

Vermont Council on Domestic Violence

To: Rep. Ann Pugh, Chair
Rep. Sandy Haas, Vice Chair
Members of the House Committee on Human Services

CC: Committee staff person, Julie Tucker

From: Heather Holter, Coordinator, Vermont Council on Domestic Violence

Re: S.9 – Section 3

Date: 3/20/15

The Vermont Council on Domestic Violence (Council) held our quarterly meeting on March 4, 2015. At that meeting, Council Members considered the recommendations of our Legislative Review Committee. After thoughtful discussion, the Council made the decision to oppose Section Three of 13 VSA, 1304a.

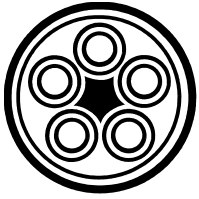
I have prepared this memo to make the House Committee on Human Services aware of our opposition to this legislation, which could serve to hold victims of domestic violence responsible for harm perpetrated by a former or current partner. Furthermore, the Council does not support the addition of an “affirmative defense” section, as it is an ineffective remedy which proves “too little, too late,” for victims of domestic violence and their children.

The Council is aware of the considerable task the Vermont Legislature is undertaking by thoroughly examining Vermont’s response to children at risk, and we hail your efforts. Children lost their lives unnecessarily last year, and we join you in a dedication to ensure that this does not happen again. However, we are convinced that the enactment of laws such as Section Three of 13 VSA, 1304a will only serve to further victimize children and their protective, or non-offending parents.

The dynamics of domestic and sexual violence are both simple and complicated. An intimate partner chooses to approach a relationship with the goal of gaining and maintaining control over the other, or a parent perpetrates emotional, physical or psychological abuse on a child. Sometimes, both occur. National research suggests that in an estimated 30 to 60 percent of the families where domestic violence is identified, some form of co-occurring child maltreatment is also present.¹

It may be difficult to understand the ways in which a protective parent may behave—who he/she may trust, or tell, or turn to, when faced with ongoing coercive control, physical and sexual abuse, intimidation, and threats to hurt or kill. However, it is easy to see that our criminal justice

¹Edelson, J.L. (1999). “The Overlap Between Child Maltreatment and Woman Battering.” *Violence Against Women*. 5:134-154



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system has recently fallen short of protecting victims of domestic violence and their children—and it is the system that must be held responsible, not victims of abuse, whether child or adult.

It is for this reason that the Council opposes Section Three of 13 VSA, 1304a.

While a victim of domestic violence may be fearful of laws such as this one, she/he will be much more familiar, and arguably *more* fearful of the threats posed by an abusive partner.

Council History

In 2008, VT statute 15 VSA chapter 21, subchapter 4, 1171-1173 created the Vermont Council on Domestic Violence (Council) with broad representation from state and community stakeholders in order to coordinate statewide responses to domestic violence. The Council makes recommendations for changes in state programs, laws, administrative regulations, policies, and budgets related to domestic violence. I have attached a packet of basic information about the Council, and our most recent Biennial Report.

Council Decision

The Council on Domestic Violence is a large group, and the diversity and breadth of members' experience is what makes the Council unique. It may also be notable that the Council makes our decisions using a consensus model—placing an integral emphasis on gathering and sharing information, rich discussion, and debate. There were 32 Council members present on Wednesday, and 24 members agreed to oppose Section 3, 13 VSA, 1304a. Eight members “stood aside” from the vote, due to the limitations imposed for members representing State agencies or the Judiciary.² There were no members in disagreement.

Council Position

The Council opposes Section 3, 13 VSA, 1304a and we urge the legislature to remove this language and this threat which will further harm children and victims of domestic violence. We urge the House Committee to focus instead on strengthening the good work that has been done to make Vermont's child protective services system a *child-centered* one, which maintains focus on holding offenders accountable, while working with non-offending, protective parents to build their capacity to re-build new lives together with their children.

² *Stand Asides*: Hon. Barb Zander (Family Court), Carolyn Hanson, Esq. (VT Attorney General's Office), Ellie Breitmaier (VT Dept. for Children and Families), Donna McAllister (VT Agency of Education), Rick Bates (VT Dept. Of Corrections), Cary Brown (VT Commission on Women), Laura Dolgin (VT Court Administrator's Office), Kathleen Pearl (Court Clerk)