

1 H.133

2 Introduced by Representatives Grad of Moretown, Pugh of South Burlington,  
3 and Colburn of Burlington

4 Referred to Committee on

5 Date:

6 Subject: Family procedures; emergency relief from abuse orders;  
7 relinquishment of firearms

8 Statement of purpose of bill as introduced: This bill proposes to clarify that a  
9 court issuing an emergency relief from abuse order has the authority to require  
10 relinquishment of the defendant's firearms.

11 An act relating to emergency relief from abuse orders and relinquishment of  
12 firearms

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

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

15 § 1104. EMERGENCY RELIEF

16 (a) In accordance with the Vermont Rules of Civil Procedure, temporary  
17 orders under this chapter may be issued ex parte, without notice to the  
18 defendant, upon motion and findings by the court that the defendant has  
19 abused the plaintiff or the plaintiff's children, or both. The plaintiff shall  
20 submit an affidavit in support of the order. A minor 16 years of age or older,

1 ~~or a minor of any age who is in a dating relationship as defined in subdivision~~  
2 1101(2) of this chapter, may seek relief on his or her own behalf. Relief under  
3 this section shall be limited as follows:

4 \* \* \*

5 (4) An order issued under this section may, if the plaintiff's complaint  
6 or affidavit includes information that the defendant possesses, owns, or  
7 controls firearms, and the court finds it necessary to protect the plaintiff or the  
8 plaintiff's children, require the immediate relinquishment, until the expiration  
9 of the order, of all firearms that are in the defendant's possession, ownership,  
10 or control or that another person possesses or controls on behalf of the  
11 defendant.

12 \* \* \*

13 Sec. 2. EFFECTIVE DATE

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

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

*§ 1104. EMERGENCY RELIEF*

*(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has abused the plaintiff or the plaintiff's children, or both. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older,*

*or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on his or her own behalf. Relief under this section shall be limited as follows:*

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

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

*(B) to refrain from interfering with the plaintiff's personal liberty or the personal liberty of the plaintiff's children, or both;*

*(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment; ~~and~~*

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

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

*(2) Upon a finding that the plaintiff, ~~or his or her~~ the plaintiff's children, or both, have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff.*

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

\* \* \*

*Sec. 2. EFFECTIVE DATE*

*This act shall take effect on passage.*