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H.749

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Introduced by Representative Rachelson of Burlington

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Referred to Committee on

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Date:

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Subject: Domestic relations; abuse prevention orders; next friend filing

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Statement of purpose of bill as introduced: This bill proposes to allow a friend

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to file a request for relief from abuse for a minor or for a person who lacks

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capacity to protect his or her interests due to psychiatric, intellectual, or

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developmental disability

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An act relating to allowing a friend to file a request for relief from abuse

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order

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It is hereby enacted by the General Assembly of the State of Vermont:

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Sec. 1. 15 V.S.A. § 1101 is amended to read:

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§ 1101. DEFINITIONS

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The following words as used in this chapter shall have the following

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meanings:

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\* \* \*

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(7) "Next friend" means a person, dedicated to the plaintiff's best

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interest, who pursues a cause of action on behalf of a plaintiff who is a minor

1 or who lacks capacity to protect his or her interests due to psychiatric,  
2 intellectual, or developmental disability.

3 Sec. 2. 15 V.S.A. § 1103 is amended to read:

4 § 1103. REQUESTS FOR RELIEF

5 (a) Any family or household member may seek relief from abuse by  
6 another family or household member on behalf of ~~him~~ him- or herself or his or  
7 her children by filing a complaint under this chapter. ~~A next friend may file a~~  
8 complaint under this chapter. The plaintiff, or next friend, shall submit an  
9 affidavit in support of the order. A minor 16 years of age or older may seek  
10 relief on his or her own behalf if the minor is currently or was previously  
11 engaged in a sexual or dating relationship with defendant.

12 \* \* \*

13 Sec. 3. 15 V.S.A. § 1104 is amended to read:

14 § 1104. EMERGENCY RELIEF

15 (a) In accordance with the Vermont Rules of Civil Procedure, temporary  
16 orders under this chapter may be issued ex parte, without notice to defendant,  
17 upon motion and findings by the Court that defendant has abused the plaintiff  
18 or his or her children, or both. The plaintiff, or next friend, shall submit an  
19 affidavit in support of the order. A minor 16 years of age or older may seek  
20 relief on his or her own behalf if the minor is currently or was previously  
21 engaged in a sexual or dating relationship with defendant. Relief under this  
22 section shall be limited as follows:

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Sec. 4. 12 V.S.A. § 5133 is amended to read:

§ 5133. REQUESTS FOR AN ORDER AGAINST STALKING OR  
SEXUAL ASSAULT

(a) A person, other than a family or household member as defined in 15 V.S.A. § 1101(2), may seek an order against stalking or sexual assault on behalf of ~~him~~ him- or herself or his or her children by filing a complaint under this chapter. A next friend, as defined by 15 V.S.A. § 1101, may file a complaint under this section. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older may seek relief on his or her own behalf if the minor is currently or was previously engaged in a sexual or dating relationship with defendant.

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Sec. 5. 12 V.S.A. § 5134 is amended to read:

§ 5134. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, a person other than a family or household member as defined in 15 V.S.A. § 1001(2) may file a complaint for a temporary order against stalking or sexual assault. A next friend, as defined by 15 V.S.A. § 1101, may file a complaint under this section. ~~Such~~ The complaint shall be filed during regular court hours. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older may seek relief on his or her own behalf if the minor is currently

1 or was previously engaged in a sexual or dating relationship with defendant.

2 The court may issue a temporary order under this chapter ex parte, without  
3 notice to the defendant, upon motion and findings by the court that the  
4 defendant has stalked or sexually assaulted the plaintiff. The court may order  
5 the defendant to stay away from the plaintiff or the plaintiff's children, or both,  
6 and may make any other such order it deems necessary to protect the plaintiff  
7 or the plaintiff's children, or both.

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9 Sec. 6. 12 V.S.A. § 551 is amended to read:

10 § 551. MINORITY, INCAPACITY, OR IMPRISONMENT

11 (a) When a person entitled to bring an action specified in this chapter is a  
12 minor, lacks capacity to protect his or her interests due to a mental condition or  
13 psychiatric disability, or is imprisoned at the time the cause of action accrues,  
14 ~~such~~ the person may bring ~~such~~ the action within the times in this chapter  
15 respectively limited, after the disability is removed or through a next friend, as  
16 defined in 15 V.S.A. § 1101.

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18 Sec. 7. EFFECTIVE DATE

19 This act shall take effect on July 1, 2016.