

**STATE OF VERMONT  
SUPREME COURT  
\_\_\_\_\_TERM, 2018**

**Order Promulgating Amendments to Rule 17(a) of the Vermont Rules of Criminal Procedure**

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

1. That Rule 17(a) of the Vermont Rules of Criminal Procedure be amended to read as follows (deleted matter struck through; new matter underlined):

**RULE 17. SUBPOENA**

(a) **For Attendance of Witnesses; Form; Issuance.** A subpoena must be issued ~~provided~~ by the clerk, a judge, or a member of the Vermont bar. It must state the name of the court and the title, if any, of the proceeding, and must command each person to whom it is directed to attend and give testimony at the time and place specified therein. ~~The~~ A subpoena issued by a clerk or a judge must be issued signed but otherwise in blank to a party requesting it, who shall fill in the blanks before it is served. A subpoena ~~will~~ may be issued by a judicial officer in a proceeding before him or her, and notice must be given as required in paragraph (c)(2) below.

**Reporter's Notes – 2018 Amendment**

Rule 17(a) is amended to expand 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 of 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 present 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 term “issued” is substituted for the term “provided,” in identifying those who are authorized to actually “issue” subpoenas. In this regard, the term “may” is substituted for the term “will” in describing the judicial officer’s authority to issue a subpoena as well. 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 court, or an attorney.

2. That these rules, as amended are prescribed and promulgated to become effective \_\_\_\_\_ . The Reporter's Notes are advisory.

3. 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 \_\_\_\_\_, 2018.

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Paul L. Reiber, Chief Justice

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Marilyn S. Skoglund, Associate Justice

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Beth Robinson, Associate Justice

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Harold E. Eaton, Jr., Associate Justice

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Karen R. Carroll, Associate Justice