

No. 95. An act relating to the emergency judicial response to the COVID-19 public health emergency.

(S.114)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. RENT ESCROW HEARINGS; TEMPORARY JUDICIAL
DISCRETION FOR PAYMENT OF RENT INTO COURT

(a) As used in this section, “emergency period” means the period beginning with the Governor’s declaration of a state of emergency on March 13, 2020 arising from COVID-19 and ending 30 days after the Governor terminates the state of emergency by declaration.

(b) Notwithstanding 12 V.S.A. § 4853a(d), for any hearing on a motion to order a defendant to pay rent into court that occurs during the emergency period, the court may order full or partial payment into court of rent as it accrues while the proceeding is pending and rent accrued from the date of filing with the court the complaint for ejectment or the date the summons and complaint for ejectment were served on the tenant pursuant to Rule 3 of the Vermont Rules of Civil Procedure, whichever occurs first.

Sec. 2. 14 V.S.A. § 3503 is amended to read:

§ 3503. EXECUTION

(a) A power of attorney shall be signed by the principal in the presence of at least one witness and shall be acknowledged before a notary public, who shall be a person other than the witness.

* * *

(f)(1) During the period that the Emergency Administrative Rules for Remote Notarial Acts issued by the Vermont Secretary of State (the Emergency Rules) are in effect, the witness to a power of attorney signed in conformity with the Emergency Rules and pursuant to this section shall be considered to be in the presence of the principal whether or not the witness is physically present with the principal or the notary. A power of attorney executed pursuant to this subsection may be recorded in the land records.

(2) A power of attorney executed in compliance with the Emergency Rules shall be presumed to be valid if the notarial certificate attached to the power of attorney contains an affirmative statement of compliance with the Emergency Rules.

Sec. 3. 27 V.S.A. § 341 is amended to read:

§ 341. REQUIREMENTS GENERALLY; RECORDING

(a) Deeds and other conveyances of lands, or of an estate or interest therein, shall be signed by the party granting the same and acknowledged by the grantor before a notary public and recorded at length in the clerk's office of the town in which such lands lie. Such acknowledgment before a notary public shall be valid without an official stamp being affixed to his or her signature.

* * *

(d)(1) A deed or other instrument may be recorded in the land records pursuant to this section for the purposes provided in this chapter and shall be deemed to impart notice of its contents if it is signed and acknowledged in accordance with the procedures specified in the Emergency Administrative Rules for Remote Notarial Acts adopted by the Vermont Secretary of State (the Emergency Rules) during the period that the Emergency Rules are in effect.

(2) A deed or other instrument executed in compliance with the Emergency Rules shall be presumed to be valid if the notarial certificate attached to the deed or other instrument contains an affirmative statement of compliance with the Emergency Rules.

Sec. 4. Vermont Rule of Criminal Procedure 43 is amended to read:

RULE 43. PRESENCE OF THE DEFENDANT

(a) Presence Required. The defendant shall be present at the arraignment, at any subsequent time at which a plea is offered, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule.

* * *

(d)(1) For purposes of this rule, a defendant shall be deemed to be present in court if:

(A) after having the opportunity to consult with counsel in person, telephonically, or via audio or video conference, the defendant makes an on-

the-record waiver of the right to be physically present in court at the time of the proceeding; and

(B) the defendant's appearance at the proceeding is made by means of contemporaneous video or audio conference transmission.

(2) For purposes of this rule, the terms "audio conference" and "video conference" shall be defined as set forth in V.R.C.P. 43.1, Participation of Testimony by Video or Audio Conference.

Sec. 5. ADMINISTRATIVE ORDER NO. 49; JUDICIAL EMERGENCY
RESPONSE; SUSPENSION AND EXTENSION OF STATUTORY
TIME FRAMES FOR COURT PROCEEDINGS; STAY OF CIVIL
SUSPENSIONS

Due to the COVID-19 public health emergency, Administrative Order No. 49, Declaration of Judicial Emergency and Changes to Court Procedures, was issued to postpone all nonemergency Superior Court and Judicial Bureau hearings. As a result, the General Assembly intends this section to temporarily suspend the time frames by which certain court proceedings are statutorily required to take place.

(1) Notwithstanding any provision of law to the contrary, for the duration of the time A.O. No. 49 is in effect, the statutory time frames for certain hearings or court proceedings shall be extended as follows:

(A) conditions of release review pursuant to 13 V.S.A. § 7554(d)(1) shall be held within seven days following application; and

(B) conditions of release review pursuant to 13 V.S.A. § 7554(d)(2) shall be held within 14 days following application.

(2) Notwithstanding any provision of law to the contrary, for the duration of the time A.O. No. 49 is in effect and 120 days after A.O. No. 49 is terminated, all statutory time frames for issuing orders to seal or expunge criminal history records or processing petitions to seal or expunge criminal history records pursuant to 13 V.S.A. chapter 230 are suspended.

Sec. 6. SUSPENSION OF STATUTES OF LIMITATIONS

Notwithstanding any provision of law to the contrary, all statutes of limitations or statutes of repose for commencing a civil action in Vermont that would otherwise expire during the duration of any state of emergency declared by the Governor arising from the spread of COVID-19 are tolled until 60 days after the Governor terminates the state of emergency by declaration.

Sec. 7. NOTARIZATION; ALTERNATIVE FILING REQUIREMENT

(a) As used in this section, “emergency period” means the period beginning with the Governor’s declaration of a state of emergency on March 13, 2020 arising from COVID-19 and ending 30 days after the Governor terminates the state of emergency by declaration.

(b) During the emergency period, notwithstanding 4 V.S.A. § 27b:

(1) A party may file any document that would otherwise require the approval or verification of a notary by filing the document with the following language inserted above the signature and date:

“I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I will be subject to the penalty of perjury or other sanctions in the discretion of the court.”

(2) A document filed pursuant to this subsection shall not require the approval or verification of a notary.

(c) This section shall not apply to an affidavit in support of a search warrant application or to an application for a nontestimonial identification order.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: April 28, 2020