

OBTAINING A RELIEF FROM ABUSE ORDER: (Updated 10-1-21)

The information provided below is meant to assist you in educating yourself about Relief from Abuse orders and in your advocacy for your family. It is not to be considered legal advice. More information can be found in greater detail by going to the following website: WomensLaw.org: <https://www.womenslaw.org/laws/vt/restraining-orders/relief-abuse-orders/basic-information/what-legal-definition-domestic>

Domestic abuse means the occurrence of one or more of the following acts between family or household members attempting to cause or causing physical harm;

The legal definition of domestic abuse in Vermont (15 V.S.A. 1101) is:

- attempting to cause or causing physical harm;
- placing another in fear of imminent serious physical harm;
- abuse to children as defined in 33 V.S.A chapter 49, subchapter 2;
- stalking as defined in 12 V.S.A. 513(6); or
- sexual assault as defined in 12 V.S.A. 513(5).

Am I eligible for a relief from abuse order?

You can be eligible to file for a relief from abuse order if you have been abused by a **family or household member**, which includes any of the following:

- someone with whom you are living with or have lived;
- someone with whom you share or have shared a home;
- someone with whom you are having or used have a sexual relationship;
- someone you are dating or have dated (**Note:** "Dating" is defined as a social relationship of a romantic nature);
- a spouse or former spouse; or
- a family member, related by blood or marriage.

Note to parents of minors for whom the parent seeks a Relief from Abuse order:

Seeking a Relief from Abuse order regarding a minor child, due to acute or chronic mental health or other conditions, is a serious step and should be viewed that way. Obtaining the order may result in the Family Court making further inquiries/determinations regarding custody of the child and whether a Child in Need of Services case should be opened. Doing so is likely to involve the Department for Children and Families. The Family Court could determine that the custody status of your child remains the same, has conditions applied, or that custody may go to the state or another family member. **However, if the reason that you are seeking the order is that your child poses a serious threat to your family or to themselves, and your efforts to**

obtain adequate services for your child have not been successful, obtaining a Relief from Abuse order and/or the opening of a CHINS case may be your best access to obtaining mandated services.

How to obtain a relief from abuse order

Step 1: Go to the family court and request an application.

Step 2: Fill out the application

Step 3: A judge will review your application. A judge must believe that there is the danger of further abuse.

Step 4: Service of process. The abuser must be served with a notice of hearing and with any temporary relief from abuse order that a judge has granted you. Your relief from abuse order will not be valid until the abuser is served. If your order is issued during normal business hours, the court clerk should forward your paperwork to law enforcement to serve the abuser.

Step 5: The hearing. Whether a judge grants you a temporary order or not, you may be given a court date for a hearing on your petition within ten business days (assuming that your petition is not dismissed). The hearing will be in front of a judge, who will decide whether or not to give you a final relief from abuse order.

Types of Relief from Abuse Orders:

In general, a **temporary relief from abuse order** offers you protection from the time you file your complaint until the court hearing for the permanent relief from abuse order, which usually takes place within **14 days**. Temporary relief from abuse orders can be granted if the judge believes that defendant has abused you and/or your children and that there is a danger of further abuse.

A **permanent relief from abuse order** is designed to offer you longer-lasting and more comprehensive protection than a temporary relief from abuse order. It can **last for a “fixed period”** of time. A permanent relief from abuse order can be issued only after the abuser receives notice of the hearing, and you and the abuser both have a chance to tell your sides of the story at the final hearing. You can present evidence and witnesses to prove you were abused and it may be best to be represented by a lawyer, especially if the abuser has one. If you don't appear at the final hearing, your petition will usually be dismissed – the only exception is if the judge believes there is “good cause” to postpone the final hearing and continue the temporary order until that date.