

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 striking out all after the enacting clause and inserting in
7 lieu thereof the following:

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

9 § 5131. DEFINITIONS

10 As used in this chapter:

11 (1)(A) “Course of conduct” means:

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

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

19 (B) This definition shall apply to acts conducted by the person
20 directly or indirectly, and by any action, method, device, or means.

1 Constitutionally protected activity is not included within the meaning of
2 “course of conduct.”

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

5 * * *

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

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

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

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

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

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

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

8 * * *

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

10 § 1103. REQUESTS FOR RELIEF

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (i) pertaining to the plaintiff; or

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

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

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

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

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

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

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

15 Failure to complete the program shall not be considered a crime for any
16 purpose, including 13 V.S.A. § 1030, but may subject the defendant to civil
17 contempt proceedings. Successful completion of the program shall be
18 considered a substantial change in circumstances for purposes of requests to
19 modify an order. A court may consider a defendant's failure to successfully
20 complete the program when determining whether to extend an order.

21 * * *

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

2 § 1104. EMERGENCY RELIEF

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (b) Every order issued under this section shall contain the name of the
13 court, the names of the parties, the date of the petition, and the date and time of
14 the order and shall be signed by the judge. Every order issued under this
15 section shall inform the defendant that if ~~he or she~~ the defendant fails to appear
16 at the final hearing, the temporary order will remain in effect until the final
17 order is served on the defendant unless the temporary order is dismissed by the
18 court. Every order issued under this section shall state upon its face a date,
19 time, and place when the defendant may appear to petition the court for
20 modification or discharge of the order. This opportunity to contest shall be
21 scheduled as soon as reasonably possible, which in no event shall be more than

1 14 days from the date of issuance of the order. At such hearings, the plaintiff
2 shall have the burden of proving abuse by a preponderance of the evidence. If
3 the court finds that the plaintiff has met ~~his or her~~ the burden, it shall continue
4 the order in effect and make such other order as it deems necessary to protect
5 the plaintiff.

6 * * *

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

8 § 1140. DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION

9 * * *

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

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

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

3 Sec. 5. EFFECTIVE DATE

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

5 and that after passage the title of the bill be amended to read: “An act
6 relating to civil orders of protection”

7

8

9

10

11

12 (Committee vote: _____)

13

14

Representative _____

15

FOR THE COMMITTEE