

STATE OF VERMONT
SUPREME COURT
_____ TERM, 2018

Order Promulgating Administrative Order No. 46

1. Pursuant to the Vermont Constitution, Ch. II § 30, it is hereby ordered that Administrative Order No. 46 be promulgated to read as follows:

ADMINISTRATIVE IMPLEMENTATION AND PERFORMANCE STANDARDS FOR VERMONT RULE OF APPELLATE PROCEDURE 35; VERMONT RULE OF CIVIL PROCEDURE 79.2; VERMONT RULE OF CRIMINAL PROCEDURE 53; VERMONT RULE OF PROBATE PROCEDURE 79.2—POSSESSION AND USE OF RECORDING AND TRANSMITTING DEVICES

§ 1. Media Registration.

(a) **Application Forms; General Information.** The Court Administrator will create applications for permanent registration and one-time registration. Copies of the applications will be available on the judiciary website. The applications must require the applicant to provide the name of the organization, if any, and names of the persons to be authorized by the registration.

(b) **Permanent Registration.**

(1) *Application Process.* The application for permanent registration must be sent to the Court Administrator by the method(s) specified on the application. The Court Administrator will determine whether the applicant meets the definition of media in V.R.C.P. 79.2 and notify the applicant.

(2) *Registration Granted.* If the Court Administrator grants the application, the Court Administrator will send the applicant a registration certificate specifying the name of each person authorized by the registration.

(3) *Registration Denied.* If the Court Administrator denies permission under this subparagraph, notice of the denial will be given to the presiding judge and clerk of each unit of the Superior Court. The requesting party may seek expeditious review of the denial by the Supreme Court.

(4) *Scope of Authorization.* The registration certificate authorizes the registrant and persons authorized by the registrant to act pursuant to V.R.A.P. 35, V.R.C.P. 79.2, V.R.Cr.P. 53, and V.R.P.P. 79.2, as applicable, in any courthouse and courtroom in the state. The registrant must supply a copy of the registration certificate to each person covered by it to use as an identification when acting under it.

(5) *List of Registrants and Authorized Persons.* The Court Administrator will maintain a list of all permanent registrants and associated authorized persons on the judiciary website.

(c) **Amending Permanent Registration.** The Court Administrator will provide a process for a registrant to add or delete authorized persons.

(d) One-Time Registration.

(1) *In General.* A person seeking a one-time media registration pursuant to V.R.A.P. 35(d)(1), V.R.C.P. 79.2(d)(2)(B), V.R.Cr.P. 53(d)(2)(B), or V.R.P.P. 79.2(d)(2)(B) must complete a one-time registration application.

(2) *Superior Court Application Process.* The applicant must submit the application to the presiding judge. The presiding judge will promptly decide the request with or without a hearing. If the presiding judge denies permission, the applicant may seek expeditious review by the Chief Superior Judge.

(3) *Supreme Court Application Process.* The applicant must submit the application to the Chief Justice. The Chief Justice will promptly decide the request with or without a hearing. If the Chief Justice denies permission, the applicant may seek expeditious review by the Supreme Court.

(e) Authorization of Individuals.

(1) *In General.* An individual seeking a one-time authorization pursuant to V.R.A.P. 35(d)(1)(C), V.R.C.P. 79.2(d)(2)(C), V.R.Cr.P. 53(d)(2)(C), or V.R.P.P. 79.2(d)(2)(C) must submit identification, a communication from an authorized individual of a registered media entity stating that the nondesignated individual is authorized to act, and a copy of the entity's registration certificate.

(2) *Superior Court Application Process.* The required documents must be presented to the superior court clerk, who will promptly decide the request. If the clerk denies permission, the requesting party may seek expeditious review of the denial by the presiding judge.

(3) *Supreme Court Application Process.* The required documents must be presented to the deputy clerk, who will promptly decide the request. If the deputy clerk denies permission, the requesting party may seek expeditious review of the denial by the Supreme Court.

§ 2. Equipment and Personnel—Media.

(a) The Court Administrator and the presiding judge for each unit of the superior court will adopt a policy on media use and placement of equipment and personnel in each courtroom within that unit. In drafting the policy, representatives of the media regularly appearing in courts in the unit will be consulted. The Court Administrator and the Chief Justice of the Supreme Court will adopt a similar policy for media and nonparticipants for the Supreme Court on placement of equipment and personnel. In both cases, the policy must cover the number of pieces of equipment authorized in the courtroom, the type of equipment, and the required placement of equipment and personnel operating the equipment. The policy may require pooling when more than one individual seeks to use the same type of equipment for similar purposes.

(b) The policy must be displayed at the entrance to the courtroom covered by the policy.

(c) The policy may be amended at any time after consultation as specified in subdivision (a).

(d) The policy must provide that

(1) Any pooling arrangements among the media required by the policy will be the media's sole responsibility without court mediation.

(2) No equipment that makes a distracting sound when operated is allowed.

(3) No artificial lighting equipment of any kind is allowed.

(4) Unless specifically authorized in the policy, no equipment operator may move from the area specifically assigned to that operator. No operator may move about to attract attention to the operator.

(5) Except for hand-held devices, no equipment may be placed or removed from the courtroom except prior to commencement or after adjournment of proceedings each day or during a recess.

2. That this order will become effective on_____.

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

Done in chambers at Montpelier, Vermont this ____ day of _____ 2018.

Paul L. Reiber, Chief Justice

Marilyn S. Skoglund, Associate Justice

Beth Robinson, Associate Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice