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STATE OF VERMONT

Legislative Committee on Judicial Rules

Tuesday, December 8, 2020

AGENDA

1:00 p.m. Approval of Minutes of 8/3/20 meeting.

1:05 p.m. **Hon. Timothy Tomasi, Superior Judge, Chair, Vermont Rules for Public Access to Court Records, Vermont Supreme Court; Hon. Judge Dennis Pearson (Ret.), Reporter, Vermont Rules for Public Access to Court Records, Vermont Supreme Court; Hon. Judge Walter Morris (Ret.), Reporter, Advisory Committee on Rules of Criminal Procedure, Vermont Supreme Court.**

1. Promulgated Rule (proposed May 4, 2020; reviewed by LCJR at 8/3/20 meeting; promulgated September 14, 2020; effective November 16, 2020).

- a. **V.R.P.A.C.R. 6(b)(5).** Expungement and sealing of criminal history records where judicial officer has found there is no probable cause for some, but not all, of the charges brought in single information.

[Order Promulgating Amendments to Rule 6\(b\)\(5\) of the Vermont Rules for Public Access to Court Records](#)

2. Proposed Rules (proposed September 14, 2020; comments due November 16, 2020; not yet reviewed by LCJR).

- a. **V.R.P.A.C.R. 6(b); Rules 4(c) and 10 of Vermont Rules Governing Qualifications, List, Selection, and Summoning of All Jurors; V.R.Cr.P. 24(a)(2); V.R.C.P. 47(a)(2).** Confidentiality of responses by potential jurors to questionnaires completed when determining qualification for jury service.

[Proposed Amendments to Rule 6\(b\) of the Vermont Rules for Public Access to Court Records, Rules 4\(c\) and 10 of the Vermont Rules Governing Qualifications, List, Selection and Summoning of All Jurors, Rule 24\(a\)\(2\) of the Vermont Rules of Criminal Procedure, and Rule 47\(a\)\(2\) of the Vermont Rules of Civil Procedure](#)

1:45 p.m.

Hon. Thomas Zonay, Superior Judge, Chair, Advisory Committee on Criminal Rules, Vermont Supreme Court; Hon. Judge Walter Morris (Ret.), Reporter, Advisory Committee on Rules of Criminal Procedure, Vermont Supreme Court.

3. Proposed Rule (proposed October 7, 2020; comments due December 7, 2020; not yet reviewed by LCJR).

- a. **V.R.Cr.P. 11(a)(3).** Procedure for preserving a post-conviction relief (PCR) challenge for post-conviction review.

[*Proposed Order Adding Rule 11\(a\)\(3\) to the Vermont Rules of Criminal Procedure*](#)

2:00 p.m.

Allan Keyes, Esq., Chair, Advisory Committee on Civil Rules; Vermont Supreme Court; Kinvin Wroth, Reporter, Advisory Committees on Civil and Probate Rules, Vermont Supreme Court.

4. Promulgated Rules (proposed February 10, 2020; reviewed by LCJR at 8/3/20 meeting; promulgated October 7, 2020; effective December 7, 2020).

- a. **V.R.C.P. 26(c)(2) and 34(b).** Protective orders and production of documents in discovery proceedings.

[*Order Promulgating Amendments to Rules 26\(c\) and 34\(b\) of the Vermont Rules of Civil Procedure*](#)

5. Proposed Rules (proposed August 19, 2020; comments due October 19, 2020; not yet reviewed by LCJR).

- a. **Vermont Rule of Small Claims Procedure 8(c).** Elimination of arrest as possible consequence of contempt in small claims proceedings.

[*Proposed Amendments to Rules 9.1 and 55\(c\)\(7\) of the Vermont Rules of Civil Procedure and Rules 2\(a\), 3, and 8\(c\) of the Vermont Rules of Small Claims Procedure*](#)

6. Proposed Rule (proposed October 7, 2020; comments due December 7, 2020; not yet reviewed by LCJR).

- a. **V.R.C.P. 80.5(e).** Fee for reproduction of video in DUI cases.

[*Proposed Order Amending V.R.C.P. 80.5\(e\)*](#)

2:30 p.m.

Emily Wetherell, Esq., Deputy Clerk, Vermont Supreme Court; Patricia Gabel, Esq., State Court Administrator, Vermont Supreme Court.

7. Promulgated Amendments (promulgated August 20, 2020; October 5, 2020; November 2, 2020; November 24, 2020; amendments effective on promulgation).

- a. **Administrative Order 49.** Updates to declaration of judicial emergency by Supreme Court in response to the novel coronavirus, COVID-19, and the Governor's declaration of a state of emergency.

[AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 8-20-20](#)

[AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 10-5-20](#)

[AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 11-2-20](#)

[AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 11-24-20](#)

3:00 p.m.

Adjourn

If you have questions and/or comments, please contact Mike Ferrant at 802-828-2271 or mferrant@leg.state.vt.us