

**APPROVED**

**VERMONT SUPREME COURT  
ADVISORY COMMITTEE ON RULES FOR FAMILY PROCEEDINGS**

**Minutes of Meeting  
May 4, 2018**

The meeting was called to order at 1:00 p.m. in Room 216 Debevoise Hall, Vermont Law School, by Hon. Michael Kainen, chair. Present were Committee members Laura Bierley, Hon. Cortland Corsones, Anne Damone, Hon. Robert Gerety, Hon. Gregory Glennon, Hon. Christine Hoyt, Kurt Hughes, Harriet King (by phone), Marshall Pahl, Jody Racht, Karen Reynolds, and John Wilson. Also present were Hon. Beth Robinson, Supreme Court liaison; Michele Olvera, Domestic Violence Network liaison; and Professor L. Kinvin Wroth, Reporter.

The Committee welcomed Laura Bierley, successor to Christine Speidel, Vermont Legal Aid representative.

Professor Wroth advised the Committee that the Supreme Court on April 30, 2018, had promulgated a revision of Administrative Order 29, which constitutes the Committee, as part of a general revision making all advisory committee administrative orders uniform.

**1. Minutes.** The draft minutes of the meeting of February 2, 2018, were unanimously approved as previously distributed.

**2. Status of proposed and recommended amendments.**

A. Application to Family Division of new V.R.C.P. 79.2, recommended to the Court on January 2, 2018, by Special Committee on Video and Cameras in the Court for consideration on March 8, 2018. Professor Wroth reported that the Court had reviewed the proposed rule with Justice Dooley and intended to send a revised draft out for comment. The Committee then considered the questions posed in Justice Carroll's email of May 2, 2018, to all members of the Judiciary. Justice Robinson reported that this Committee's comments on the rule had been considered by the Court and suggested that the Committee reserve any further formal comment until the revised rule was sent out. There was no further discussion.

B. Proposed draft of V.R.C.P. 43(a), et al. (including V.R.F.P. 17), video and audio appearance, and proposed AO 47, Technical Standards, prepared by Special Committee on Video and Cameras in the Court, sent out for comment on January 24, with comments due on March 23, 2018. Professor Wroth reported that the Committee's earlier comments had been incorporated in that draft. The Committee had not further comments.

3. Consideration of *In re K.F.*, 2013 VT 39, note 2 (6/7/13) (request to develop procedure for addressing ineffective assistance of counsel claims by parents in TPR proceedings). Mr. Pahl reported for the subcommittee (Ms. Racht, Judge Kainen, Ms. Reynolds, and himself) that the

subcommittee would present alternative drafts at the next meeting—one based on V.R.C.P. 60, the other presenting some form of direct appeal.

4. V.R.F.P. 6. Amendments made necessary by Act 170 of 2013 (Adj. Sess.) concerning minor guardianships. Professor Wroth reported that at its May 16 meeting, the Probate Rules Committee would consider a final draft of proposed amendments incorporating the applicable guardianship rules in the Probate Rules.

5. Joint subcommittee to consider to Vermont Rules of Public Access concerning Family Division records. Professor Wroth reported that Judge Morris, Reporter to the Public Access Rules Committee, would contact the Family Rules members before the Public Access Committee's May 25 meeting and discuss how to proceed on VRPACR 6(b). In discussion, Committee members noted the statutory prohibition on internet access but agreed that with an intranet connection, access to records at the clerk's desk and at a courthouse kiosk should be identical. The question was access to what documents? The provisions of VRPACR 6(b) should define the scope of access. Ms. Racht agreed to contact Judge Morris to initiate discussions of the scope of VRPACR 6(b).

6. Case manager's conference—issues raised by Judge Carroll. Ms. Racht reported that she had not yet heard from Judge Grearson on the issues and now will pursue them with the chair of the Oversight Committee.

7. Adoption of Prisoner's Mailbox Rule for Family Rules. Proposed amendments to V.R.C.P. 3 and 5 and V.R.A.P.25 addressing prisoner's mailbox issues were sent out for comment on March 9, by the Civil Rules Committee, with comments due on May 9, 2018. Professor Wroth reported that at its May 18 meeting the Civil Rules Committee would consider any comments received.

8. Act 72 of 2017. An Act Relating to Juvenile Jurisdiction. (Section 7 directs the Supreme Court to consider adoption of appropriate rules by July 1, 2018.) Mr. Pahl reported for the subcommittee (Ms. Racht, Ms. Reynolds, and himself) that the subcommittee had originally thought that making V.R.Cr.P.23 applicable under V.R.F.P. 1 would address the problem. However, S.234, now pending in the Legislature, might require additional amendments. It was agreed to defer action until the next meeting.

9. V.R.F.P. 18. Mediation. Concerns with requirement of V.R.F.P. 18(d)(1) regarding Family Division Program's list of mediators. The Committee considered the drafts amendments to Rule 18 prepared by Ms. Benelli and Ms. Speidel. At Ms. Olvera's suggestion, it was agreed to add "including domestic violence training in a draft proposed order that Professor Wroth will present at the next meeting.

10. Status of Form 813-A. Communication with Trial Court Operations. The Committee considered Mr. Woodward's report on his discussion with Trial Court Operations. The Committee discussed methods for more systematic coordination with Trial Court Operations, but no action was taken.

11. Other business. There was no other business

12. Dates of next meetings. The next meetings of the Committee are scheduled for September 7, and November 2, 2018.

There being no further business, the meeting was adjourned at 3:00 p.m.

Respectfully submitted,

L. Kinvin Wroth  
Reporter