

Memorandum

Re: Potential Legislative Change to 15 V.S.A. § 1105

To: Senator Dick Sears, Chair, Senate Judiciary Committee
Representative Maxine Grad, Chair, House Judiciary Committee

From: Sarah Robinson, Deputy Director, Vermont Network Against Domestic and Sexual Violence
Michael Schirling, Commissioner, Department of Public Safety
Elizabeth Novotny, Lobbyist, Vermont Police Association
Chief George Merkel, President, Vermont Association of Chiefs of Police
William Bohnyak, President, Vermont Sherriff's Association

Under the current Judicial Emergency, temporary (ex-parte) and final relief from abuse orders continue to be heard and issued by the Judiciary. While many of these hearings are occurring by phone, the service of relief from abuse orders (as dictated by 15 V.S.A. § 1105) continues to involve personal service to defendants by law enforcement. During the judicial emergency, law enforcement agencies across the state have diligently ensured that this personal service continues, while working to protect the safety of their officers.

While issuance and service of orders continues uninterrupted, the pandemic has highlighted an area of flexibility needed within 15 V.S.A. § 1105, the statute regarding service of relief from abuse orders. Under the current statute and practice, temporary RFAs expire on the date of the scheduled final hearing. For any relief from abuse order (temporary or final) to be in effect, it must be personally served on a defendant. If a defendant appears at a final hearing and a final order is granted, the defendant is "deemed to have been served" (15 V.S.A. § 1105 (b)) and the order is **in effect immediately** and transported for "additional service by law enforcement". However, when a defendant fails to appear at a final hearing and an order is granted, the temporary order has expired and **the final order is not in effect until personal service occurs**. As a result, during the period of time between the final hearing and personal service, there are no court protections in place. This can be an especially dangerous time for victims.

We support the following language developed jointly by the Vermont Network Against Domestic and Sexual Violence and the Vermont Judiciary to extend temporary orders until final orders have been served:

"An ex-parte temporary order shall remain in effect until it is either dismissed by the court or the petition is denied at the final hearing. If a final order is issued, the temporary order shall remain in effect until personal service of the final order."

During the COVID-19 pandemic, this change will allow law enforcement to have additional flexibility and time to serve orders. This flexibility allows officers to attend to personal safety and risk of exposure while ensuring that court protections remain in place for victims. While this change will be especially helpful during the current pandemic, it is also a needed permanent policy change. After the pandemic, this change will be beneficial in cases where defendants intentionally evade law enforcement service, requiring law enforcement agencies to marshal additional resources to serve orders during the gap in court protection.