

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 962
3 entitled “An act relating to the duration of temporary relief from abuse orders”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

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

8 § 1104. EMERGENCY RELIEF

9 * * *

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

1 that the plaintiff has met his or her burden, it shall continue the order in effect
2 and make such other order as it deems necessary to protect the plaintiff.

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

4 § 1105. SERVICE

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

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

19 (2) An ex parte temporary order issued under this chapter shall remain
20 in effect until either it is dismissed by the court or the petition is denied at the
21 final hearing. If the plaintiff fails to appear at the final hearing, the petition

1 shall be dismissed, provided that the court may continue the temporary order
2 until the final hearing if it makes findings on the record stating why there is
3 good cause not to dismiss the petition. If a final order is issued, the temporary
4 order shall remain in effect until personal service of the final order.

5 Sec. 3. EFFECTIVE DATE

6 This act shall take effect on passage.

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13 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE