of 2017. An Act Relating to Juvenile Jurisdiction.** (Section 7 directs the Supreme Court to consider adoption of appropriate rules by July 1, 2018.) Consideration of youthful offender rules in light of Act 45 of 2019 (5/30/19). Subcommittee (Mr. Pahl, chair, Ms. Racht, Ms. Reynolds) to report. Judge Carlson suggested that a rule similar to V.R.Cr.P 11 regarding the colloquy which should take place in juvenile proceedings when the juvenile enters an admission, would be helpful. There was no discussion of this item at the meeting as the subcommittee has not met and neither Judge Carlson nor Marshal Pahl were present.
- 6. Dates for next meeting.** The next meeting is scheduled for May 8, 2020 from 9:30 – noon. The Committee further agreed to meet on July 17, 2020 from 9:30 – noon.

There being no further business, the meeting was adjourned.