



March 14<sup>th</sup>, 2023

**23-0907 – Domestic Violence Fatality Review Commission Recommendations**

**Sarah Robinson, Deputy Director**

Thank you for your continued work and taking testimony on your Committee bill 23-0907, to enact the consensus recommendations of the Vermont Fatality Review Commission. The Vermont Network represents 15 Member Organizations throughout the state who provide advocacy and support to victims of domestic and sexual violence. In 2022, these organizations served 8,241 individuals in person and answered 19,118 hotline calls from Vermonters seeking information and support regarding domestic and sexual violence. On behalf of our members and the victims they serve, the Vermont Network strongly supports the recommendations of 23-0907.

**Background and Context**

This bill addresses three specific recommendations of the Vermont Fatality Review Commission released in their 2022 report.

*Relief from Abuse Orders as Unprofessional Conduct*

The Commission recommends ensuring that issuance of a final relief from abuse order is addressed in 20 V.S.A. § 2401 pertaining to unprofessional conduct. A relief from abuse order is a civil order issued by a preponderance of the evidence by the Judiciary pursuant to 15 V.S.A. § 1103 and § 1104. A victim of domestic violence can request a relief from abuse order from the court by submitting a petition and affidavit. If a judge finds that an individual has abused the plaintiff, the court can issue an ex-parte emergency relief from abuse order which imposes various court conditions on the person who is subject to the order. Within 14 days, the court will hold a hearing to which both parties are noticed to appear. Following the hearing, if the court finds that an individual has abused the victim, a final relief from abuse order can be issued for a fixed period of time and will include the same or modified court conditions.

*LEAB Policy*

The Commission recommends the Law Enforcement Advisory Board (LEAB) revise and update its draft 2010 Domestic Violence Model Policy and that the policy be adopted by all law enforcement agencies in the State. This model policy will ensure that there is consistent policy response to officer-involved domestic violence.

*Data Collection*

The Commission recommends that the Vermont Criminal Justice Council collect and annually report aggregate data regarding domestic and sexual violence and complaints of Category A and B conduct resulting in the filing of charges or stipulations or the taking of disciplinary action against law



enforcement officers. This will create needed transparency and also provide information to the profession and the public about the extent of officer-involved domestic violence in Vermont.

### **Proposed Language**

Following testimony on draft 2.1 of this bill, the Vermont Network met jointly with representatives of the Vermont Criminal Justice Council, Vermont Attorney General's Office, the Department of Public Safety and the Chief of the South Burlington Police regarding this proposal and their requested changes. These were productive conversations that resulted in significant compromise and clarified areas of agreement and disagreement.

As a result of these conversations, the Vermont Network and the Vermont Attorney General's Office drafted language that was submitted to the Chair and forms the basis of the revisions you are reviewing today. The primary changes include:

- **Remove from Category A the issuance of a final relief from abuse order and instead add to Category B the conduct which forms the basis for the issuance of an order.** This language – “attempting to cause or causing physical harm to a family or household member, or placing a family or household member in fear of serious imminent physical harm” – is drawn directly from 15 V.S.A. § 1103. This change and language were at the request of the Department of Public Safety.
- **Remove from Category B a specific violation of the LEAB domestic violence policy.** Once the LEAB DV policy becomes a required statewide policy per Section 1 of this bill, a violation of a statewide policy would automatically be Category B conduct pursuant to the terms of section 2401(2);
- **Amend section 2407 to make clear that the Vermont Criminal Justice Council can take action on a first offense.** This ensures that the first time an officer attempts to cause or causes physical harm to a family or household member, or places a family or household member in fear of serious imminent physical harm, the Council can take action. This is incredibly important because officer-involved domestic violence is already highly underreported. It is essential that when it is reported that our systems are prepared to respond robustly.

Among stakeholders, there is not consensus about where the language regarding “off duty” conduct belongs. The Network feels strongly that this language should remain where it is in subparagraph (2) of 2401, as reflected in Draft 2.1. Leaving the language here makes it clear that both on and off-duty domestic violence-related conduct are actionable as Category B violations, whether the misconduct pertains to abuse of a family or household member *or* to a violation of the forthcoming LEAB DV policy or both.