

**STATE OF VERMONT
VERMONT SUPREME COURT
NOVEMBER TERM, 2023**

Order Promulgating Amendment to Rule 40(d)(3) of the Vermont Rules of Probate Procedure

Pursuant to the Vermont Constitution, Chapter II, § 37, and 12 V.S.A. § 1, it is hereby ordered:

1. That Rule 40(d)(3) of the Vermont Rules of Probate Procedure be amended as follows (new matter underlined; deleted matter struck through):

**RULE 40. ASSIGNMENT OF CASES FOR HEARING; CONTINUANCES;
DISQUALIFICATION**

(d) Disqualification.

(3) The judge whose disqualification is sought shall either disqualify himself or herself or, without ruling on the motion, refer the motion ~~for decision to a probate judge designated by the Administrative Judge for Trial Courts. If the designee is the subject of the motion, the Administrative Judge shall specially designate another probate judge to rule on the motion to the~~ Chief Superior Judge or a designee thereof. The Chief Superior Judge or designee may refer the motion to another judge for decision or may rule on the motion.

Reporter's Notes—2024 Amendment

Rule 40(d)(3) is amended to make the procedure followed for disqualification in the probate division consistent with the procedure followed in the civil and criminal divisions. The term Administrative Judge for Trial Courts, which is used in the parallel civil and criminal rules, has been replaced with Chief Superior Judge, consistent with Administrative Order 18.

2. That this rule is prescribed and promulgated effective January 8, 2024. The Reporter's Notes are advisory.

3. That the Chief Justice is authorized to report this rule as amended to the General Assembly in accordance with the provisions of 12 V.S.A. § 1.

Dated in Chambers at Montpelier, Vermont, this 6th day of November, 2023.



Signed by the Vermont Supreme Court

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice

Nancy J. Waples, Associate Justice