

SUPREME COURT OF VERMONT  
OFFICE OF THE COURT ADMINISTRATOR

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TO: Members of the Vermont Bar

FROM: Patricia Gabel, Esq., State Court Administrator

RE: Promulgated, Proposed Rule Amendments & Miscellaneous Information

DATE: May 4, 2020

For your information, please find:

- *Information Regarding COVID-19 and Court Operations*
- [Promulgated Amendment to V.R.Cr.P. 32\(c\)\(4\)](#)
- [Proposed Order Amending Rule 6\(b\)\(5\) of the Vermont Rules for Public Access to Court Records](#)
- *Notice to Attorneys Due to Renew Licenses in 2020*
- *Odyssey Electronic Filing & Other Important Info*
- *Updated Court Forms*
- *Obligations Under A.O. 41*
- *eCabinet Registration*

## INFORMATION REGARDING COVID-19 and COURT OPERATIONS

Information regarding COVID-19 and court operations can be found at <https://www.vermontjudiciary.org/news/information-regarding-coronavirus-disease-2019-covid-19-and-court-operations>

### I. PROMULGATED RULE AMENDMENT

[Promulgated Amendment to V.R.Cr.P. 32\(c\)\(4\)](#)

**This Order was promulgated on May 4, 2020; effective July 6, 2020.**

Rule 32(c)(4) is amended to provide procedures for objecting to proposed probation conditions for consistency with *State v. Lumumba*, 2018 VT 40, 207 Vt. 254, 187 A.3d 353, *State v. Bostwick*, 2014 VT 97, 197 Vt. 345, 103 A.3d 476, and *State v. Cornell*, 2014 VT 82, 197 Vt. 294, 103 A.3d 469. The amendment makes the rule consistent with, yet not as expansive as, the provisions of Federal Rule of Criminal Procedure 32(f)(1).

Subparagraph (c)(4)(A) is amended to require written objections to PSI content in 7 days rather than 5 days. The amendment also includes an express requirement that copies of any written objections be provided to the opposing party.

New subparagraph (c)(4)(C) is added to require that before pronouncing sentence and concluding the sentencing hearing, the sentencing judge must provide opportunity for comment and objection to what are in effect any “unnoticed” conditions of probation. This amendment is intended to expressly provide a defendant with an opportunity to articulate objection to conditions of probation that may not have been mentioned in the sentencing record, and thus to preserve claims of error as to purportedly unnoticed or “surprise” conditions, without the necessity of filing a motion for correction of sentence under V.R.Cr.P. 35.

## II. PROPOSED RULE AMENDMENT

(NOTE: THE FOLLOWING AMENDMENT HAS BEEN PROPOSED AND HAS NOT BEEN APPROVED BY THE SUPREME COURT.)

### *Proposed Order Amending Rule 6(b)(5) of the Vermont Rules for Public Access to Court Records*

The proposed amendment to Rule 6(b)(5) clarifies the existing rule in light of statutory changes governing expungement and sealing of criminal-history records in cases where a judicial officer has found no probable cause for some, but not all, of the charges brought in a single information by the prosecuting attorney. Per 2019, No. 32, 13 V.S.A. § 7603(a)(1)(A) now provides that unless either party objects in the interests of justice, the court shall issue an order sealing the criminal history record related to the citation or arrest of a person within 60 days after the final disposition of the case if the court does not make a determination of probable cause at the time of arraignment. This proposed amendment is consistent with Vermont Rule for Public Access to Court Records 6(b)(5) and its long-standing predecessor Rule 6(b)(24). However, 13 V.S.A. § 7606(c)(1) and (2) now provide that the court shall remove an expunged offense from any accessible database that it maintains, but that until all charges on a docket are expunged, the case file remains publicly accessible.

The proposed amendment clarifies that until all charges on a docket are expunged, the case file remains publicly accessible. Note that as to sealing and expungement and the timing, pursuant to 13 V.S.A. § 7603(a)(2) and (g), the parties may now stipulate to sealing or expungement of a criminal history record that is otherwise subject to the provisions of Rule 6(b)(5) at any time.

Comments on this proposed amendment should be sent by **July 6, 2020**, to Hon. Timothy Tomasi, Chair of the Advisory Committee on the Rules for Public Access to Court Records, at the following address:

Honorable Timothy B. Tomasi, Chair  
Vermont Supreme Court  
109 State Street  
Montpelier, VT 05609-0701  
[Timothy.Tomasi@vermont.gov](mailto:Timothy.Tomasi@vermont.gov)

## III. MISCELLANEOUS

**NOTICE TO ATTORNEYS DUE TO RENEW LICENSES IN 2020:** In light of the impact of COVID-19 on Office of Attorney Licensing processes, attorneys renewing their license for the 2020-2022 reporting period must renew using the online license renewal portal (which will be opening in May). Absent extraordinary circumstances, paper renewals will not be accepted.

*a. Odyssey Electronic Filing and Other Important Information*

Odyssey is now operational in the Orange, Windsor, and Windham trial courts and the Judicial Bureau. Electronic filing began in these trial courts on April 20, 2020 and will begin for the Judicial Bureau on April 27, 2020. Please use the following links to access the Odyssey case management programs and for more information.

- **Odyssey File & Serve.** Odyssey File & Serve is the platform through which you will electronically file with the courts. To access Odyssey File & Serve, please visit <https://vermont.tylerhost.net/ofswweb>. This page contains user guides in the lower left-hand corner. They include instructions on how to register and use the File & Serve. Please note that docket specific filer guides will be posted in the near future on the judiciary's main website.
- **Odyssey Public Portal.** The Odyssey Public Portal allows you to view your case files. To access the portal, please visit <https://publicportal.courts.vt.gov/Portal/>. Before you can view your case files, you must first register in the portal and then request elevated access. The Public Portal User Guide contains instructions on how to register and request elevated access. You can read the user guide via this link: <https://www.vermontjudiciary.org/sites/default/files/documents/VT%20Public%20Portal%20User%20Guide%20v8.pdf>. For full information on how to use the portal, please visit <https://www.vermontjudiciary.org/about-vermont-judiciary/public-portal>.
- **FAQ.** Please visit <https://www.vermontjudiciary.org/odyssey> for answers to frequently asked questions and updates about the project.

*b. Court Forms*

Court forms are constantly being updated. Please refer to the judiciary website for the most up-to-date forms, <https://www.vermontjudiciary.org/court-forms>.

Please use the link below to report any form question, concern or issue <http://www.vermontjudiciary.org/website-feedback-form> or you can access our Website Feedback program at the bottom of each web page.

*c. Obligation under A.O. 41*

Attorneys are reminded that an “attorney must report to the State Court Administrator within thirty days any change of the office mailing or electronic mail address” and that “[n]otice sent to a reported address is sufficient even if not received by the attorney because of failure to report the proper address or failure of delivery not caused by the court.” A.O. 41, § 4(c); see A.O. 44, § 1.

Please email those changes to [JUD.AttyLicensing@vermont.gov](mailto:JUD.AttyLicensing@vermont.gov). Your cooperation is very much appreciated.

To ensure you continue to receive these emails, please add [JUD.AttyLicensing@vermont.gov](mailto:JUD.AttyLicensing@vermont.gov) to your Safe Senders list.

*d. eCabinet Registration*

**Administrative Order No. 44** requires attorneys in active status to register up to three email addresses in **eCabinet** for purposes of receiving notices of hearing and other documents. *You may include staff email addresses in the three email addresses that you specify. eCabinet registration is required whether you practice in court or not.*

If you have already registered in **eCabinet**, the email address(es) you provided as part of that process will be used.

If you have not already registered in **eCabinet**, please go to <https://efiling.eservices.crt.state.vt.us/>, click **Register Now**, and follow the simple prompts. Attorneys will need their attorney license numbers to register. Helpful information about the Attorney Email Registration process is also available on the *Electronic Filing* page of the judiciary website at <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing>. Please contact [jud.helpdesk@vermont.gov](mailto:jud.helpdesk@vermont.gov) or call the Helpdesk at 802-828-4357 with any questions in the meantime.

You are also reminded that you are required to update the email address(es) and other contact information you have registered as soon as there are any changes, including changes to staff email addresses you may have included with your registration. To revise the information, please go to <https://efiling.eservices.crt.state.vt.us/>, log into **eCabinet**, click “**Account**,” choose “**My Profile**,” and make the necessary changes to your contact information.

Notification to [JUD.AttyLicensing@vermont.gov](mailto:JUD.AttyLicensing@vermont.gov) or in **eCabinet** of a change to your contact information does not automatically notify the other. It is your responsibility to notify both. If you are a member of the Vermont Bar Association, you will also need to separately notify the VBA.