

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 836
3 entitled “An act relating to electronic court filings for relief from abuse orders”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 Sec. 1. LEGISLATIVE INTENT

8 The General Assembly intends this act to address safety concerns that have
9 arisen for court staff, victims, and victims’ advocates when relief from abuse
10 orders are sought after regular court hours. While recognizing limitations on
11 law enforcement resources, this act attempts to protect parties from having to
12 meet in unprotected and often remote locations while assuring, and in some
13 cases increasing, access to the courts for victims by permitting relief from
14 abuse orders to be obtained electronically in certain circumstances. Although
15 there will be cases where filing electronically will be impracticable and may
16 result in filings on the next business day, establishing an electronic filing
17 process should expand victims’ ability to obtain relief from abuse orders when
18 courts are closed while enhancing the safety of all parties involved.

19 Sec. 2. 15 V.S.A. § 1106 is amended to read:

20 § 1106. PROCEDURE

1 (a) Except as otherwise specified in this chapter, proceedings commenced
2 under this chapter shall be in accordance with the Vermont Rules for Family
3 Proceedings and shall be in addition to any other available civil or criminal
4 remedies.

5 (b)(1) The ~~court administrator~~ Court Administrator shall establish
6 procedures to ~~insure~~ ensure access to relief after regular court hours, or on
7 weekends and holidays. The ~~court administrator~~ Court Administrator is
8 authorized to contract with public or private agencies to assist plaintiffs to seek
9 relief and to gain access to ~~superior courts~~ Superior Courts. Law enforcement
10 agencies shall assist in carrying out the intent of this section.

11 (2)(A) The court shall designate an authorized person to receive requests
12 for ex parte temporary relief from abuse orders submitted after regular court
13 hours pursuant to section 1104 of this title, including requests made by reliable
14 electronic means according to the procedures in this subdivision.

15 (B) If a secure setting is not available for processing an ex parte
16 temporary relief from abuse order submitted after regular court hours, or if the
17 authorized person determines that electronic submission is appropriate under
18 the circumstances, the authorized person shall inform the applicant that a
19 complaint and affidavit may be submitted electronically.

20 (C) The affidavit shall be sworn to or affirmed by administration of
21 the oath over the telephone to the applicant by the authorized person, and shall

1 conclude with the following statement: “I declare under the penalty of perjury
2 pursuant to the laws of the State of the Vermont that the foregoing is true and
3 accurate.” The authorized person shall note on the affidavit the date and time
4 that the oath was administered .

5 (D) The authorized person shall communicate the contents of the
6 complaint and affidavit to a judicial officer telephonically or by reliable
7 electronic means. The judicial officer shall decide whether to grant or deny the
8 complaint and issue the order solely on the basis of the contents of the affidavit
9 or affidavits provided. The judicial officer shall communicate the decision to
10 the authorized person, who shall communicate it to the applicant. If the order
11 is issued, it shall be delivered to the appropriate law enforcement agency for
12 service and to the holding station.

13 ~~The office of the court administrator~~ Office of the Court Administrator
14 shall ensure that the ~~superior court~~ Superior Court has procedures in place so
15 that the contents of orders and pendency of other proceedings can be known to
16 all courts for cases in which an abuse prevention proceeding is related to a
17 criminal proceeding.

18 Sec. 3. EFFECTIVE DATE

19 This act shall take effect on passage.
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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE