

1 H.836

2 Introduced by Representative Grad of Moretown

3 Referred to Committee on

4 Date:

5 Subject: Domestic relations; abuse prevention

6 Statement of purpose of bill as introduced: This bill proposes to establish a
7 procedure for filing a request for a relief from abuse order electronically when
8 the court is not in session.

9 An act relating to electronic court filings for relief from abuse orders

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

11 ~~Sec. 1. 15 V.S.A. § 1106 is amended to read:~~

12 § 1106. PROCEDURE

13 (a) Except as otherwise specified in this chapter, proceedings commenced
14 under this chapter shall be in accordance with the Vermont Rules for Family
15 Proceedings and shall be in addition to any other available civil or criminal
16 remedies.

17 (b)(1) ~~The court administrator~~ Court Administrator shall establish
18 procedures to ~~insure~~ ensure access to relief after regular court hours, ~~or on~~
19 ~~weekends and holidays.~~ ~~The court administrator~~ Court Administrator is

1 ~~authorized to contract with public or private agencies to assist plaintiffs to seek~~
2 ~~relief and to gain access to superior courts~~ Superior Courts. Law enforcement
3 agencies shall assist in carrying out the intent of this section.

4 (2) The court may issue an ex parte temporary relief from abuse order
5 pursuant to section 1104 of this title after regular court hours by reliable
6 electronic means according to the procedures in this subdivision.

7 (A) The court shall designate an authorized person to receive
8 requests for electronic issuance of ex parte temporary relief from abuse orders.

9 (B) Upon request, the authorized person shall inform the applicant
10 that a signed or unsigned complaint and affidavit may be submitted
11 electronically or over the telephone.

12 (C) The affidavit shall be sworn to or affirmed by administration of
13 the oath over the telephone to the applicant by the authorized person. The
14 administration of the oath need not be made part of the affidavit or recorded,
15 but the authorized person shall note on the affidavit that the oath was
16 administered.

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

1 ~~decision to the authorized person, who shall communicate it to the applicant.~~

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

4 (c) ~~The office of the court administrator~~ Office of the Court Administrator
5 shall ensure that the ~~superior court~~ Superior Court has procedures in place so
6 that the contents of orders and pendency of other proceedings can be known to
7 all courts for cases in which an abuse prevention proceeding is related to a
8 criminal proceeding.

9 Sec. 2. EFFECTIVE DATE

10 ~~This act shall take effect on passage.~~

~~Sec. 1. LEGISLATIVE INTENT~~

~~*The General Assembly intends this act to address safety concerns that have
arisen for court staff, victims, and victims' advocates when relief from abuse
orders are sought after regular court hours. While recognizing limitations on
law enforcement resources, this act attempts to protect parties from having to
meet in unprotected and often remote locations and increase access to the
courts for victims by permitting relief from abuse orders to be obtained
electronically in certain circumstances. Although there will be cases where
filing electronically will be impracticable and may result in filings on the next
business day, establishing an electronic filing process should expand victims'
ability to obtain relief from abuse orders when courts are closed while*~~

~~enhancing the safety of all parties involved~~

Sec. 1. LEGISLATIVE INTENT

This act permits relief from abuse orders to be obtained electronically in certain circumstances when courts are closed while enhancing the safety of all parties involved.

Sec. 2. 15 V.S.A. § 1106 is amended to read:

§ 1106. PROCEDURE

(a) Except as otherwise specified in this chapter, proceedings commenced under this chapter shall be in accordance with the Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

(b)(1) ~~The court administrator~~ Court Administrator shall establish procedures to ~~insure~~ ensure access to relief after regular court hours, or on weekends and holidays. ~~The court administrator~~ Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to ~~superior courts~~ Superior Courts. Law enforcement agencies shall assist in carrying out the intent of this section.

(2)(A) The court shall designate an authorized person to receive requests for ex parte temporary relief from abuse orders submitted after regular court hours pursuant to section 1104 of this title, including requests made by reliable electronic means according to the procedures in this subdivision.

(B) If a secure setting is not available for processing an ex parte temporary relief from abuse order 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." The authorized person shall note on the affidavit the date and time that the oath was administered.~~

(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 the penalty for perjury is imprisonment of not more than 15 years or a fine of not more than \$10,000.00, or both." 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.

(c) ~~The office of the court administrator~~ Office of the Court Administrator shall ensure that the ~~superior court~~ Superior Court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an abuse prevention proceeding is related to a criminal proceeding.

Sec. 3. ORDERS AGAINST STALKING OR SEXUAL ASSAULT;

REPORT FROM OFFICE OF COURT ADMINISTRATOR

On or before March 1, 2019, the Office of the Court Administrator shall report to the House and Senate Committees on Judiciary regarding the feasibility of ensuring that orders against stalking or sexual assault issued under 12 V.S.A. chapter 178 are available after regular court hours and on weekends and holidays. The report required by this section may be provided through oral testimony.

Sec. 24. EFFECTIVE DATE

This act shall take effect on passage.

