

SUPREME COURT OF VERMONT  
OFFICE OF THE COURT ADMINISTRATOR

**PATRICIA GABEL, ESQ.**  
State Court Administrator  
[patricia.gabel@vermont.gov](mailto:patricia.gabel@vermont.gov)



[www.vermontjudiciary.org](http://www.vermontjudiciary.org)

**Mailing Address**  
Office of the Court Administrator  
109 State Street  
Montpelier, VT 05609-0701

**Telephone** (802) 828-3278  
**FAX:** 802 828-3457

TO: Members of the Vermont Bar  
FROM: Patricia Gabel, Esq., State Court Administrator  
RE: Info on Public Hearing, Promulgated, Proposed Rules & Miscellaneous Information  
DATE: October 7, 2020

For your information, please find:

- *Information Regarding Public Hearing on Proposed Rules on Confidentiality of Responses on Juror Questionnaires*
- [Order Promulgating Amendments to Rules 26\(c\) and 34\(b\) of the Vermont Rules of Civil Procedure](#)
- [Proposed Order Adding Rule 11\(a\)\(3\) to the Vermont Rules of Criminal Procedure](#)
- [Proposed Order Amending V.R.C.P. 80.5\(e\)](#)
- *Odyssey Electronic Filing & Other Important Info*
- *Updated Court Forms*
- *Obligations Under A.O. 41*
- *eCabinet Registration*

## **I. PUBLIC HEARING ON PROPOSED RULES ON CONFIDENTIALITY OF RESPONSES ON JUROR QUESTIONNAIRES**

**Montpelier, VT** - The Supreme Court has sent out for comment proposed rules regarding the confidentiality of responses by prospective jurors on questionnaires used to determine qualification for jury service. The proposal remedies inconsistencies among existing rules regarding public access to the information provided in the questionnaires.

In general, the amendment makes all information provided in written responses nonpublic except the juror's name and town of residence absent a judicial determination of good cause. The remaining content of the questionnaires is available to attorneys and parties in the case with limited exceptions. The parties may use the information during jury voir dire, in the exercise of challenges, and as authorized by the court. The proposal was developed through the cooperation of members of several rules committees and amends provisions of the Rules for Public Access to Court Records, the Rules Governing Qualifications, List, Selection and Summoning of All Jurors, the Rules of Criminal Procedure, and the Rules of Civil Procedure.

A public hearing on the proposed amendments will be held virtually on **Wednesday, October 28, 2020, at 3 p.m.** The hearing will be live streamed on the [Vermont Judiciary's YouTube channel](#). Individuals wishing to speak at the public hearing should contact Emily Wetherell, Deputy Clerk

of the Supreme Court, [emily.wetherell@vermont.gov](mailto:emily.wetherell@vermont.gov), for information on how to virtually join the meeting.

The proposed amendments are on the [Vermont Judiciary website](#).

Written comments on these proposed amendments should be sent by **November 16, 2020**, to Hon. Walter M. Morris (Ret.), Reporter for the Advisory Committee on Rules of Criminal Procedure at the following address:

Honorable Walter Morris (Ret.)  
Reporter, Advisory Committee on Rules of Criminal Procedure  
[Walter.Morris@vermont.gov](mailto:Walter.Morris@vermont.gov)

## II. PROMULGATED RULE AMENDMENTS

### [Order Promulgating Amendments to Rules 26\(c\) and 34\(b\) of the Vermont Rules of Civil Procedure](#)

**This Order was promulgated on October 6, 2020; effective December 7, 2020.**

The amendment to Rule 26(c)(2), regarding protective orders, adds the phrase, “for the discovery or disclosure,” for uniformity with the language of Federal Rule 26(c)(1)(B). Although, unlike the Federal Rule, disclosure is not mandatory under V.R.C.P. 26, the term is included because a scheduling order could require a disclosure.

The amendment to Rule 34(b) adds language from F.R.C.P. 34(b)(2)(B) permitting the production of copies of requested material, rather than their inspection. The language was added to the Federal Rule in 2015 “to reflect the common practice.” The amendment departs from the Federal Rule by providing that the requesting party may obtain inspection of the originals on a showing of “a reasonable need”—for example, a legibility issue not resolvable in a copy.

## III. PROPOSED RULE AMENDMENTS

(NOTE: THE FOLLOWING AMENDMENTS HAVE BEEN PROPOSED AND HAVE NOT BEEN APPROVED BY THE SUPREME COURT.)

### *a. [Proposed Order Adding Rule 11\(a\)\(3\) to the Vermont Rules of Criminal Procedure](#)*

Proposed Rule 11(a)(3) is added, consistent with the Court’s direction in *In re Benoit*, 2020 VT 58, \_\_ Vt. \_\_, \_\_ A.3d \_\_. In *Benoit*, the Court held that with the State’s agreement and the Court’s approval, defendants may preserve a post-conviction relief (PCR) challenge to a predicate conviction when pleading guilty to an enhanced charge by stating on the record at the change-of-plea hearing an intent to challenge one or more of the convictions through a PCR petition, specifically identifying the convictions they intend to challenge, and stating the basis for the challenges. Under the proposed language, if a defendant pleads guilty or nolo contendere while preserving the PCR claim, with the consent of the state and the approval of the court, the plea will be analogous to a conditional plea under V.R.Cr.P. 11(a)(2). The present amendment prescribes the procedure by which a defendant may preserve such a challenge for post-conviction review.

Comments on this proposed amendment should be sent by **December 7, 2020**, to Hon. Thomas A. Zonay, Chair of the Advisory Committee on Rules of Criminal Procedure, at the following address:

Honorable Thomas A. Zonay, Chair  
Advisory Committee on Rules of Criminal Procedure  
[Thomas.Zonay@vermont.gov](mailto:Thomas.Zonay@vermont.gov)

*b. [Proposed Order Amending V.R.C.P. 80.5\(e\)](#)*

The proposed amendment to Rule 80.5(e) reflects the fact that 23 V.S.A. § 1203(k), as amended by 2007, No. 153 (Adj. Sess.), § 2, now provides that in DUI cases the fee for video reproduction is \$45.00.

Comments on this proposed amendment should be sent by **December 7, 2020**, to Allan Keyes, Esq., Chair of the Advisory Committee on the Rules of Civil Procedure, at the following address:

Allan Keyes, Esq., Chair  
Advisory Committee on the Rules of Civil Procedure  
[ark@rsclaw.com](mailto:ark@rsclaw.com)

#### **IV. MISCELLANEOUS**

*a. [Odyssey, Electronic Filing, and Other Important Information](#)*

The Addison, Bennington, Chittenden, and Rutland trial courts and Environmental Division began using Odyssey on September 1, with electronic filing scheduled to commence on or after October 19. Odyssey and electronic filing are already operational in the Orange, Windsor, and Windham trial courts and the Judicial Bureau. Please use the following links to access Odyssey electronic filing and portal systems and for more information.

**Tyler Technologies eFiling Webinars Scheduling Update.** The Tyler Technologies support team has made changes to the October eFiling training schedule. Anyone who registered for a date that was rescheduled should have received notification from Tyler via email. If you did not receive any notice, please check your junk email folder. The October eFiling webinars will be offered on the following dates:

Mon. Oct. 12, 2020 2PM-3PM  
Wed. Oct. 14, 2020 2PM-3PM  
Fri. Oct. 16, 2020 12PM-1PM

**Odyssey File & Serve.** Odyssey File & Serve (OFS) is the platform through which you will electronically file with the courts. To access Odyssey File & Serve, please visit <https://vermont.tylerhost.net/ofswb>. This page contains user guides in the lower left-hand corner. They include instructions on how to register and use OFS. For information about OFS processing fees and for docket specific user guides, please visit <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing>.

For technical support regarding Odyssey File & Serve, please contact Tyler Technologies at 800-297-5377 or [efiling.support@tylertech.com](mailto:efiling.support@tylertech.com)

**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>.

For technical support regarding the Public Portal, please contact the Vermont Judiciary's HelpDesk at [Jud.helpdesk@vermont.gov](mailto:Jud.helpdesk@vermont.gov). When emailing, please write "**Public Portal**" in the subject line.

**FAQ.** Please visit <https://www.vermontjudiciary.org/odyssey> for answers to frequently asked questions and updates about the project.

### *Efiling Training Opportunities*

**Register for a live e-filing training webinar.** Tyler Technologies offers online training session on how to electronically file documents using Odyssey File & Serve. These sessions are offered for free and registration is open to all, including attorneys, firm administrators, self-represented litigants, and state agency employees. To register please click here:

<https://register.gotowebinar.com/rt/7806326256261273102>

**Watch a pre-recorded e-filing training webinar.** The judiciary's NG-CMS project team recorded a demonstration of how to use Odyssey File & Serve that you can view here:

[https://www.youtube.com/watch?v=ke2ouMDK4VQ&feature=emb\\_title](https://www.youtube.com/watch?v=ke2ouMDK4VQ&feature=emb_title). You may also watch a pre-recorded webinar by Tyler Technologies, by visiting <https://register.gotowebinar.com/recording/5669820132306504203> and registering.

**Practice setting up your firm and submitting filings.** Do you want hands on practice using the system? Create your firm, register users and begin filing practice cases in the Vermont "Stage" environment. Be sure that the web address you're using includes the word "stage" (<https://vermont-stage.tylerhost.net/ofswab>). The Stage environment is available any time. Please note that submissions will only be reviewed periodically, so you may not get a timely response on whether your practice submissions have been accepted. The Stage environment is available now only for familiarity and direct hands-on experience and is not a substitute for registering on the actual e-filing site when you are ready.

**Read Vermont specific e-filing guides.** The Vermont Judiciary's website includes several e-filing guides to help you navigate Odyssey File & Serve. Visit <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing> and click on Odyssey File and Serve User Guides to view the most updated versions.

*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.