

1 H.222

2 An act relating to civil orders of protection

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

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

5 § 5131. DEFINITIONS

6 As used in this chapter:

7 (1)(A) “Course of conduct” means:

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

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

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

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

21 * * *

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

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

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

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

16 (B) suffer substantial emotional distress as evidenced by:

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

19 (ii) significant modifications in the person’s actions or routines,
20 including moving from an established residence, changes to established daily
21 routes to and from work that cause a serious disruption in the person’s life,

1 changes to the person's employment or work schedule, or the loss of a job or
2 time from work.

3 * * *

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

5 § 1103. REQUESTS FOR RELIEF

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

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

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

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

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

20 (B) the defendant is currently incarcerated and has been convicted of
21 one of the following: murder, attempted murder, kidnapping, domestic assault,

1 aggravated domestic assault, sexual assault, aggravated sexual assault,
2 stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a
3 child in a sexual performance, or consenting to a sexual performance.

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

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

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

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

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

1 necessary, include conditions under which the plaintiff may deny parent-child
2 contact pending further order of the court.

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

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

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

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

17 (i) pertaining to the plaintiff; or

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

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

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

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. 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.

§ 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

1 of the Judiciary authorized to administer oaths and shall conclude with the
2 following statement: “I declare under the penalty of perjury pursuant to the
3 laws of the State of Vermont that the foregoing is true and accurate. I
4 understand that making false statements is a crime subject to a term of
5 imprisonment or a fine, or both, as provided by 13 V.S.A. § 2904.” The
6 authorized person shall note on the affidavit the date and time that the oath was
7 administered. A minor 16 years of age or older, or a minor of any age who is
8 in a dating relationship as defined in subdivision 1101(2) of this chapter, may
9 seek relief on the minor’s own behalf. Relief under this section shall be
10 limited as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (h) In the findings and recommendations required by subsection (g) of this
10 section, the Commission shall report the number of defendants ordered to
11 complete a domestic violence accountability program approved by the Council
12 on Domestic Violence pursuant to 15 V.S.A. § 1103(c)(2)(J) and the number of
13 those defendants who completed the program.

14 Sec. 5. EFFECTIVE DATE

15 This act shall take effect on July 1, 2025.