

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 222
3 entitled “An act relating to participation in a domestic violence accountability
4 program as a condition of a final relief from abuse prevention order”
5 respectfully reports that it has considered the same and recommends that the
6 bill be amended by adding new Secs. 2 – 4 to read as follows:

7 Sec. 2. **12 V.S.A. § 5131** is amended to read:

8 § 5131. DEFINITIONS

9 As used in this chapter:

10 (1)(A) “Course of conduct” means two or more acts over a period of
11 time, however short, in which a person follows, monitors, surveils, threatens,
12 or makes threats about another person, or interferes with another person’s
13 property. This definition shall apply to acts conducted by the person directly or
14 indirectly, and by any action, method, device, or means. Constitutionally
15 protected activity is not included within the meaning of “course of conduct.”

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

18 (C) As used in subdivision (A) of this subdivision (1), “course of
19 conduct” includes use of any electronic, digital, or Global Positioning System
20 device to surveil a specific person or a specific person’s internet or wireless

1 activity continuously for 12 hours or more or on two or more occasions over a
2 period of time, however short, without authorization.

3 ~~(ii) Conduct in violation of section 1165 of this title shall~~
4 ~~constitute course of conduct for purposes of this chapter.~~

5 (2) [Repealed.]

6 (3) “Nonphysical contact” includes telephone calls, mail, e-mail, social
7 media commentary or comment, or other electronic communication, fax, and
8 written notes.

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

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

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

1 (A) fear for his or her safety or the safety of a family member; or

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

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

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

10 (7) “Stay away” means to refrain from knowingly:

11 (A) initiating or maintaining a physical presence near the plaintiff;

12 (B) engaging in nonphysical contact with the plaintiff directly or
13 indirectly; or

14 (C) engaging in nonphysical contact with the plaintiff through third
15 parties who may or may not know of the order.

16 (8) [Repealed.]

17 Sec. 3. 13 V.S.A. § 1065 is added to read:

18 § 1065. ELECTRONIC TRACKING OF MOTOR VEHICLES

19 (a) Definitions. As used in this section:

20 (1) “Dealer” has the same meaning as in 23 V.S.A. § 4.

21 (2) “Motor vehicle” has the same meaning as in 23 V.S.A. § 4.

1 (3) “Person” does not include the manufacturer of the motor vehicle,
2 provider of telematics equipment and services, or entities that rent motor
3 vehicles.

4 (4) “Starter interrupt technology” means technology used to remotely
5 disable the starter of a motor vehicle.

6 (b) Offense. Except as provided in subsection (c) of this section, no person
7 shall knowingly install, conceal, or otherwise place or use an electronic
8 tracking device in or on a motor vehicle without the consent of the operator
9 and all occupants of the vehicle for the purpose of monitoring or following the
10 operator, occupant, or occupants of the vehicle or direct any other person to do
11 so.

12 (c) Exceptions.

13 (1) It shall not be a violation if the installation, concealment, placement,
14 or use of an electronic tracking device in or on a motor vehicle is by, or at the
15 direction of, a law enforcement officer in furtherance of a criminal
16 investigation and is carried out in accordance with the applicable State and
17 federal law.

18 (2) If the installation, concealment, placement, or use of an electronic
19 tracking device in or on a motor vehicle is by, or at the direction of, a parent or
20 legal guardian who owns or leases the vehicle, and if the device is used solely
21 for the purpose of monitoring the minor child of the parent or legal guardian

1 when the child is an operator or occupant of the vehicle, then the installation,
2 concealment, placement, or use of the device in or on the vehicle without the
3 consent of any or all occupants in the operator of the vehicle shall not be a
4 violation, unless the person utilizing the tracking device has an active
5 protection order against them for the protection of any vehicle occupant the
6 vehicle operator or occupant.

7 (3) It shall not be a violation of this section if an electronic tracking
8 device is attached to stolen goods for the purpose of tracking the location of
9 the stolen goods, whether or not they may be transported in a vehicle, or if
10 installed, concealed, placed, or used in or on a vehicle as a vehicle theft
11 recovery device.

12 (4) It shall not be a violation of this section if an electronic tracking
13 device, including devices also containing technology used to remotely disable
14 the starter of a motor vehicle, is installed or used by a motor vehicle dealer in
15 connection with the credit sale, loan, or lease of a motor vehicle with the
16 express written consent of the vehicle's purchaser, lessor, or lessee.

17 (5) It shall not be a violation of this section if an electronic tracking
18 device is installed or used by a business that is authorized to transact business
19 in this State and the tracking device is used by the business for the purpose of
20 tracking vehicles that are owned or leased by the business and driven by

1 employees of that business, its affiliates, or contractors of that business or its
2 affiliates.

3 (d) The provisions of this section shall not apply to a tracking system
4 installed by the manufacturer of a motor vehicle or a provider of telematics
5 equipment and services, installed or used by an entity renting out vehicles, or
6 installed or provided by an insurance company with the vehicle owner's or
7 vehicle lessee's permission to monitor driving habits for insurance rating
8 purposes.

9 (e) A person who violates this section shall be imprisoned not more than
10 one year or fined not more than \$1,000.00, or both.

11 Sec. 4. 15 V.S.A. § 1111 is added to read:

12 § 1111. USE OF VEHICLE

13 A plaintiff in a request for relief pursuant to section 1103 or 1104 of this
14 title may request possession of a vehicle for a set period of time. A court shall
15 grant a plaintiff possession of a vehicle if:

16 (1) the plaintiff's possession of a vehicle is necessary to escape abuse or
17 future abuse; and

18 (2) the plaintiff:

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

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

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

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

2

3 and by renumbering the remaining sections to be numerically correct.

4

5 (Committee vote: _____)

6

7

Representative _____

8

FOR THE COMMITTEE