

STATE OF VERMONT  
VERMONT SUPREME COURT  
\_\_\_\_\_ TERM, 2020

**Order Promulgating Amendment to Rule 80.5(e) of the Vermont Rules of Civil Procedure**

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

1. That Rule 80.5(e) of the Vermont Rules of Civil Procedure be amended to read as follows (new matter underlined):

**RULE 80.5. CRIMINAL DIVISION PROCEDURES FOR CIVIL LICENSE  
SUSPENSIONS AND PENALTIES FOR DWI**

**(e) Preliminary Hearing; Waiver; Discovery Limited.** In every case under this rule, except as set forth below, a preliminary hearing shall be held within 21 days of the alleged offense.

At the preliminary hearing the State and the defendant shall each make available for inspection all nonprivileged information and written statements in their possession and control concerning the evidentiary test or tests, relation back, or other matters to be contested at the hearing on the merits, including without limitation the police report, expert witnesses' reports, processing forms, affidavit, breath test results, police notes and the names and addresses of witnesses, except that evidence the defendant does not intend to use at the hearing need not be disclosed by the defendant. A copy of a videotape made of the alleged offense and subsequent processing shall be available for purchase by the defendant directly from the law enforcement agency responsible for initiating the action upon written request and advance payment of a ~~\$15.00~~ \$45.00 fee, except that no fee shall be charged to a defendant whom the court has determined to be indigent. The fees collected for videotapes sold under this rule shall be allocated in the manner prescribed by Rule 16 of the Vermont Rules of Criminal Procedure. Discoverable evidence not known at the time of the preliminary hearing shall be disclosed to the party immediately when it becomes known. Failure to provide discovery in accordance with this paragraph may be subject to appropriate sanctions in the discretion of the court, which may include preclusion of any witness or evidence not timely disclosed.

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**Reporter's Notes—2021 Amendment**

Rule 80.5(e) is amended to reflect the fact that 23 V.S.A. § 1203(k), as amended by 2007, No. 153 (Adj. Sess.), § 2, now provides that in DUI cases the fee for video reproduction is \$45.00.

2. That this amendment be prescribed and promulgated, effective on \_\_\_\_\_. The Reporter's Notes are advisory.

3. That the Chief Justice is authorized to report this amendment 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 \_\_\_\_\_, 2020.

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Paul L. Reiber, Chief 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

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William D. Cohen, Associate Justice

PROPOSED