

## **DIVORCE AND RELIEF FROM ABUSE**

### **Abusive Relationships:**

- Vermont law provides protection from abuse in families and other close relationships, including marriage and civil unions. You may get protection from the court whether or not you chose to get a divorce. There is special protection offered by Vermont's Abuse Prevention Act. Information about how to obtain these special protections may be found in other materials available at the court. The court clerk will also have information about how to contact an abuse prevention worker in your community, if there is a program in your county. The crisis worker can arrange to have a non-attorney go with you to court, and can tell you about services available in your area.

### **Starting a Divorce after a Relief from Abuse Order:**

- If you have already received a Relief from Abuse Order and you or your spouse file a divorce action, you must tell the court; you can do this by accurately filling out the family court cover sheet (Form 800) and checking the section that asks about prior abuse orders. You will also be asked this question on the form that you will file seeking relief.
- The court automatically combines your abuse case with your divorce case. (However, if the two cases are from different county family courts, there are special rules that govern which Family court will keep the cases.) That means that any order in your divorce case giving relief from abuse will also apply in your abuse case, and vice versa.
- If a Relief from Abuse Order is in effect, it stays in effect until the court expressly changes it or it expires. Most Relief from Abuse Orders will have a date that states when it will expire. It is important that you keep a copy of your most recent order with you at all times. (A copy also is kept in a State Database.) If the court in your divorce case later makes changes, or the Relief from Abuse Order is modified, ask the court to make sure the orders say the same thing so that the police know what their authority is.
- If a Relief from Abuse Order is modified as part of the Divorce, the new Order should be on the appropriate form (Court Form 152). You will need to take the Order to the police for service.
- In a request for relief from abuse, you may ask for protection from abuse for you and your children. An order may also give possession of your residence, and sometimes child support and other expenses.

### **Relief from Abuse Actions filed before the Divorce is final**

- Sometimes, after a divorce has begun, one spouse may file either a complaint for relief from abuse, or make a motion to the court asking for relief from abuse. In such cases, the court will:

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1. If the request is for emergency relief, act on the request even if it is not the same court where the divorce was filed, and then schedule another hearing within 10 days, if the emergency request was granted.
2. Grant final relief from abuse in a combined case. In a case where there are orders from the divorce and also an Emergency Relief from Abuse Order, the court may

issue a Final Order on the Relief from Abuse case which will change other orders that were in effect. The most recent order will be the one that must be followed. For example, suppose the custodial parent is required by a Temporary Divorce Order to provide liberal parent child contact. The non- custodial parent, however, quarrels with the custodial parent and a physical fight happens when the non custodial parent comes to pick up the children. The custodial parent may flee to another county and obtain a short-term emergency order for Relief from Abuse there. The custodial parent may also get a Final Order for Relief from Abuse in the county where the divorce was filed, and that Final Order for Relief from Abuse can modify any other Temporary Order in the divorce, including parent child contact. It might say, for example, that further parent child contact must be supervised, or that the non-custodial parent is not to contact the custodial parent except through a designated third party. Thus if the Final Order for Relief from Abuse is entered later than the Temporary Divorce Order, the parent child contact schedule in the Final Order for Relief from Abuse must be followed. The issue of parent child contact will be further addressed in the divorce.

**Abuse Orders on Relief from Abuse Forms:**

- Orders which are not on the Relief from Abuse forms may be more difficult for the police to recognize and enforce. While these forms should be enforced by the police, practice has shown that police sometimes do not recognize them as Relief from Abuse Orders. The better practice, therefore, is to ask the court to use Form 152. Make sure that any provisions for relief from abuse, including specific schedules for parent child contact, are placed on, or attached to, the Relief from Abuse form.

**Abuse Prevention Orders that Expire During the Divorce:**

- An abuse prevention order can be extended while the divorce is pending, if this is necessary to protect the victim or his or her child. The order can be extended before it expires, at the time of its expiration, or even after the date that it has expired. This must be done by motion to the court. Vermont law says that there is no need to show that any new abuse has occurred, or that there has been any change in circumstances.

**You can obtain helpful information, as well as court forms at:  
[www.VermontJudiciary.org](http://www.VermontJudiciary.org).**