

Can I get a Relief From Abuse Order? (RFA)

To qualify for a RFA there must first be some type of relationship between you and the person that is abusing you. It can be a family member, a partner, someone you have dated, or a roommate. There must also be abuse as defined by Vermont Statute. The person must have: 1) attempted to cause or caused physical harm and/or 2) placed you in fear of imminent serious physical harm and/or 3) abused the child/ren (physically injured or otherwise treated the child/ren in a manner which placed the child/ren's life, health, development, or welfare in jeopardy. There must also be a danger of further abuse.

How and Where can I get protection?

Temporary orders may be issued ex parte (without notice to defendant). You may file for a Relief From Abuse Order by going directly to Family Court or you can call Umbrella to request the assistance of an advocate. Either way, you will have to complete several forms:

- ◆ A Complaint
- ◆ An Affidavit
- ◆ Contact Information for the Court

The Judge will read your paperwork and, if he or she finds there is an immediate danger of further abuse they will grant the temporary order. Your temporary order is good for that period, however it is not effective until it is served on the abuser by a law enforcement officer.

A hearing before the Judge will be scheduled in 7 to 10 days. This is when you can request a final Relief From Abuse Order. The final order is usually issued for one year, but can be extended or modified before it expires.

Final Relief From Abuse Order Hearings

The plaintiff is the person that asked for the order and the defendant is the person they are trying to get an order against. The plaintiff will sit at the table closest to the jury box. The advocate will sit at the same table as the plaintiff, but closer to the defendant. There will probably be both a judge and two side judges. This can be a little intimidating and it is perfectly normal to be nervous. Family court is open court, so there may be other people present in the courtroom. You can have friends and/or family members come to court with you for support. No food or drinks are allowed in the courtroom and you are expected to dress appropriately, which does not mean that you have to get dressed up, it just means that you should not have ripped jeans, T-shirts with sayings on them, etc.

An advocate will be in the family room (make a left after you go through security—it is the last door on the left) to answer questions and to offer support. It will be helpful to write down what you want to say to the judge and any changes you want to make to your order, so you will not forget anything if you become nervous.

The judge usually will say, this is the matter between and say the names of both the plaintiff and the defendant, give the case number, and then ask the parties to state their name. The judge will then ask the plaintiff if they want a final order. If the answer is yes, the judge will usually ask if everything you wrote in your affidavit is true. If the defendant is at court, the judge will ask if the defendant is opposed to having an order issued. If the defendant is not opposed an order will be issued. This is called an order without findings, which means that no testimony was heard in the case and the parties agreed to the order.

If the defendant does not want an order, both the plaintiff and the defendant are placed under oath. The judge begins with the plaintiff and asks why they want an order issued. At this point the plaintiff needs to tell the judge about the abuse. They are listening for: 1.) was there physical harm or attempted physical harm 2.) fear of immediate serious bodily injury/harm 3.) harm to the children—what did they hear, see, were they home when the abuse occurred? Were they also harmed physically? The judge may ask questions to get more information. When the plaintiff is finished, the judge will ask the defendant to respond. When the defendant is finished, the judge should give the plaintiff an opportunity to reply to what the defendant has said. If the judge does not automatically give you a chance, you can ask for permission to clarify things. At this point the judge (and the two side judges) will usually leave the room to make their decision.

This type of order is considered an order with findings of abuse. This means that formal testimony was taken and the judge decided that abuse occurred. An order with findings can be used in future child custody or divorce cases. An order without findings cannot be used in these circumstances.

If the defendant does not come to court, you can still get an order. The judge may swear you in and take testimony from you, but the order that is issued is considered to be without findings because the defendant was not present. You will also be responsible for having the order served on the defendant, just like the temporary order.

Some things to remember:

- ◆ It is very important not to interrupt when the judge or the defendant is speaking. This can be very difficult, especially if the defendant is saying things that are not true.

- ◆ If there are minor children, a temporary custody and visitation order will be issued. Try to have an idea about what you would like to see happen. Do you want visitation supervised? Do you know someone who would be willing to be present when the defendant is having a visit?

- ◆ If the defendant comes to court with an attorney or if you are notified by mail that the defendant will have an attorney represent them, you have the right to ask for a continuance, where the case is postponed, usually for a week, so you have time to hire an attorney to represent you. If you do not have money for an attorney, Legal-Aid is sometimes available to help. It is important that you tell them that you are working with Umbrella and that your partner has an attorney.

- ◆ You are not allowed to testify to hearsay. This means that you cannot tell the court anything that you have not personally witnessed/experienced. If the defendant said that he was going to hurt you to your friend, your friend has to be in the courtroom to tell the judge about it.