

H.222

Introduced by Representatives Arsenault of Williston, Christie of Hartford,
Goslant of Northfield, LaLonde of South Burlington, and
Rachelson of Burlington

Referred to Committee on

Date:

Subject: Domestic relations; abuse prevention

Statement of purpose of bill as introduced: This bill proposes to authorize the
court to order a defendant to complete a domestic violence accountability
program approved by the Council on Domestic Violence as a condition of a
final relief from abuse order.

~~An act relating to participation in a domestic violence accountability
program as a condition of a final relief from abuse order.~~

An act relating to civil orders of protection

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 15 V.S.A. § 1103 is amended to read:~~

§ 1103. REQUESTS FOR RELIEF

(a) Any family or household member may seek relief from abuse by
another family or household member on behalf of himself or herself
~~himself or herself or their children by filing a complaint under this chapter.~~

1 ~~A minor 16 years of age or older, or a minor of any age who is in a dating~~
2 relationship as defined in subdivision 1101(2) of this chapter, may file a
3 complaint under this chapter seeking relief on ~~his or her~~ the minor's own
4 behalf. The plaintiff shall submit an affidavit in support of the order.

5 (b) Except as provided in section 1104 of this title, the court shall grant
6 relief only after notice to the defendant and a hearing. The plaintiff shall have
7 the burden of proving abuse by a preponderance of the evidence.

8 (c)(1) The court shall make such orders as it deems necessary to protect the
9 plaintiff or the children, or both, if the court finds that the defendant has
10 abused the plaintiff, and:

11 (A) there is a danger of further abuse; or

12 (B) the defendant is currently incarcerated and has been convicted of
13 one of the following: murder, attempted murder, kidnapping, domestic assault,
14 aggravated domestic assault, sexual assault, aggravated sexual assault, stalking,
15 aggravated stalking, lewd or lascivious conduct with a child, use of a child in a
16 sexual performance, or consenting to a sexual performance.

17 (2) The court order may include the following:

18 (A) An order that the defendant refrain from abusing the plaintiff or
19 ~~his or her~~ the plaintiff's children, or both, and from interfering with their
20 personal liberty, including restrictions on the defendant's ability to contact the
21 ~~plaintiff or the plaintiff's children, or both, in any way, whether directly,~~

1 ~~indirectly, or through a third party, with the purpose of making contact with~~
2 the plaintiff, including in writing or by telephone, ~~e-mail~~ email, or other
3 electronic communication, and restrictions prohibiting the defendant from
4 coming within a fixed distance of the plaintiff, the children, the plaintiff's
5 residence, or other designated locations where the plaintiff or the plaintiff's
6 children are likely to spend time.

7 (B) An order that the defendant immediately vacate the household
8 and that the plaintiff be awarded sole possession of a residence.

9 (C) A temporary award of parental rights and responsibilities in
10 accordance with the criteria in section 665 of this title.

11 (D) An order for parent-child contact under such conditions as are
12 necessary to protect the child or the plaintiff or both, from abuse in
13 accordance with section 665a of this title. An order for parent-child contact
14 may, if necessary, include conditions under which the plaintiff may deny
15 parent-child contact pending further order of the court.

16 (E) If the court finds that the defendant has a duty to support the
17 plaintiff, an order that the defendant pay the plaintiff's living expenses for a
18 fixed period of time not to exceed three months.

19 (F) If the court finds that the defendant has a duty to support the
20 child or children, a temporary order of child support pursuant to chapter 5 of
21 ~~this title, for a period not to exceed three months. A support order granted~~

1 ~~under this section may be extended if the relief from abuse proceeding is~~

2 consolidated with an action for legal separation, divorce, or parentage.

3 (G) An order concerning the possession, care, and control of any
4 animal owned, possessed, leased, kept, or held as a pet by either party or a
5 minor child residing in the household.

6 (H) An order that the defendant return any personal documentation in
7 ~~his or her~~ the defendant's possession, including immigration documentation,
8 birth certificates, and identification cards:

9 (i) pertaining to the plaintiff; or

10 (ii) pertaining to the plaintiff's children if relief is sought for the
11 children or for good cause shown.

12 (I) An order requiring the defendant to complete a domestic violence
13 accountability program approved by the Council on Domestic Violence.

14 (d) In a hearing under this chapter, neither opinion evidence of nor
15 evidence of the reputation of the plaintiff's sexual conduct shall be admitted.
16 Evidence of prior sexual conduct of the plaintiff shall not be admitted;
17 provided, however, where it bears on the credibility of the plaintiff or it is
18 material to a fact at issue and its probative value outweighs its private
19 character, the court may admit:

20 ~~(1) evidence of the plaintiff's past sexual conduct with the defendant,~~

1 ~~(2) evidence of specific instances of the plaintiff's sexual conduct~~

2 showing the source of origin of semen, pregnancy, or disease;

3 ~~(3) evidence of specific instances of the plaintiff's past false allegations~~
4 of violations of 13 V.S.A. chapter 59 or 72.

5 (e) Relief shall be granted for a fixed period, at the expiration of which
6 time the court may extend any order, upon motion of the plaintiff, for such
7 additional time as it deems necessary to protect the plaintiff, or the children, or
8 both, from abuse. It is not necessary for the court to find that abuse has
9 occurred during the pendency of the order to extend the terms of the order.

10 The court may modify its order at any subsequent time upon motion by either
11 party and a showing of a substantial change in circumstance.

12 (f) No filing fee shall be required.

13 (g) Every order under this chapter shall contain the name of the court, the
14 names of the parties, the date of the petition, and the date and time of the
15 order, and shall be signed by the judge.

16 (h) Form complaints and form orders shall be provided by the Court
17 Administrator and shall be maintained by the clerks of the courts.

18 (i) When findings are required under this section, the court shall make
19 either written findings of fact or oral findings of fact on the record.

20 (j) Every final order issued under this section shall bear the following

21 language. ~~VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A~~

1 ~~TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE~~
2 PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR
3 IMPRISONMENT, OR BOTH.”

4 (k) Affidavit forms required pursuant to this section shall bear the
5 following language: “MAKING FALSE STATEMENTS IN THIS
6 AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT
7 OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904.”

8 Sec. 2. EFFECTIVE DATE

9 ~~This act shall take effect on July 1, 2025.~~

Sec. 1. 12 V.S.A. § 5131 is amended to read:

§ 5131. DEFINITIONS

As used in this chapter:

(1)(A) “Course of conduct” means:

*(i) two or more acts over a period of time, however short, in which
a person follows, monitors, surveils, threatens, or makes threats about another
person, or interferes with another person’s property; or*

*(ii) use of any electronic, digital, or precise geolocation device or
software or application to surveil a specific person or a specific person’s
internet or wireless activity continuously for 12 hours or more or on two or
more occasions over a period of time, however short, without authorization.*

(B) This definition shall apply to acts conducted by the person directly or indirectly, and by any action, method, device, or means. Constitutionally protected activity is not included within the meaning of “course of conduct.”

(B)(C) As used in subdivision (A) of this subdivision (1), threaten shall not be construed to require an express or overt threat.

* * *

(4) “Reasonable person” means a reasonable person in the victim’s circumstances.

(5) “Sexually assaulted the plaintiff” means that the defendant engaged in conduct that meets elements of lewd and lascivious conduct as defined in 13 V.S.A. § 2601, lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602, sexual assault as defined in 13 V.S.A. § 3252, aggravated sexual assault as defined in 13 V.S.A. § 3253, use of a child in a sexual performance as defined in 13 V.S.A. § 2822, or consenting to a sexual performance as defined in 13 V.S.A. § 2823, and that the plaintiff was the victim of the offense.

(6) “Stalk” means to engage purposefully in a course of conduct directed at a specific person that the person engaging in the conduct knows or should know would cause a reasonable person to:

(A) fear for his or her the person’s safety or the safety of a family member; or

(B) suffer substantial emotional distress as evidenced by:

(i) a fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death; or

(ii) significant modifications in the person's actions or routines, including moving from an established residence, changes to established daily routes to and from work that cause a serious disruption in the person's life, changes to the person's employment or work schedule, or the loss of a job or time from work.

* * *

Sec. 2. 15 V.S.A. § 1103 is amended to read:

§ 1103. REQUESTS FOR RELIEF

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of ~~himself or herself~~ themselves or ~~his or her~~ their children by filing a complaint under this chapter. A minor 16 years of age or older; or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter; may file a complaint under this chapter seeking relief on ~~his or her~~ the minor's own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 1104 of this title, the court shall grant relief only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving abuse by a preponderance of the evidence.

(c)(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

(A) there is a danger of further abuse; or

(B) the defendant is currently incarcerated and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a child in a sexual performance, or consenting to a sexual performance.

(2) The court order may include the following:

(A) An order that the defendant refrain from abusing the plaintiff or ~~his or her~~ the plaintiff's children, or both, and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, ~~e-mail~~ email, or other electronic communication, and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or the plaintiff's children are likely to spend time.

(B) An order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence.

(C) A temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title.

(D) An order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse in accordance with section 665a of this title. An order for parent-child contact may, if necessary, include conditions under which the plaintiff may deny parent-child contact pending further order of the court.

(E) If the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months.

(F) If the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage.

(G) An order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household.

(H) An order that the defendant return any personal documentation in ~~his or her~~ the defendant's possession, including immigration documentation, birth certificates, and identification cards:

(i) pertaining to the plaintiff; or

(ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown.

(I) An order awarding possession of a vehicle to the plaintiff for a set period of time, provided that the plaintiff:

(i) is the owner or joint owner of the vehicle;

(ii) is the primary payor on the vehicle loan;

(iii) has primary possession or control of the vehicle; or

(iv) has been restricted from using the vehicle by the defendant.

(J) An order requiring the defendant to complete a domestic violence accountability program approved by the Council on Domestic Violence. Failure to complete the program shall not be considered a crime for any purpose, including 13 V.S.A. § 1030, but may subject the defendant to civil contempt proceedings pursuant to Rule 16 of the Vermont Rules of Family Proceedings. Successful completion of the program shall be considered a substantial change in circumstances for purposes of requests to modify an order. A court may consider a defendant's failure to successfully complete the program when determining whether to extend an order.

* * *

Sec. 3. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has abused the plaintiff or the plaintiff's children, or both. The plaintiff shall submit an affidavit in support of the order, which may be sworn to or affirmed by administration of the oath over the telephone to the applicant by an employee of the Judiciary authorized to administer oaths and shall conclude with the following statement: "I declare under the penalty of perjury pursuant to the laws of the State of Vermont that the foregoing is true and accurate. I understand that making false statements is a crime subject to a term of imprisonment or a fine, or both, as provided by 13 V.S.A. § 2904." The authorized person shall note on the affidavit the date and time that the oath was administered. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on the minor's own behalf. Relief under this section shall be limited as follows:

(1) Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff or the plaintiff's children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or by a minor child residing in the household;

(B) to refrain from interfering with the plaintiff's personal liberty or the personal liberty of the plaintiff's children, or both;

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment;

(D) to refrain from contacting the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, ~~e-mail~~ email, or other electronic communication; or

(E) to immediately relinquish, until the expiration of the order, all firearms that are in the defendant's possession, ownership, or control and to refrain from acquiring or possessing any firearms while the order is in effect.

(2) Upon a finding that the plaintiff or the plaintiff's children, or both, have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff.

(3) Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.

(4) Upon a finding that the plaintiff's possession of a vehicle is necessary to escape abuse or prevent further abuse, the court may award the possession of a vehicle to the plaintiff for a set period of time, provided that the plaintiff:

(A) is the owner or joint owner of the vehicle;

(B) is the primary payor on the vehicle loan;

(C) has primary possession or control of the vehicle; or

(D) has been restricted from using the vehicle by the defendant.

(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~~ the defendant 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~~ the burden, it shall continue the order in effect and make such other order as it deems necessary to protect the plaintiff.

* * *

Sec. 4. 15 V.S.A. § 1140 is amended to read:

§ 1140. DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION

* * *

(g) The Commission shall report its findings and recommendations to the Governor, the General Assembly, the Chief Justice of the Vermont Supreme Court, and the Vermont Council on Domestic Violence not later than the third Tuesday in January of the first year of the biennial session. The report shall be available to the public through the Office of the Attorney General. The Commission may issue data or other information periodically, in addition to the biennial report. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(h) In the findings and recommendations required by subsection (g) of this section, the Commission shall report the number of defendants ordered to complete a domestic violence accountability program approved by the Council

on Domestic Violence pursuant to 15 V.S.A. § 1103(c)(2)(J) and the number of
those defendants who completed the program.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2025.