

Vermont Council on Domestic Violence

To: Rep. Maxine Grad, Chair
Members of the House Committee on Judiciary
From: Heather Holter, Coordinator, Vermont Council on Domestic Violence
Re: H. 836
Date: February 6, 2018

Thank you for giving me the opportunity to testify in support of legislation that would allow the Court to accept filing for emergency protection orders by alternative means.

Best Practice for Safety

The Council's Judicial Caucus reviewed national best practice standards contained in the Civil Protection Order Guide created by the National Council on Juvenile and Family Court Judges (NCJFCJ).

The CPO Guide lists "providing a safe environment" as one of its best practice strategies and recommends the Judiciary "Make courts safe and accessible to victims by allowing application by telephone, video, electronic means, and fax when appropriate." (Meyer & Judges, 2010)

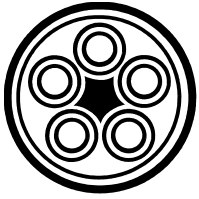
The Council formally recommended to the Court that such a change be made in Vermont to enhance safety for victims of domestic and sexual violence, their advocates, and court workers, and reduce transportation and safety related barriers to justice. The Court Administrator has been supportive of the recommendation and has worked with the Council to learn about practices in other states.

Vermont Law Enforcement Agency Hours

Recently, this exploration has become more urgent, as the number of law enforcement agencies open afterhours continues to decline around the state. The state closed two public safety answering points (PSAPs) at the Derby and Rutland barracks, and consolidated call centers to Williston and Westminster. Additionally, many municipal agencies around the state are no longer open 24 hours. Many agencies have officers on call at home, or only have dispatch in the building, making it impossible for afterhours court workers to meet with victims and advocates safely in these areas.

Last year, the Court Administrator identified several areas around the state, including the Northeast Kingdom, where there were few (or no) law enforcement agencies open in the late-night hours. The Council collaborated with the Court Administrator to convene a workgroup of stakeholders who have met to assess the disparity from county to county and explore potential solutions.

Afterhours Protection Order Stakeholder Workgroup



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- The stakeholder workgroup identified the need for short and longer-term solutions to the trend in law enforcement agency reduction of hours and staffing. In order to ensure the safety of victims and court staff, the current system relies on a need for:
 1. Law enforcement agency open afterhours
 2. Law enforcement officer in the building (not just dispatch)
 3. Two private and secure locations within the law enforcement agency where court staff can meet with the applicant and go to speak with the Judge
 4. Means to fax or print order.
 5. Law enforcement available to serve order, if granted.

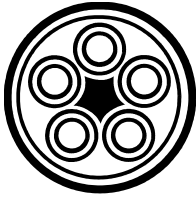
The Vermont State Police has stepped in and committed to opening barracks for facilitation of afterhours order application in locations where they provide coverage. We are grateful for this decision, which has granted relief to explore longer term options. Municipal agencies and Sheriff's Departments around the state are engaging in conversation around how to meet the safety standards above, this is challenging for some agencies.

- Longer term changes discussed by the stakeholder group include exploration of a statewide system for "holding" protection orders and entering them into the national database, and other ideas to centralize parts of the process.
- The stakeholder group also identified a need for tracking data around afterhours applications for protection in order to understand the scope of the need. For example, we know that 700 requests were filed last year, but what time do most individuals apply for an afterhours relief from abuse order? Vermont State Police is tracking this, and we hope to have municipal agencies and advocates help the Court to track as well.

Many other states provide electronic filing or alternative means

The workgroup conducted a brief exploration of what other states around the country are doing afterhours and/or to provide alternative means of filing for victims of domestic violence. There are a variety of systems being created, and each one takes a different approach to balancing safety for victims with use of technology and the challenges presented by confidentiality and the requirement for a sworn affidavit.

- Many states provide a process for an afterhours "interim" order that can be accessed through law enforcement. Law enforcement contacts the Judge who issues the order over the phone or via fax, but victims are often required to go back into court the following day to request a temporary ex-parte order.
- *Advocate Family Offense Petition Program* in New York utilizes an Access to Justice Program in partnership with ProBonoNet's LHI document assembly system, which electronically transfers a victim's petition into the Family Court's Universal Case



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Management System. The program relies on domestic violence advocacy agencies to enter the petitions.¹

- *Civil Electronic Filing* in some counties in North Carolina “allows the victim to avoid the courthouse and instead go to a local advocacy agency that offers electronic filing. After filing, the victim can then have the case heard before a judge through video-conference.”²
- Winnebago County, Illinois piloted electronic filing for protection orders with the help of an advocate by deputizing an advocate at a DV agency to go into part of court computer system and to go into Illinoisprotectionorder.org and assist petitioner in filling out request for relief. DV Advocate has an e-signing pod and Judges view order on an iPod.
- Many states have started electronic filing with a pilot in one county. Illinois amended their statute to read “the administrative director of the Administrative Office of the Illinois Courts, with the approval of the administrative board of the courts, may adopt rules to establish and implement a pilot program to allow the electronic filing of petitions for temporary orders”. The statute required the court to consult with a domestic violence advocacy agency and provides for on an audio-visual interview with the petitioner.³
- New York created a *Document Assembly Programs Best Practice Guide for Court System Development* available online.⁴

The Vermont Council on Domestic Violence

The Vermont Council on Domestic Violence (Council) was created in 15 VSA chapter 21, subchapter 4, 1171-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.

Council Support

The Council supports a change in statute that would preserve an afterhours access and create alternative means for filing for emergency relief from abuse protection orders. Based on the workgroup discussion, a statute change that more clearly articulates the role of law enforcement in assisting to carry out the intent of the statute would be helpful. A statute change that establishes an open enough process for applicants to apply for an order using electronic or other means, but does not limit the change to rely on the affidavit being sworn to over the telephone would allow for greater opportunity to explore new technology. The language proposed by the Network Against Domestic and Sexual Violence would achieve this balance.

¹ <https://www.srln.org/node/528/new-york-combines-technology-partners-and-re-engineering-reducing-court-time-dv-victims>

² <http://www.tybera.com/2018/01/10/nc-hopes-electronic-filing-eases-process-for-domestic-violence-victims/>

³ <http://www.ilga.gov/legislation/ilcs/ilcs4.asp?ActID=2100&ChapterID=59&SeqStart=500000&SeqEnd=4200000>

⁴ http://www.nycourts.gov/ip/nya2j/pdfs/bestpractices_courtsystemdocument_assemblyprograms.pdf