

SUPREME COURT OF VERMONT
OFFICE OF THE COURT ADMINISTRATOR



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TO: Members of the Vermont Bar
FROM: Patricia Gabel, State Court Administrator
RE: Proposed Rule Amendments and Miscellaneous Information
DATE: March 9, 2018

For your information, please find the following information:

- [Proposed Order Amending Rules 3 and 5\(e\) of the Vermont Rules of Civil Procedure and Rule 25\(a\)\(2\)\(C\) of the Vermont Rules of Appellate Procedure](#)
- [Proposed Order Amending Rule 42 of the Vermont Rules of Criminal Procedure](#)
- [Proposed Order Amending Rule 17\(a\) of the Vermont Rules of Criminal Procedure](#)
- [Proposed Order Amending Rule 23\(d\) of the Vermont Rules of Criminal Procedure](#)
- *Updated Court Forms*
- *Obligations Under A.O. 41*
- *eCabinet Registration*

I. PROPOSED RULE AMENDMENTS

(NOTE: THE FOLLOWING AMENDMENTS HAVE BEEN PROPOSED BY THE COMMITTEES OR BOARDS AND HAVE NOT BEEN REVIEWED BY THE SUPREME COURT.)

- a. [Proposed Order Amending Rules 3 and 5\(e\) of the Vermont Rules of Civil Procedure and Rule 25\(a\)\(2\)\(C\) of the Vermont Rules of Appellate Procedure](#)

The proposed amendment redesignates the present Rule 3 as Rule 3(a) and adds Rule 3(b) to provide a “prisoner mailbox” procedure for the filing of a complaint in a civil action by an inmate confined in an institution. The proposed amendment is virtually identical to V.R.A.P. 4(f), adopted effective March 13, 2017.

Proposed simultaneous amendments adding V.R.C.P. 5(e)(4) and V.R.A.P. 25(a)(2)(C) establish an identical procedure for inmate filing of documents after the complaint that are required to be filed by V.R.C.P. 5 and papers after the notice of appeal required to be filed by V.R.A.P. 25.

Comments on this proposed amendment should be sent by **May 9, 2018**, to Allan Keyes, Chair of the Civil Rules Committee, at the following address:

Allan Keyes, Esq., Chair
Civil Rules Committee
Ryan Smith & Carbine, Ltd.
P.O. Box 310
Rutland, VT 05702 0310
ark@rsclaw.com

b. [Proposed Order Amending Rule 42 of the Vermont Rules of Criminal Procedure](#)

The proposed amendment to Rule 42, governing contempt process, reorganizes and substantively amends the rule in three instances. A provision is added for notice to the defendant of the maximum penalty that may be imposed upon conviction. To facilitate appearance of counsel and assignment of counsel to represent the indigent defendant, a requirement is added to provide notice of the right to be represented by counsel and to make application for assignment of counsel. Specific provision is also made for the mode of appointment of a prosecuting attorney.

Comments on this proposed amendment should be sent by **May 9, 2018**, to the Honorable 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
Vermont Superior Court
Rutland Criminal Family Unit
9 Merchants Row
Rutland, VT 05701
Thomas.zonay@vermont.gov

c. [Proposed Order Amending Rule 17\(a\) of the Vermont Rules of Criminal Procedure](#)

The proposed amendment Rule 17(a) expands the categories of persons who are authorized to issue subpoenas in criminal proceedings, either for attendance of witnesses or for production of documentary evidence and objects. This subdivision was amended effective February 20, 2017 to clarify that a subpoena is provided by the clerk, but actually issued by a judicial officer, subject to certain notice of rights on the part of persons subject to subpoena to object thereto, and the procedures for doing so. The proposed amendment provides that subpoenas in criminal cases may now be issued either by a judicial officer, a clerk, or a member of the Vermont bar. The amendment is intended to facilitate issuance of subpoenas in criminal cases, consistent with a defendant's Compulsory Process guarantees, subject to the existing provisions of the rule establishing protections for persons and records that are the subject of subpoenas. The amendment is also intended to establish greater conformity with V.R.C.P. 45(a)(3), which has long provided that subpoenas in civil proceedings may be issued by either a judicial officer, a clerk, or an attorney.

Comments on this proposed amendment should be sent by **May 9, 2018**, to the Honorable 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
Vermont Superior Court
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d. [Proposed Order Amending Rule 23\(d\) of the Vermont Rules of Criminal Procedure](#)

The proposed amendment to Rule 23(d) is in response to the Supreme Court's decision in State v. Breed, where the Court outlined the better practice when there may be a delay after the jury has been chosen but before trial.

Comments on this proposed amendment should be sent by **May 9, 2018**, to the Honorable 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
Vermont Superior Court
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II. MISCELLANEOUS

a. 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>

b. 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. Your cooperation is very much appreciated.

To ensure you continue to receive these emails, please add JUD.AttyLicensing@vermont.gov to your Safe Senders list.

c. *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 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 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.