

STATE OF VERMONT
VERMONT SUPREME COURT
DECEMBER TERM, 2011

**Order Promulgating Emergency Amendments to 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 18 of the Vermont Rules of Criminal Procedure be amended to read as follows (deleted matter struck through; new matter underlined):

RULE 18. PLACE OF PROSECUTION AND TRIAL

(a) In General. Except as otherwise permitted by statute or by these rules, the prosecution shall be had in the ~~county or territorial~~ unit in which the offense was committed or in a contiguous unit. ~~The trial of a proceeding in the district court shall be held in either the circuit in which the proceeding was filed or in any contiguous circuit within the territorial unit.~~

(b) Exceptions. Notwithstanding the provisions of subsection (a), the following proceedings may be had in any unit:

- (1) Initial appearance and arraignment under Rules 5 and 10;
- (2) A preliminary hearing under Rule 32.1(a)(1);
- (3) A hearing to review bail or conditions of release after arrest upon a warrant for failure to appear in another unit.

(c) Violations of Conditions of Pretrial Release. After arraignment, the prosecution and trial for the offense of violation of conditions of pretrial release shall be had (1) in the unit county or circuit of the court which issued the pretrial release order; or (2) if the defendant has also been charged with a new offense, other than violation of a condition of pretrial release, The prosecution may be had in the unit county or circuit where the offense occurred or a contiguous unit, if the defendant has also been charged with a new offense other than violation of conditions of pretrial release.

Reporter's Notes – 2011 Amendment

This amendment revises the nomenclature used to refer to the place of prosecution and trial in order to conform to changes made by the Judicial Restructuring Act, Act 154 of 2009 (Adj. Sess.). The term “unit,” as used in this amendment, means and is coterminous with the territorial reach of each Vermont county. Additionally, this amendment provides for broadened venue for initial appearance and arraignment under Rules 5 and 10, the preliminary hearing under Rule 32.1(a)(1), and proceedings upon arrest for failure to appear on warrant issued by another unit. The addition of the subsection (b)

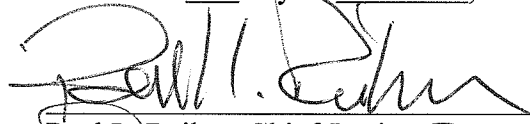
exceptions to the normal venue requirements of the rules is intended to reduce the delay in arranging a defendant's appearance before a judicial officer that would otherwise be entailed pending transport to the court of the initiating unit. Review of bail or conditions of release established in proceedings pursuant to subsection (b) would be held as a matter of course in the initiating unit upon subsequent motion of a defendant pursuant to 13 V.S.A. § 7554(d), or upon motion for review or modification filed by the state. The offense referred to in subdivision (c)(2) must be based on the same conduct as the offense that is the subject of the conditions of release.

2. That this rule, as amended, is prescribed and promulgated to become effective immediately. The Reporter's Notes are Advisory.

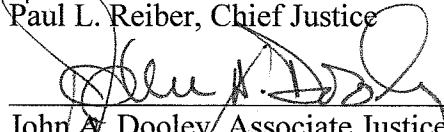
3. That the Court finds that this emergency amendment must be promulgated without resort to the notice and comment procedures set forth in Administrative Order No. 11 because the amendment seeks to eliminate circumstances under which defendants may be incarcerated for longer than necessary pending transport to the court of the initiating unit, where prompt hearing is available in the unit of their detention following arrest. The Court's Advisory Committee on the Vermont Rules of Criminal Procedure is directed to consider and report to the Court pursuant to Administrative Order No. 11 by March 31, 2012 on any comments that may be received on this emergency amendment.

4. 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.

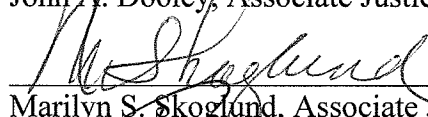
Dated in Chambers at Montpelier, Vermont this 21st day of December, 2011.



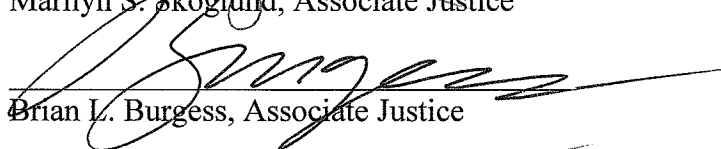
Paul L. Reiber, Chief Justice



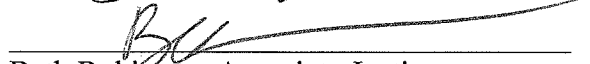
John A. Dooley, Associate Justice



Marilyn S. Skoglund, Associate Justice



Brian L. Burgess, Associate Justice



Beth Robinson, Associate Justice