

H.962

An act relating to the duration of temporary relief from abuse orders

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

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(b) Every order issued under this section shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order and shall be signed by the judge. Every order issued under this section shall inform the defendant that if he or she fails to appear at the final hearing the temporary order will remain in effect until the final order is served on the defendant unless the temporary order is dismissed by the court. Every order issued under this section shall state upon its face a date, time, and place when the defendant may appear to petition the court for modification or discharge of the order. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 14 days from the date of issuance of the order. At such hearings, the plaintiff shall have the burden of proving abuse by a preponderance of the evidence. If the court finds that the plaintiff has met his or her burden, it shall continue the order in effect and make such other order as it deems necessary to protect the plaintiff.

Sec. 2. 15 V.S.A. § 1105 is amended to read:

§ 1105. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b)(1) A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(2) An ex parte temporary order issued under this chapter shall remain in effect until either it is dismissed by the court or the petition is denied at the final hearing. If the plaintiff fails to appear at the final hearing, the petition shall be dismissed, provided that the court may continue the temporary order until the final hearing if it makes findings on the record stating why there is

good cause not to dismiss the petition. If a final order is issued, the temporary order shall remain in effect until personal service of the final order.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.