

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 749  
3 entitled “An act relating to allowing a friend to file a request for relief from  
4 abuse order” respectfully reports that it has considered the same and  
5 recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7  
8 Sec. 1. 15 V.S.A. § 1101 is amended to read:

9 § 1101. DEFINITIONS

10 The following words as used in this chapter shall have the following  
11 meanings:

12 \* \* \*

13 (7) “Next friend” means a person 21 years of age or older, dedicated to  
14 the plaintiff’s best interest, who pursues a cause of action on behalf of a  
15 plaintiff who is a minor or who lacks capacity to protect his or her interests due  
16 to psychiatric, intellectual, or developmental disability. A next friend shall not  
17 be a person who is engaged in or who has engaged in a sexual relationship with  
18 the minor, or who is dating or engaging in a social relationship of a romantic  
19 nature with the minor.

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

21 § 1103. REQUESTS FOR RELIEF

1 (a)(1) Any family or household member may seek relief from abuse by  
2 another family or household member on behalf of ~~him~~ him- or herself or his or  
3 her children on behalf of another family member by filing a complaint under  
4 this chapter. A next friend may file a complaint under this chapter. A minor  
5 16 years of age or older may file a complaint under this chapter seeking relief  
6 on his or her own behalf if the minor is currently or was previously engaged in  
7 a sexual or dating relationship with defendant. The plaintiff, or next friend,  
8 shall submit an affidavit in support of the order.

9 (2)(A) A next friend may file a complaint under this chapter seeking  
10 relief on behalf of a minor. The next friend shall provide the minor with notice  
11 of the complaint.

12 (B) The affidavit in a complaint filed by a next friend under this  
13 chapter shall contain:

14 (i) the age of the next friend and the age of the minor;

15 (ii) the next friends' relationship with the minor and a statement

16 that the next friend is dedicated to the minor's best interests.

17 (C)(i) When a complaint is filed by a next friend pursuant to this  
18 subdivision, the court shall determine:

19 (I) whether the minor is capable of expressing his or her wishes

20 with respect to the complaint and, if so, whether the minor wishes to pursue the

21 complaint; and

1                    (II) whether the minor is capable of expressing his or her  
2                    wishes with respect to being represented by the next friend and, if so, whether  
3                    the minor wishes to be represented by the next friend.

4                    (ii) If the court determines that the minor is capable of expressing  
5                    his or her opinion and does not wish to pursue the complaint or be  
6                    represented by the next friend, the court shall dismiss the petition.

7                    \* \* \*

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

9                    § 1104. EMERGENCY RELIEF

10                  (a) In accordance with the Vermont Rules of Civil Procedure, temporary  
11                  orders under this chapter may be issued ex parte, without notice to defendant,  
12                  upon motion and findings by the Court that defendant has abused the plaintiff  
13                  or his or her children, or both. The plaintiff ~~or next friend~~ shall submit an  
14                  affidavit in support of the order. A minor 16 years of age or older may seek  
15                  relief on his or her own behalf if the minor is currently or was previously  
16                  engaged in a sexual or dating relationship with defendant. A next friend may  
17                  seek relief on behalf of a minor pursuant to subdivision 1103(a)(2) of this title.

18                  Relief under this section shall be limited as follows:

19                  \* \* \*

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

1 § 5133. REQUESTS FOR AN ORDER AGAINST STALKING OR  
2 SEXUAL ASSAULT

3 (a) A person, other than a family or household member as defined in  
4 15 V.S.A. § 1101(2), may seek an order against stalking or sexual assault on  
5 behalf of ~~him~~ him or herself or his or her children by filing a complaint under  
6 this chapter. A minor 16 years of age or older may file a complaint under this  
7 section seeking relief on his or her own behalf if the minor is currently or was  
8 previously engaged in a sexual or dating relationship with defendant. A next  
9 friend as defined by 15 V.S.A. § 110(7) may seek relief on behalf of a minor  
10 under this section by filing a complaint that meets the requirements of 15  
11 V.S.A. § 1103(a)(2). The plaintiff shall submit an affidavit in support of the  
12 order

13 \* \* \*

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

15 § 5134. EMERGENCY RELIEF

16 (a) In accordance with the Vermont Rules of Civil Procedure, a person  
17 other than a family or household member as defined in 15 V.S.A. § 1001(2)  
18 may file a complaint for a temporary order against stalking or sexual assault.  
19 A minor 16 years of age or older may file a complaint under this section  
20 seeking relief on his or her own behalf if the minor is currently or was  
21 previously engaged in a sexual or dating relationship with defendant. A next

1 friend as defined by 15 V.S.A. § 110(7) may seek relief on behalf of a minor  
2 by filing a complaint under this section that meets the requirements of 15  
3 V.S.A. § 1103(a)(2). ~~Such~~ The complaint shall be filed during regular court  
4 hours. The plaintiff shall submit an affidavit in support of the order. The court  
5 may issue a temporary order under this chapter ex parte, without notice to the  
6 defendant, upon motion and findings by the court that the defendant has  
7 stalked or sexually assaulted the plaintiff. The court may order the defendant  
8 to stay away from the plaintiff or the plaintiff's children, or both, and may  
9 make any other such order it deems necessary to protect the plaintiff or the  
10 plaintiff's children, or both.

11 \* \* \*

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

13 **§ 551. MINORITY, INCAPACITY, OR IMPRISONMENT**

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

20 \* \* \*

1       Sec. 7. EFFECTIVE DATE

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

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10           (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

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FOR THE COMMITTEE