



February 4, 2016

TO: Rep. Maxine Grad, Chair
Rep. Willem Jewett, Vice-Chair
House Judiciary Committee

FROM: Auburn Watersong, Associate Director of Public Policy

RE: H. 749 – Relief from Abuse orders for minors

Thank you for the opportunity to speak to you about H.749, a bill allowing a “next friend” to file a request for relief from abuse order on behalf of a minor and allowing minors to file on their own behalf at the age of 16. Although the concept of using “next friends” to bring litigation on behalf of those incapable of accessing the courts themselves has been around for centuries, the doctrine is currently undefined in Vermont case law and statute. Vermont Rules of Civil Procedure (VRCP 17[b] [2013]) currently allow a minor to obtain a relief from abuse order via a “next friend” but this is *not* explicit. Since it is not currently in statute, the practice of allowing a “next friend” is not consistent throughout the state.

Why H.749?

Teenagers desperately need the ability to access protection orders. National research indicates that teenagers are more likely to experience sexual violence than any other age group. In fact, females ages 16-24 are more vulnerable to intimate partner violence than any other age group – at a rate almost triple the national average.ⁱ

- 35.8% (more than 1/3) of all sexual assaults occur when the victim is between the ages of 12 and 17.ⁱⁱ
- One in three teenagers and young adults experience some form of dating abuse.ⁱⁱⁱ
- Approximately 1 in 5 female high school students report being physically and/or sexually abused by a dating partner.^{iv}
- Last year alone our Vermont Network programs served 417 children and teens who were abused.^v

Abuse prevention orders are the first line of defense in keeping individuals safe from their abusers. Under current Vermont law, a minor lacks the ability to independently access the courts. H.749 amends both Title 15 (Relief from Abuse Orders) and Title 12 (Orders Against Stalking and Sexual Assault) so that minors can better access the protections they may need.

How H.749 works:

- Section 1 – Defines “next friend” as a person, dedicated to the plaintiff’s best interest, who pursues a cause of action on behalf of a plaintiff who is a minor or who lacks capacity to protect his or her interests due to psychiatric, intellectual, or developmental disability.
- Section 2 – Allows a next friend, on behalf of another person, to file for an order for relief from abuse by a household member. It also allows a minor of 16 years of age or older to file independently.
- Section 3 – Does the same thing as in Section 2, but for emergency relief orders
- Section 4 - Allows a next friend, on behalf of another person, to file for a Stalking or Sexual Assault protection order (by someone other than a household member)^{vi}. It also allows a minor to file independently.
- Section 5 – Does the same thing as in Section 4, but for emergency relief orders.
- Section 6 – Further clarifies that a minor is able to bring an action through a “next friend”.

Minors Seeking Protection Orders in Vermont:

During calendar year 2015, 4,030 relief from abuse (excluding elderly/disabled exploitation), sexual assault and stalking cases were filed in Vermont. A date of birth was available for 3,394 plaintiffs (93%). There were 30 plaintiffs under the age of 18 at the time the case was filed: 20 relief from abuse; 2 sexual assault; 8 stalking.^{vii} There were 339 relief from abuse cases in which a filing party was a Plaintiff on Behalf of a Minor (Child). Network advocates believe that minors will be more likely to seek protection orders if they are able to file on their own or through a next friend.

The Need for “Next Friend”

Unfortunately, many minors never attempt to access the protection offered by our court system because they understand that, as the law currently reads, they will need to engage a parent in this process. Many minors are unable to do that, for many different reasons. For example, advocates report that LGBTQ teens are often less likely to seek protections for fear of being forced to “come out” to their parents, and for fear of suffering estrangement from disapproving family members. In a 2004 study of gay, lesbian, and bisexual adolescents, the data showed that youths involved in same-sex dating are just as likely to experience dating violence as youths involved in opposite sex dating.^{viii}

Domestic and sexual violence advocates throughout Vermont report the need for older minors to be able to file on their own, and for younger youth to be allowed to file via a “next friend”. One advocate in Caledonia County reports that a protection order filed on behalf of a minor by the minor’s grandmother was denied. The grandmother reported to our advocacy agency that she was denied because she was the grandmother and not the parent or legal guardian. You will hear other such stories in testimony today.

It is the hope of all advocates working at our member programs that we Vermonters never again hear a story of a minor unable to access the protection they seek. H.749 will move us toward that goal. The Vermont Network strongly supports passage of H.749 as written.

ⁱ U.S. Department of Justice, Bureau of Justice Statistics, Special Report: Intimate Partner Violence and Age of Victim, 1993-99 (Oct. 2001, rev. 11/28/01)

ⁱⁱ “Child Sexual Abuse: What Parents Should Know,” American Psychological Association. (<http://www.apa.org/pi/families/resources/child-sexual-abuse.aspx>) (February 19, 2014).

ⁱⁱⁱ Douglas, E., and D. Finkelhor, Childhood Sexual Abuse Fact Sheet, Crimes Against Children Research Center, May 2005. (<http://www.unh.edu/ccrc/factsheet/pdf/CSA-FS20.pdf>) (December 21, 2011).

^{iv} Silverman, J. G., A. Raj, L. A. Mucci, and J. E. Hathaway, “Dating Violence Against Adolescent Girls and Associated Substance Use, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy, and Suicidality”, *Journal of the American Medical Association*, 2001, Vol. 286 (No. 5).

^v Vermont Network Against Domestic and Sexual Violence, Annual Report, 2015, “Children and Teens”.

^{vi} Note that a “household member” is anyone who is or has shared a dwelling with the litigant, has been in a sexual relationship with the litigant, or has “dated” the litigant.

^{vii} Information provided by Research and Information Division of the Vermont Judiciary, courtesy of Patricia Gabel, Court Administrator, 2/1/16.

^{viii} “Prevalence of Partner Violence in Same-Sex Romantic and Sexual Relationships in a National Sample of Adolescents,” Halpern CT, Young ML, Waller MW, Martin SL, Kupper LL. *Journal of Adolescent Health*, Vol. 35, Issue 2, Pages 124-131, (August 2004).