

STATE OF VERMONT  
VERMONT SUPREME COURT  
\_\_\_\_\_, 2017

**Order Promulgating Amendments to the Vermont Rules for Family Proceedings**

Pursuant to Chapter II, Section 37, of the Vermont Constitution, it is hereby ordered:

1. That Rule 1 of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

**RULE 1. PROCEDURE FOR JUVENILE DELINQUENCY PROCEEDINGS**

**(a) Applicability of Rules to Juvenile Proceedings.**

\* \* \* \* \*

(3) *Rules Modified.* The following Vermont Rules of Criminal Procedure shall apply to the extent set forth in this paragraph: .... Rules 11, 11.1, 12, 12.1, 15, 16, 16.1, 16.2, 17 and 26 shall be subject to subdivisions (d), (e), (h) and (i) of this rule and to 33 V.S.A. § 5110; however, in lieu of pleas of guilty or not guilty the pleas shall be admissions or denials, pleas shall be entered at the preliminary hearing, the pretrial hearing shall be held within ~~15~~ 14 days of the preliminary hearing, and pretrial motions shall be filed at or before the merits hearing. ....Rule 47 shall apply but memoranda in opposition shall be filed within ~~5~~ 7 days unless otherwise ordered by the court. ...

\* \* \* \* \*

**(d) Scheduling; Discovery.**

\* \* \* \* \*

(3) *Scheduling of Pretrial Hearings and Motions Hearings.* The court shall schedule a pretrial hearing within ~~15~~ 14 days of the preliminary hearing. The court may schedule a motions hearing at any time.

\* \* \* \* \*

**(f) Parties and Participants Other Than Child and Attorney Representing the State.**

\* \* \* \* \*

(2) *Participation.* Only the child and the attorney representing the state shall be entitled to participate in pretrial discovery relating to the merits hearing, call or examine witnesses at the

merits hearing, or otherwise actively participate at the merits hearing or proceedings relating to the merits hearing, unless the court for good cause shown at or before the merits hearing grants permission. The court's order of permission may place limits on the participation and may condition participation upon prompt compliance with such discovery as the order specifies. All persons who by statute are parties to these proceedings shall be entitled to participate fully in the disposition hearing and at discovery and other proceedings relating only to the disposition hearing. In any proceeding at which a party other than the child or the attorney representing the state intends to call a witness, the name and address of the witness and any written statement of the witness shall be disclosed at least ~~three~~ five days prior to the hearing, except for good cause shown.

\* \* \* \* \*

### **Reporter's Notes—2017 Amendments**

Rule 1 is amended to change its 15- and 3-day time periods to 14 days and 5 days, consistent with the simultaneous "day is a day" amendments to V.R.C.P. 6 and V.R.Cr.P. 45, which adopt from the Federal Rules the day-is-a-day counting system, a simplified method of computing time periods. V.R.Cr.P. 45 applies under Rule 1, and V.R.C.P. 6 is generally applicable in the Family Division. See V.R.F.P. 2(a), 4.0(a), 9(e).

The amendments serve the purposes of both achieving simplicity and maintaining uniformity with the federal practice. As stated in the Reporter's Notes to the amendment of V.R.C.P. 6,

As the Federal Advisory Committee's Notes point out, this computation method does not apply when a statute prescribes a specific method for computing time. For clarity, amended V.R.C.P. 6(a) retains the language of the former Vermont rule making its computation provisions apply to a time period in any "applicable statute that does not specify a method of computing time" (emphasis added). By Act \_\_\_ of 2017, the Legislature amended a number of statutory procedural time periods of less than 10 days to be expressly "business days," thus making Rule 6(a) inapplicable to them. For consistency, "business days" has been added to a few such time periods in several rules that were taken from one of the amended statutes. Act \_\_\_ also amended statutory periods of 10 days to 14 days, thus making them consistent with the "day is a day" provisions of Rule 6(a).

Former V.R.C.P. 6(a) applied to a time period in "any applicable statute." The retention of "applicable" in the amended rule is intended to preserve the effect of two Vermont Supreme Court decisions making clear that the test of whether a statute is

“applicable” under V.R.C.P. 6(a) is whether the statute concerns matters to which the Rules of Civil Procedure apply under V.R.C.P. 1. In *Allen v. Employment Security Board*, 133 Vt. 166, 168 (1975), affirming the Board’s dismissal of two appeals as untimely under applicable statutory provisions, the Court stated, “The scope of the Rules of Civil Procedure is clearly defined in V.R.C.P. 1. They govern procedure ‘in the Superior Court in all suits of a civil nature’ as well as causes transferred from District Court and appeals to the Superior Court, with stated exceptions. Clearly they do not apply to the cases here in issue.” Appellant had argued that the statutory provisions should incorporate former V.R.C.P. 6(a) extending time periods that ended on weekends or holidays and former V.R.C.P. 6(e) adding time after service by mail. In *State v. Hanlon*, 164 Vt. 125, 128 (1995), the Court found the State’s appeal timely, holding that the provision of 13 V.S.A. § 7403(e) establishing a time period for the State to file an appeal in a criminal matter was an “applicable statute” under V.R.C.P. 6(a), incorporated in V.R.A.P. 26(a); thus, the statutory time period could be extended by the weekend and holiday provisions of the rule as it then stood.

The Federal Advisory Committee’s Notes provide a helpful further explanation of the change:

Under former [Federal and Vermont] Rule 6(a), a period of 11 days or more was computed differently than a period of less than 11 days. Intermediate Saturdays, Sundays, and legal holidays were included in computing the longer periods, but excluded in computing the shorter periods. Former Rule 6(a) thus made computing deadlines unnecessarily complicated and led to counterintuitive results. For example, a 10-day period and a 14-day period that started on the same day usually ended on the same day—and the 10-day period not infrequently ended later than the 14-day period....

Under [the amended rule], all deadlines stated in days (no matter the length) are computed in the same way. The day of the event that triggers the deadline is not counted. All other days—including

intermediate Saturdays, Sundays, and legal holidays—are counted, [except that if] the period ends on a Saturday, Sunday, or legal holiday, then the deadline falls on the next day that is not a Saturday, Sunday, or legal holiday.

Of course, if the clerk’s office is inaccessible, or the electronic filing system unavailable, on the last day or the day to which the period has been extended, the deadline falls on the next accessible or available day. Note that “act, event, or default” has been changed in the amended rule to “event” for brevity and simplicity. The change is not intended as a change in meaning.

Periods of less than 11 days in other provisions of the rules would be shortened by the inclusion of intermediate Saturdays, Sundays, and legal holidays. Accordingly, shorter time periods in other rules are being extended by simultaneous amendments, generally following guidelines stated in the Federal Advisory Committee’s Notes:

Most of the 10-day periods were adjusted to meet the change in computation method by setting 14 days as the new period. A 14-day period corresponds to the most frequent result of a 10-day period under the former computation method—two Saturdays and two Sundays were excluded, giving 14 days in all. A 14-day period has an additional advantage. The final day falls on the same day of the week as the event that triggered the period—the 14th day after a Monday, for example, is a Monday. This advantage of using week-long periods led to adopting 7-day periods to replace some of the periods set at less than 10 days, and 21-day periods to replace 20-day periods.

In sum, in the Vermont rules, most periods of 3 days are changed to 5 unless there is a specific reason for the shorter time. Periods of 5 to 20 days are converted to 7 or multiples of 7 for convenience. Thus, 5 days becomes 7. Seven days remains 7. Ten and 15 days become 14. Twenty days become 21. Several 10-day time periods were enlarged and changed to 28 days for consistency

with the changed federal standard for motion practice. Thirty-day time periods remain unchanged. Forty-five and 50-day periods, not found in the Federal Rules, have been changed to 42 and 49 days, consistent with the “multiple of 7” simplification adopted in the Federal Rules.

Note that time periods may be either forward-looking or backward-looking. Thus, former [V.R.C.P.] Rule 59(b) is forward-looking, requiring a motion for new trial to be filed “not later than 10 days after the entry of judgment.” Former [V.R.C.P.] Rule 68 is backward-looking, requiring service of an offer of judgment “[a]t any time more than 10 days before the trial begins” unless the court approves a shorter time. The last day of a period ending on a weekend or holiday should be determined by counting in the same direction that the time period runs. For example, the Federal Advisory Committee’s Notes suggest, that if a filing is due within 30 days after an event, and the thirtieth day falls on Saturday, September 1, 2007, then the filing is due on Tuesday, September 4, 2007 (Monday, September 3, is Labor Day). But if a filing is due 21 days before an event, and the twenty-first day falls on Saturday, September 1, then the filing is due on Friday, August 31. If the clerk’s office is inaccessible on August 31, then [the rule] extends the filing deadline forward to the next accessible day that is not a Saturday, Sunday, or legal holiday—no later than Tuesday, September 4.

In either the “after” or “before” situation, if the clerk’s office were inaccessible on Tuesday, September 4, the extension would continue until the office was accessible.

2. That Rule 2 of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

**RULE 2. CHILDREN IN NEED OF CARE AND SUPERVISION**

**(a) Applicability of Rules to Juvenile Proceedings.**

\* \* \* \* \*

(3) *Rules Modified.* The following Vermont Rules of Civil Procedure shall apply to the extent set forth in this paragraph: . . . Rules 15, 16 and 16.2 shall be subject to subdivision (d) of this rule. In addition, the pretrial conference shall be entitled a pretrial hearing, which shall be held within ~~15~~ 14 days of the preliminary hearing; and, absent a showing of good cause, pretrial motions must be filed at or before the pretrial hearing. . . Rule 78(b) shall apply, but memoranda in opposition shall be filed within ~~5~~ 7 days unless otherwise ordered by the court. Vermont Rules

of Criminal Procedure 17 shall govern the issue of subpoenas.

\* \* \* \* \*

**(d) Scheduling; Discovery.**

\* \* \* \* \*

(4) *Scheduling of Pretrial Hearings and Motions Hearings.* The court shall schedule a pretrial hearing within ~~15~~ 14 days of the temporary care or preliminary hearing. The court may schedule a motions hearing at any time.

(5) *Depositions.* Except as set forth in this rule, Vermont Rule of Civil Procedure 30 shall govern the taking of depositions. . . . Notice of deposition may be oral or written, and need not be provided ~~ten~~ 14 days in advance of the deposition so long as reasonable notice is given, which in no case shall be less than 48 hours. . . .

\* \* \* \* \*

**Reporter's Notes—2017 Amendments**

Rule 2 is amended to change its 15- and 10-day time periods to 14 days, consistent with the simultaneous “day is a day” amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter’s Notes to simultaneous amendments of V.R.F.P. 1.

3. That Rule 3(b) of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

**RULE 3. TERMINATION OF PARENTAL RIGHTS**

(b) **Pretrial Hearing.** A pretrial hearing shall be held within ~~fifteen~~ 14 days of the filing of the petition, motion or request. At the pretrial hearing the judge either shall assign a date certain for hearing on the petition, motion or request, or shall issue a discovery schedule and assign a date certain for a second pretrial hearing at which a date certain for the hearing shall be set.

**Reporter's Notes—2017 Amendments**

Rule 3(b) is amended to change its 15-day time period to 14 days consistent, with the simultaneous “day is a day” amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter’s Notes to simultaneous amendments of V.R.F.P. 1.

4. That Rule 4.0 of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

**RULE 4.0. DIVORCE AND OTHER FAMILY PROCEEDINGS**

\* \* \* \* \*

**(b) Complaint; Commencing an Action; Service; Parties.**

\* \* \* \* \*

*(2) Commencing an Action; Service.*

\* \* \* \* \*

**(B) Service may be made by any of the following methods:**

\* \* \* \* \*

(v) At any time, service may be made by delivering to the defendant by any method chosen by the plaintiff the summons and a request that the defendant waive service by any other method. The summons and request must be accompanied by the complaint, the notice of hearing, and a waiver of service form. The defendant must sign and date the waiver of service and return it to the court no later than ~~20~~ 21 days from the date the documents were delivered, or 60 days from that date if the documents and requests are delivered to the defendant outside a state or territory of the United States. If the defendant answers the complaint, the defendant must do so within ~~20~~ 21 days of the date that the defendant signed the waiver or, if the waiver is undated, within ~~20~~ 21 days of the date that the waiver is filed with the court. Failure to comply with a request to waive service may result in the imposition of costs, including reasonable attorney’s fees, against the defendant for expenses incurred in effecting service by another means.

\* \* \* \* \*

**(g) Discovery.** Discovery may be taken as in civil actions, except as follows:

\* \* \* \* \*

*(6) Certificate or Affidavit of Income and Assets.*

(A) In any action subject to this rule in which a party is not, or may not subsequently be, obligated to pay child support, the parties must file a certificate, subject to the obligations of V.R.C.P. 11, that they have disclosed to each other all financial information, including, but not limited to, income, assets, and liabilities; but on order of the court, each party must file an affidavit of income and assets. The certificate must be filed on the earlier of the following dates: 30 days after the service of the complaint or on the date of the case management conference or, if no conference is scheduled, at least ~~five working~~ seven days before the date of the first-scheduled court appearance. The affidavits must be filed on the date set in the court’s order requiring the filing.

\* \* \* \* \*

### Reporter's Notes—2017 Amendments

Rule 4.0 is amended to change its 20- and 5-day time periods to 21 and 7 days, consistent with the simultaneous “day is a day” amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter's Notes to simultaneous amendments of V.R.F.P. 1.

5. That Rule 4.1 of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

Proposed

**RULE 4.1. CASES INVOLVING MINOR CHILDREN**

**(a) Complaint; Service; Case Management Conference.**

\* \* \* \* \*

(2) *Commencing an Action; Service.* If either party is or may be obligated to pay child support to the other party or to the Office of Child Support, the action must be commenced, and service of process must be made, as provided in this paragraph.

\* \* \* \* \*

(B) After filing, the family division clerk will complete a notice of hearing or notice of case manager’s conference and must attempt to schedule the hearing or case manager’s conference so that it is held from ~~45~~ 42 to 60 days after the summons and complaint were filed, unless because of unavailability of magistrates, judges, or case managers or because of a subsequent failure to complete service, it is not practical to do so.

\* \* \* \* \*

(H) At any time, service may be made by delivering to the defendant by any method chosen by the plaintiff the summons and a request that the defendant waive service by any other method. The summons and request must be accompanied by the complaint, the notice of hearing or case manager’s conference if applicable, and a waiver of service form. The defendant must sign and date the waiver of service and return it to the court no later than ~~20~~ 21 days from the date the documents were delivered, or 60 days from that date if the documents and request are delivered to the defendant outside a state or territory of the United States. If the defendant answers the complaint, the defendant must do so within ~~20~~ 21 days of the date that the defendant signed the waiver or, if the waiver is undated, within ~~20~~ 21 days of the date that the waiver is filed with the court. Failure to comply with a request to waive service may result in the imposition of costs, including reasonable attorney’s fees, against the defendant for expenses incurred in effecting service by another means.

\* \* \* \* \*

**(b) Discovery and Required Information.**

\* \* \* \* \*

*(4) Affidavit of Income and Assets.*

(A) In any action under this rule in which a party is or may be obligated to pay child support to the other party or the Office of Child Support, each party must file the affidavit of income and assets required by 15 V.S.A. § 662 on or before the date of the case management conference scheduled pursuant to Rule 4.1(a)(3) or, if no conference is scheduled, at least ~~five working~~ 7 days before the date of the first scheduled hearing before the magistrate.

\* \* \* \* \*

### Reporter's Notes—2017 Amendments

Rule 4.1 is amended to change its 45-, 20-, and 5-day time periods to 42, 21, and 7 days, consistent with the simultaneous “day is a day” amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter's Notes to simultaneous amendments of V.R.F.P. 1.

6. That Rule 4.2 of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

#### **RULE 4.2. MOTIONS AFTER JUDGMENT**

\* \* \* \* \*

(b) **Motion and Service.** Any proceedings under this rule to modify or enforce the judgment in an action for divorce must be made on motion and supported by affidavit. Copies of the motion and affidavit must be served in the same manner as a complaint by the appropriate method provided in this subdivision.

(1) *Cases Not Involving Minor Children.*

(A) Except as provided in paragraph (2), service of a motion not involving minor children must be made on the party, and not the party's attorney, whether the party is within the state or not, by one of the following methods:

\* \* \* \* \*

(iii) by delivery to the party by any method chosen by the moving party with a request that the responding party waive service by any other method. The motion with a request must be accompanied by the notice of hearing or case manager's conference if applicable and a waiver of service form. The responding party must sign and date the waiver of service and return it to the court no later than ~~20~~ 21 days from the date the documents were delivered, or 60 days from that date if the documents and request are delivered to the responding party outside a state or territory of the United States. If the party served responds, that party must do so within ~~20~~ 21 days of the date that the party signed the waiver or, if the waiver is undated, within ~~20~~ 21 days of the date that the waiver is filed with the court. Failure to comply with a request to waive service may result in the imposition of costs, including reasonable attorney's fees, against the responding party for expenses incurred in effecting service by another means; or

\* \* \* \* \*

## Reporter's Notes—2017 Amendments

Rule 4.2 is amended to extend its 20-day time periods to 21 days, consistent with the simultaneous “day is a day” amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter’s Notes to simultaneous amendments of V.R.F.P. 1.

7. That Rule 4.3 of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

### **RULE 4.3. SPECIAL PROCEDURES**

\* \* \* \* \*

**(b) Motion to Intervene and for Relief from Parentage Judgment; Action for Wage Withholding.** Except as provided in this subdivision, the Vermont Rules of Civil Procedure apply to motions by nonparties seeking to intervene and obtain relief from a judgment of parentage and to actions seeking wage withholding.

\* \* \* \* \*

*(2) Action for Wage Withholding.* Petitions for wage withholding to secure child support, spousal support, and arrearages of child support or spousal support are governed by this paragraph. If a petition is filed seeking both wage withholding for spousal support and wage withholding for child support, or arrearages thereof, the action will be heard entirely by a single superior judge assigned to the family division without any individualized finding under 4 V.S.A. § 463.

\* \* \* \* \*

**(C) Notice of Hearing; Objections.** A plaintiff who seeks wage withholding must submit a blank notice of hearing to the court together with the petition, for completion by the clerk and service with the petition. A hearing date will be scheduled within ~~10~~ 14 days of the filing of the petition. A party who objects must present the objection at the hearing provided for in the notice of hearing. If the Office of Child Support has notified the obligor to commence wage withholding pursuant to 15 V.S.A. § 782(f), the obligor must file any objection and a request for hearing within ~~10~~ 20 days of receiving the notification.

\* \* \* \* \*

**(d) Property Masters.**

\* \* \* \* \*

(6) *Report.*

\* \* \* \* \*

(B) *Objections; Effect of Master’s Report.*

(i) In an action where the master has been appointed by agreement pursuant to paragraph (2) of this subdivision, if the parties have waived the right to object to the acceptance of the report, the master’s findings of fact and conclusions of law will be conclusive on the parties, subject to the court’s approval.

(ii) In any other action, any party may, within ~~10~~ 14 days after being served with notice of the filing of the report, serve written objections on the other party. Any party may, within 30 days after service of written objections by either party or, if no timely written objections have been served by either party, within 30 days after service of notice of the filing of the report, move the court for action on the report and any timely written objections to it. Whether or not a timely motion is filed, the court, with or without hearing, must review the report. In reviewing the report, the court must accept the master’s findings of fact so long as they are supported by substantial evidence and may accept, modify, or reject the master’s conclusions of law and recommendations. On the basis of that review, the court may adopt, modify, or reject the report in whole or in part, may receive further evidence, or may recommit it with instructions.

\* \* \* \* \*

(e) **Parent Coordination.**

(5) *Duties of the Parent Coordinator.*

\* \* \* \* \*

(H) If the parties cannot agree on a parent-child contact plan, the parent coordinator will submit a report to the court, including a narrative summary of the parent coordinator’s meetings with the parties and others and detailed recommendations for a parent-child contact plan. The recommendations of the parent coordinator must not exceed the scope delineated in the parent coordination order. The report will be filed with the court and mailed to the parties at least 14 days prior to the date set for the status conference.

(6) *Objections.* A party who objects to the parent-child contact plan proposed by the parent coordinator must file written objections with the court within ~~10~~ 14 days after the mailing to the parties of the parent coordinator’s report and recommendations.

\* \* \* \* \*

**Reporter’s Notes—2017 Amendments**

Rule 4.3(d) and (f) are amended to extend their 10-day time periods to 14 days, consistent with the simultaneous “day is a day” amendments to V.R.C.P. 6, which adopts the day-is-a-day counting

system from the Federal Rules. See Reporter's Notes to simultaneous amendments of V.R.F.P. 1. Rule 4.3(b)(2)(C) is amended for consistency with 15 V.S.A. § 782(c), as amended by Act \_\_\_ of 2017, and 15 V.S.A. § 783(a)(4).

8. That Rule 8(g) of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

### **RULE 8. MAGISTRATES PROCEEDINGS**

\* \* \* \* \*

#### **(g) Appeals.**

##### *(3) Appellate Procedure.*

\* \* \* \* \*

(B) The record on appeal shall consist of the papers and exhibits filed with the magistrate, the magistrate's decision, a statement of the questions which the appealing party wishes to have determined, and the tape of the magistrate's hearing. The appellant shall file and serve the statement of questions within ~~15~~ 14 days after the filing of the notice of appeal.

\* \* \* \* \*

### **Reporter's Notes—2017 Amendments**

Rule 8(g)(3)(B) is amended to change its 15-day time period to 14 days, consistent with the simultaneous "day is a day" amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter's Notes to simultaneous amendments of V.R.F.P. 1.

9. That Rule 9(e) of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

### **RULE 9. ABUSE PREVENTION**

(e) **Denial of Ex Parte Temporary Orders.** When a judge denies an application for temporary order under this rule, the judge shall record the reasons for the denial in writing and shall give the written denial to the plaintiff. In addition, any denial in whole or in part shall inform the plaintiff that, within ~~five business~~ 7 days after entry of the denial on the docket, he or she may request that the court hold a hearing on the complaint after notice to the defendant. Any such hearing shall be scheduled no more than ~~ten~~ 14 days from the date of the request.

\* \* \* \* \*

## Reporter's Notes—2017 Amendments

Rule 9(e) is amended to extend its 5-day time period to 7 days, consistent with the simultaneous “day is a day” amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter’s Notes to simultaneous amendments of V.R.F.P. 1. The required hearing date is extended from 10 to 14 days from the issuance of the order for consistency with 15 V.S.A. § 1104(b) as amended by Act \_\_\_ of 2017.

10. That Rule 15 of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

### **RULE 15. APPEARANCE AND WITHDRAWAL OF ATTORNEYS**

(a) **Appearance: In General.** This rule applies to all proceedings under Rules 2, 3, 4.0-4.3, and 9.

\* \* \* \* \*

(2) *Form; Service.* Except as provided in a limited appearance under subdivision (h), an attorney’s signature to a pleading or motion shall constitute an appearance. Otherwise an attorney who wishes to participate in any action must appear in open court, or file notice in writing with the clerk, which shall be served pursuant to Civil Rule 5. Appearances entered in open court shall be confirmed in writing and served within ~~five~~ 7 days. An appearance, whether by pleading or motion or by formal written appearance, shall be signed by an attorney in the attorney’s individual name and shall state the attorney’s office address.

\* \* \* \* \*

(4) *Parties Appearing Pro Se.* A party may make an initial appearance pro se by signing a pleading or motion, by appearing in open court if no pleading or motion is required, or by filing a signed notice with the clerk, which shall be served pursuant to Civil Rule 5. Initial appearances entered in open court shall be confirmed in writing and served within ~~5~~ 7 days. ...

\* \* \* \* \*

(d) **Same: Child Support Hearings.** Except as may be otherwise agreed or ordered pursuant to a limited appearance under subdivision (h), an attorney who has entered an appearance for any party in a divorce, parentage, or other action under Rules 4.0-4.3 shall participate in all child support hearings and shall comply with all provisions for the exchange and filing of all required financial documents. In the discretion of the judge or magistrate, and for good cause shown, an attorney may be excused from attending a child support hearing, provided that not less than ~~5~~ 7 days prior to the scheduled hearing date, the attorney files (1) all financial affidavits and other documentation required by statute and these rules; and (2) a joint waiver of representation,

signed by attorney and client and setting forth that the client has affirmatively requested to appear pro se at the child support hearing and understands the nature and scope of the hearing; and further provided that parental rights and responsibilities are the subject of a court order or an existing written stipulation on file with the court.

\* \* \* \* \*

(g) **Same: Notification of Party.** When an attorney has been granted leave to withdraw an appearance pursuant to paragraph (3) of subdivision (f) or a limited appearance pursuant to paragraph (3) of subdivision (h), the clerk shall cause notice of the withdrawal to be served upon the party forthwith in the manner provided in Civil Rule 5. The notice shall inform the party that unless an attorney enters an appearance on behalf of the party within ~~15~~ 14 days after service of the notice, the party will be deemed to have entered a pro se appearance. If no appearance by attorney is entered within ~~15~~ 14 days, the clerk shall send the party written notification of the party's pro se status and shall serve that notification upon all other parties pursuant to Civil Rule 5. The notification to the party shall be accompanied by the material required by paragraph (4) of subdivision (a) to be sent to a party making an initial appearance pro se.

\* \* \* \* \*

#### **Reporter's Notes—2017 Amendments**

Rule 15 is amended to change its 5- and 15-day time periods to 7 and 14 days, consistent with the simultaneous "day is a day" amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter's Notes to simultaneous amendments of V.R.F.P. 1.

11. That Rule 16 of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

#### **RULE 16. CIVIL CONTEMPT PROCEEDINGS**

\* \* \* \* \*

##### **(b) Procedure.**

\* \* \* \* \*

(2) *Notice; Service.* The order of the court initiating the proceeding shall set the matter for evidentiary hearing and shall order that notice of the hearing, together with a copy of the order initiating the proceeding and any motion and affidavit, shall be served upon the person against whom the contempt proceedings are brought (the respondent) by the appropriate method provided in Rule 4.2(b) of these rules. The notice shall set forth the title of the action and the date, time, and place of the hearing, shall order the respondent to appear at the hearing to show cause why he or she should not be held in contempt, and shall allow the respondent a reasonable

time, not less than ~~15~~ 14 days before the date set for hearing, to file an answer and prepare a defense. ...

\* \* \* \* \*

(c) **Sanctions.** The court may impose any of the following sanctions on a person found to be in contempt:

\* \* \* \* \*

(4) *Financial Obligations.* In addition, in proceedings involving an order creating a financial obligation in accordance with 15 V.S.A. § 603, the court may order any of the following:

\* \* \* \* \*

(D) Payment by respondent of all or a portion of the unpaid financial obligation as a purge condition, providing that the court finds that the person has the present ability to pay the amount ordered and sets a date certain for payment. If the purge conditions are not met by the date established by the court and the date set for payment is within 30 days of finding of ability to pay, the court may issue a mittimus placing the contemnor in the custody of the commissioner of corrections.

(i) As long as the person remains in the custody of the commissioner of corrections, the court shall schedule the case for a review hearing every ~~15~~ 14 days.

\* \* \* \* \*

### **Reporter's Notes—2017 Amendments**

Rule 16 is amended to change its 15-day time periods to 14 days, consistent with the simultaneous “day is a day” amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter’s Notes to simultaneous amendments of V.R.F.P. 1.

12. That Rule 18(d) of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

### **RULE 18. MEDIATION**

(d) **Conduct of Mediation.** In a mediation ordered under subdivision (b),

\* \* \* \* \*

(7) Any agreement reached by the parties through the mediation process on all or some of the disputed issues must be reduced to writing, signed by each party and the mediator, and filed with the court by the parties within ~~ten~~ 14 days after the date of the last signature.

\* \* \* \* \*

**Reporter’s Notes—2017 Amendments**

Rule 18(d)(7) is amended to extend its 10-day time period to 14 days, consistent with the simultaneous “day is a day” amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter’s Notes to simultaneous amendments of V.R.F.P. 1.

13. That these rules as amended are prescribed and promulgated effective \_\_\_\_\_, The Reporter’s Notes are advisory.

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

Dated in Chambers at Montpelier, Vermont, this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Paul L. Reiber, Chief Justice

\_\_\_\_\_  
Marilyn S. Skoglund, Associate Justice

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Beth Robinson, Associate Justice

\_\_\_\_\_  
Harold E. Eaton, Jr., Associate Justice

\_\_\_\_\_  
Karen R. Carroll, Associate Justice

PROPOSED