



H. 45 – An Act Relating to Abusive Litigation

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Thank you for the invitation to speak with the committee today about H. 45, an act relating to abusive litigation. On behalf of our Member Organizations and the victims and survivors we represent, the Vermont Network strongly supports H. 45.

What is abusive litigation?

While domestic violence is most often equated with physical violence, domestic violence survivors and their advocates have long known that there are many forms of intimate partner abuse. One of the most insidious and damaging forms of intimate partner violence is litigation abuse, when an abusive partner seeks to exert coercion and control over their partner by filing repeated legal motions against or involving a survivor. Litigation abuse, in its most basic form is the “misuse of court proceedings by abusers to control, harass, intimidate, coerce, and/or impoverish survivors”.¹ Not only does litigation abuse cause significant and long-term harm to survivors, it is also a waste of public resources and diminishes trust in the court system.

Litigation abuse may take many different forms. Often abusive partners will use the family court system – especially legal motions related to divorce and custody - to exert coercion, control and continued contact with survivors. Abusive partners will bring repeated motions against survivors, often with no factual or legal basis, seek to relitigate matters that have previously been settled by the court and/or seek to bring legal motions in various jurisdictions after receiving unfavorable rulings. In addition, abusive partners will bring civil lawsuits against survivors or those who support them in an attempt to isolate their former partners, or bring actions against survivors’ attorneys or judges.

Not only do abusive legal filings necessitate repeated contact between an abusive partner and a survivor, but they are also financially devastating. Frequently, abusive partners will represent themselves (pro se), in these legal matters. Because of the legal stakes – especially related to child custody – survivors almost always need to access legal representation, at significant financial cost. Survivors often need to take time off from work or away from their families or support networks to respond to legal motions.

Remedies in H. 45

¹ [Washington State Administrative Office of the Courts, Domestic Violence Manual for Judges, 2015](#)



H. 45 provides a pathway for survivors to address abusive litigation, without extreme legal risk. This approach draws on successful statutory frameworks that have been implemented in both Washington and Tennessee and proposed in Massachusetts. Through establishing a process for orders against abusive litigation, survivors and the courts will have additional tools - while protecting the due process of those using abusive tactics. This legal tool will allow the court to screen legal filings, protecting both the wellbeing of the survivor and the resources of the court.

H. 45 as drafted also includes several safeguards designed to ensure that this proposed statute isn't in turn weaponized against survivors of domestic violence. This includes a two-part eligibility test, which first establishes that a plaintiff has been a victim of domestic violence and that their former partner has used abusive litigation tactics.

If enacted, we view H. 45 as a critical step – but just one component - to address abusive litigation in the courts. This will require a comprehensive approach involving judicial training and support for survivors seeking such orders. It is our sincere hope that your considerations today will lead to all Vermonters being able to rely on safe, and fair access to the court system to address domestic violence.