

S.9

Introduced by Senators Hardy, Gulick, Norris, Plunkett, Vyhovsky and White

Referred to Committee on Judiciary

Date: January 15, 2025

Subject: Court procedure; orders against stalking and sexual assault

Statement of purpose of bill as introduced: This bill proposes to direct the Court Administrator to establish procedures for a plaintiff to obtain an order against sexual assault after regular court hours or on weekends and holidays.

An act relating to after-hours access to orders against sexual assault

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

~~Sec. 1. 12 V.S.A. § 5126(b) is amended to read:~~

~~(b)(1) The Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to Superior Court. Law enforcement agencies shall assist in carrying out the intent of this section.~~

~~(2) The Court Administrator shall establish procedures to ensure access to orders against sexual assault after regular court hours or on weekends and holidays in accordance with subdivisions (A)-(D) of this subdivision.~~

1 (A) The court shall designate an authorized person to receive
2 requests for ex parte emergency relief orders submitted after regular court
3 hours pursuant to section 5134 of this title, including requests made by reliable
4 electronic means according to the procedures in this subdivision (2).

5 (B) If a secure setting is not available for processing an ex parte
6 emergency relief order submitted after regular court hours, or if the authorized
7 person determines that electronic submission is appropriate under the
8 circumstances, the authorized person shall inform the applicant that a
9 complaint and affidavit may be submitted electronically.

10 (C) The affidavit shall be sworn to or affirmed by administration of
11 the oath over the telephone to the applicant by the authorized person and shall
12 conclude with the following statement: "I declare under the penalty of perjury
13 pursuant to the laws of the State of Vermont that the foregoing is true and
14 accurate. I understand that making false statements is a crime subject to a term
15 of imprisonment or a fine, or both, as provided by 13 V.S.A. § 2904." The
16 authorized person shall note on the affidavit the date and time that the oath was
17 administered.

18 (D) The authorized person shall communicate the contents of the
19 complaint and affidavit to a judicial officer telephonically or by reliable
20 electronic means. The judicial officer shall decide whether to grant or deny
21 the complaint and issue the order solely on the basis of the contents of the

1 ~~affidavit or affidavits provided. The judicial officer shall communicate the~~
2 ~~decision to the authorized person, who shall communicate it to the applicant.~~

3 ~~If the order is issued, it shall be delivered to the appropriate law enforcement~~
4 ~~agency for service and to the holding station.~~

5 Sec. 2. EFFECTIVE DATE

6 ~~This act shall take effect on September 1, 2025.~~

Sec. 1. 12 V.S.A. § 5136(b) is amended to read:

(b)(1) The Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to Superior Court. Law enforcement agencies shall assist in carrying out the intent of this section.

(2) The Court Administrator shall establish procedures to ensure access to orders against sexual assault after regular court hours or on weekends and holidays in accordance with subdivisions (A)–(D) of this subdivision.

(A) The court shall designate an authorized person to receive requests for ex parte emergency relief orders against sexual assault submitted after regular court hours pursuant to section 5134 of this title, including requests made by reliable electronic means according to the procedures in this subdivision (2).

(B) If a secure setting is not available for processing an ex parte emergency relief order against sexual assault submitted after regular court hours, or if the authorized person determines that electronic submission is appropriate under the circumstances, the authorized person shall inform the applicant that a complaint and affidavit may be submitted electronically.

(C) The affidavit shall be sworn to or affirmed by administration of the oath over the telephone to the applicant by the authorized person 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. § 2964." The authorized person shall note on the affidavit the date and time that the oath was administered.

~~(D) The authorized person shall communicate the contents of the complaint and affidavit to a judicial officer telephonically or by reliable electronic means. The judicial officer shall decide whether to grant or deny the complaint and issue the order solely on the basis of the contents of the affidavit or affidavits provided. The judicial officer shall communicate the decision to the authorized person, who shall communicate it to the applicant. If the order is issued, it shall be delivered to the appropriate law enforcement agency for service and to the holding station.~~

Sec. 2. EFFECTIVE DATE

~~This act shall take effect on September 1, 2025.~~

Sec. 1. 12 V.S.A. § 5134 is amended to read:

§ 5134. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, a person other than a family or household member as defined in 15 V.S.A. § 1101(2) may file a complaint for a temporary order against stalking or sexual assault. ~~Such complaint~~ Stalking complaints shall be filed during regular court hours. The plaintiff shall submit an affidavit in support of the order. The court may issue a temporary order under this chapter ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has stalked or sexually assaulted the plaintiff. The court may order the defendant to stay away from the plaintiff or the plaintiff's children, or both, and may make any other such order it deems necessary to protect the plaintiff or the plaintiff's children, or both.

* * *

Sec. 2. 12 V.S.A. § 5135(b) is amended to read:

(b) A defendant who attends a hearing held under section 5133 or 5134 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. ~~However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency. The clerk shall mail a copy of the order to the defendant at the defendant's last known address.~~

Sec. 3. 12 V.S.A. § 5136(b) is amended to read:

(b)(1) The Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to Superior

Court. Law enforcement agencies shall assist in carrying out the intent of this section.

(2) The Court Administrator shall establish procedures to ensure access to orders against sexual assault after regular court hours or on weekends and holidays in accordance with subdivisions (A)–(D) of this subdivision.

(A) The court shall designate an authorized person to receive requests for ex parte emergency relief orders against sexual assault submitted after regular court hours pursuant to section 5134 of this title, including requests made by reliable electronic means according to the procedures in this subdivision (2).

(B) If a secure setting is not available for processing an ex parte emergency relief order against sexual assault submitted after regular court hours, or if the authorized person determines that electronic submission is appropriate under the circumstances, the authorized person shall inform the applicant that a complaint and affidavit may be submitted electronically.

(C) The affidavit shall be sworn to or affirmed by administration of the oath over the telephone to the applicant by the authorized person 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.

(D) The authorized person shall communicate the contents of the complaint and affidavit to a judicial officer telephonically or by reliable electronic means. The judicial officer shall decide whether to grant or deny the complaint and issue the order solely on the basis of the contents of the affidavit or affidavits provided. The judicial officer shall communicate the decision to the authorized person, who shall communicate it to the applicant. If the order is issued, it shall be delivered to the appropriate law enforcement agency for service and to the holding station.

Sec. 4. EFFECTIVE DATE

This act shall take effect on September 1, 2025.