

Vermont Family Law – Jurisdiction and Service of Process

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Custody Determination – Jurisdiction

Initial Custody Determination

15 V.S.A. § 1071

(a) Except as otherwise provided in section 1074 of this title, a Vermont court has jurisdiction to make an initial child custody determination only if:

(1) Vermont is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six months before the commencement of the proceeding and the child is absent from Vermont, but a parent or person acting as a parent continues to live in Vermont;

(2) A court of another state does not have jurisdiction under subdivision (1) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that Vermont is the more appropriate forum under section 1077 or 1078 of this title, and:

(A) the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with Vermont other than mere physical presence; and

(B) substantial evidence is available in Vermont concerning the child's care, protection, training, and personal relationships;

(3) All courts having jurisdiction under subdivision (1) or (2) of this subsection have declined to exercise jurisdiction on the grounds that a Vermont court is the more appropriate forum to determine the custody of the child under section 1077 or 1078 of this title; or

(4) No court of any other state would have jurisdiction under the criteria specified in subdivision (1), (2), or (3) of this subsection.

(b) Subsection (a) of this section is the exclusive jurisdictional basis for making a child custody determination by a Vermont court.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

Temporary Emergency Jurisdiction

15 V.S.A. § 1074

(a) A Vermont court has temporary emergency jurisdiction if the child is present in Vermont, and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(b) If there is no previous child custody determination that is entitled to be enforced under this chapter, and a child custody proceeding has not been commenced in a court of a state having jurisdiction under sections 1071–1073 of this title, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 1071-1073 of this title. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 1071-1073 of this title, a child custody determination made under this section becomes a final determination, if it so provides, and Vermont becomes the home state of the child.

(c) If there is a previous child custody determination that is entitled to be enforced under this chapter, or a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 1071-1073 of this title, any order issued by a Vermont court under this section shall specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 1071-1073 of this title. The order issued in Vermont remains in effect until an order is obtained from the other state within the period specified or the period expires.

(d) A Vermont court which has been asked to make a child custody determination under this section upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under sections 1071-1073 of this title shall immediately communicate with the other court. A Vermont court which is exercising jurisdiction pursuant to sections 1071-1073 of this title, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section, shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Authority Interpreting § 1074

There is very little available authority interpreting the parameters of § 1074.

In re M.P., 2019 VT 69, ¶ 21 (Vt. Sept. 17, 2019) (affirming the trial court’s exercise of temporary emergency jurisdiction where the undisputed facts showed that the minor “was living in Vermont with husband, her presumptive father, that mother was incarcerated in Alabama, that husband was unable to care for M.P., and that state intervention was required to protect M.P. from harm or risk of harm.”)

Custody Determination – Service/Notification Requirements

See Custody Determination Jurisdiction Section.

Paternity and Child Support Proceeding – Jurisdiction

15 V.S.A. § 1066

a) Notice required for the exercise of jurisdiction when a person is outside Vermont [under Vermont’s Uniform Child Custody Jurisdiction and Enforcement Act] may be given in a manner prescribed by the law of Vermont for service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by the law of Vermont or by the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

15 V.S.A. § 1075

(a) Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of section 1066 of this title shall be given to all persons entitled to notice under Vermont law as in child custody proceedings between Vermont residents, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(b) This chapter does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by Vermont law as in child custody proceedings between Vermont residents.

Paternity and Child Support Proceeding – Service/Notification Requirements

15B V.S.A. § 1311

(a) In a proceeding under this title, a petitioner seeking to establish a support order to determine parentage of a child or to register and modify a support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered under section 1312 of this title, the petition or accompanying documents must provide, so far as known, the name, residential address, and Social Security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, Social Security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

15B V.S.A. § 1316

(a) The physical presence of a nonresident party who is an individual in a tribunal of this State is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(b) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this State.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from outside this State to a tribunal of this State by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this title, a tribunal of this State shall permit a party or witness residing outside this State to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of this State shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this title.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this title.

(j) A voluntary acknowledgement of paternity, certified as a true copy, is admissible to establish parentage of the child.

15B V.S.A. § 1301(b)

An individual petitioner or a support enforcement agency may initiate a proceeding authorized under this title by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or foreign country which has or can obtain personal jurisdiction over the respondent.

Child Abuse/Neglect Proceeding – Jurisdiction

15 V.S.A. § 1102

[Jurisdiction and venue in abuse prevention proceedings, including abuse to children as defined in 33 V.S.A. chapter 49, subchapter 2]

(a) The family division of the superior court shall have jurisdiction over proceedings under this chapter.

(b) Emergency orders under section 1104 of this title may be issued by a judge of the criminal, civil, or family division of the superior court.

(c) Proceedings under this chapter may be commenced in the county in which the plaintiff resides. If the plaintiff has left the residence or household to avoid abuse, the plaintiff shall have the option to bring an action in the county of the previous residence or household or the county of the new residence or household.

Child Abuse/Neglect Proceeding – Service/Notification Requirements

15 V.S.A. § 1105

[Service under Abuse Prevention, Title 15, Chapter 21]

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) Abuse orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the defendant.

(d) If service of a notice of hearing issued under section 1103 or 1104 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

15 V.S.A. § 1103

[Notice and opportunity to be heard]

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of himself or herself or his or her children by filing a complaint under this chapter. 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 file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 1104 of this title, the court shall grant relief only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving abuse by a preponderance of the evidence.

(c)(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

(A) there is a danger of further abuse; or

(B) the defendant is currently incarcerated and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a child in a sexual performance, or consenting to a sexual performance.

(2) The court order may include the following:

(A) an order that the defendant refrain from abusing the plaintiff or his or her children, or both, and from interfering with their personal liberty, including restrictions on the defendant's ability to contact 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, and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or the plaintiff's children are likely to spend time;

(B) an order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence;

(C) a temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title;

(D) an order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court;

(E) if the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months;

(F) if the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage;

(G) an order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household; and

(H) an order that the defendant return any personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards:

(i) pertaining to the plaintiff; or

(ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown.

(d) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:

(1) Evidence of the plaintiff's past sexual conduct with the defendant.

- (2) Evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease.
- (3) Evidence of specific instances of the plaintiff's past false allegations of violations of 13 V.S.A. chapter 59 or 72.
- (e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff, the children, or both, from abuse. It is not necessary for the court to find that abuse has occurred during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.
- (f) No filing fee shall be required.
- (g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, the date and time of the order, and shall be signed by the judge.
- (h) Form complaints and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.
- (i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

Divorce and Legal Separation – Jurisdiction

15 V.S.A. § 591

Superior courts shall hear and determine complaints for divorce and for affirming or annulling the civil marriage contract and may issue process of attachment, execution, and other proper process necessary for the dispatch and final determination of such causes. The judges of the superior court shall be triers of questions of fact as well as of law. Their determination of questions of fact shall be final, and exceptions may be taken and questions of law heard in the supreme court as in other causes.

15 V.S.A. § 592

- (a) A complaint for divorce or annulment of civil marriage may be brought if either party to the marriage has resided within the State for a period of six months or more, but a divorce shall not be decreed for any cause, unless the plaintiff or the defendant has resided in the State one year next preceding the date of final hearing. Temporary absence from the State because of illness, employment without the State, service as a member of the Armed Forces of the United States, or other legitimate and bona fide cause shall not affect the six months' period or the one-year period specified in the preceding sentence, provided the person has otherwise retained residence in this State.
- (b) Notwithstanding provisions to the contrary, a complaint for divorce may be filed in the Family Division of Superior Court in the county in which the marriage certificate was filed by parties who are not residents of Vermont provided all of the following criteria are met:
 - (1) The marriage was established in Vermont.
 - (2) Neither party's state of legal residence recognizes the couple's Vermont marriage for purposes of divorce.
 - (3) There are no minor children who were born or adopted during the marriage.
 - (4) The parties file a stipulation together with a complaint that resolves all issues in the divorce action. The stipulation shall be signed by both parties and shall include the following terms:
 - (A) An agreement that the terms and conditions of the stipulation may be incorporated into a final order of divorce.
 - (B) The facts upon which the court may base a decree of divorce and that bring the matter before the court's jurisdiction.

(C) An acknowledgment that:

- (i) Each party understands that if he or she wishes to litigate any issue related to the divorce before a Vermont court, one of the parties must meet the residency requirement set forth in subsection (a) of this section.
 - (ii) Neither party is the subject of an abuse prevention order in a proceeding between the parties.
 - (iii) There are no minor children who were born or adopted during the marriage.
 - (iv) Neither party's state of legal residence recognizes the couple's Vermont marriage for purposes of divorce.
 - (v) Each party has entered into the stipulation freely and voluntarily.
 - (vi) the parties have exchanged all financial information, including income, assets, and liabilities.
- (c) The court shall waive a final hearing on any divorce action filed pursuant to subsection (b) of this section unless the court determines upon review of the complaint and stipulation that the filing is incomplete or that a hearing is warranted for the purpose of clarifying a provision of the stipulation. Final uncontested hearings in a nonresident divorce action shall be conducted by telephone unless one or both of the parties choose to appear in person.

15 V.S.A. § 593

- (a) Except as provided in subsection (b) of this section, complaints for divorce for any cause and for affirming or annulling the civil marriage contract shall be brought in the county in which the parties or one of them resides. Petitions directed to a Superior judge for temporary orders under the provisions of Vermont Rule of Civil Procedure 80(c) may be heard within or without the county where the cause is pending at a place convenient for the parties and the judge hearing the same.
- (b) A complaint for divorce or dissolution of a civil union shall be brought in the county in which the marriage certificate or the civil union certificate was filed if neither of the parties resides in Vermont.

Divorce and Legal Separation – Service/Notification Requirements

There do not appear to be any specific service or notice rules under Chapter 11 of Title 15 of the Vermont Statutes Annotated concerning “Annulment and Divorce”—other than those set forth above and in the general service rules. See Vt. R. Civ. P. 4(f)(B) (providing procedures for service by mail of in-state and out-of-state defendants against whom judgment for divorce or annulment of marriage is sought).

Adoption Proceeding – Jurisdiction

15A V.S.A. § 3-101

- (a) Except as otherwise provided in subsections (b) and (c) of this section, the Probate Division of the Superior Courts of this State have jurisdiction over a proceeding for the adoption of a minor commenced under this title if:
 - (1) immediately before commencement of the proceeding, the minor lived in this State with a parent, a guardian, a prospective adoptive parent, or another person acting as parent, for at least six consecutive months, including periods of temporary absence, or, in the case of a minor under six months of age, lived in this State from soon after birth with any of those persons;
 - (2) immediately before commencement of the proceeding, the prospective adoptive parent lived in this State for at least six consecutive months, including periods of temporary absence;
 - (3) an agency placed the minor for adoption and it is in the best interest of the minor that a court of this State assume jurisdiction because:
 - (A) the minor and the minor's parents, or the minor and the prospective adoptive parent, have a significant connection with this State; and

- (B) there is available in this State substantial evidence concerning the minor's present or future care;
- (4) the minor and the prospective adoptive parent are physically present in this State and the minor has been abandoned or it is necessary in an emergency to protect the minor because the minor has been subjected to or threatened with mistreatment or abuse or is otherwise neglected; or
- (5) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with subdivisions (1) through (4) of this subsection, or another state has declined to exercise jurisdiction on the ground that this State is the more appropriate forum to hear a petition for adoption of the minor, and it is in the best interest of the minor that a court of this State assume jurisdiction.
- (b) A court of this State may not exercise jurisdiction over a proceeding for adoption of a minor if at the time the petition for adoption is filed a proceeding concerning the custody or adoption of the minor is pending in a court of another state exercising jurisdiction substantially in conformity with the Uniform Child Custody Jurisdiction and Enforcement Act or this title, unless the proceeding is stayed by the court of the other state.
- (c) If a court of another state has issued a decree or order concerning the custody of a minor who may be the subject of a proceeding for adoption in this State, a court of this State may not exercise jurisdiction over a proceeding for adoption of the minor unless:
- (1) the court of this State finds that the court of the state which issued the decree or order:
- (A) does not have continuing jurisdiction to modify the decree or order under jurisdictional prerequisites substantially in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act or has declined to assume jurisdiction to modify the decree or order; or
- (B) does not have jurisdiction over a proceeding for adoption substantially in conformity with subdivisions (a)(1) through (4) of this section or has declined to assume jurisdiction over a proceeding for adoption; and
- (2) the court of this State has jurisdiction over the proceeding.
- (d) The Probate Division of the Superior Courts of this State shall have jurisdiction over a proceeding for relinquishment, consent to adoption or termination of parental rights associated with an adoption if immediately preceding the commencement of the proceeding:
- (1) the adoptee resided in this State; or
- (2) the agency receiving a relinquishment is licensed as a child placing agency in this State; or
- (3) the prospective adoptive parents, if known, have lived or had legal residence in this State for at least six consecutive months; or
- (4) one parent of the adoptee has had legal residence in this State for at least six months; or
- (5) any requirement of the Uniform Child Custody Jurisdiction and Enforcement Act is satisfied so as to vest the courts of this State with jurisdiction over the child.
- (e) The Probate Division of the Superior Courts of this State shall have jurisdiction over civil actions concerning disclosure of identifying information pursuant to Article 6 of this title and construction and enforcement of adoption decrees and orders, and except as provided in section 7-101 of this title, all other civil actions arising under this title.
- (f) Nothing in this section shall be construed to remove jurisdiction from the Family Division of the Superior Court over relinquishment or termination of parental rights under 33 V.

15A V.S.A. § 3-102

- (a) Except as provided in subsection (b) of this section, a petition for adoption may be filed in the probate division of the superior court in the district in which a petitioner resides or has legal residence at the time of filing, the adoptee resides, or an office of an agency or the department that placed the adoptee is located.

(b) A consent or petition for relinquishment or termination of parental rights may be filed in the probate division of the superior court in the district in which the minor resides, a relinquishing parent resides, or the agency or person receiving the relinquishment has its principal place of business.

(c) Review of the appeal of a preplacement assessment shall take place in the probate division of the superior court in the district in which the appealing party resides or where the agency or person conducting the assessment is located.

Adoption Proceeding – Service/Notification Requirements

15A V.S.A. § 3-401

(a) Unless notice has been waived, notice of a proceeding for adoption of a minor shall be served, within 30 days after a petition for adoption is filed, upon:

(1) a person whose consent to the adoption is required under section 2-401 of this title, but notice need not be served upon a person whose parental relationship to the minor or whose status as a guardian has been terminated;

(2) an agency whose consent to the adoption is required under section 2-401;

(3) a person whom the petitioner knows is claiming to be or who is named as the father or possible father of the minor adoptee and whose paternity of the minor has not been judicially determined, but notice need not be served upon a man who has executed a verified statement, as described in subdivision 2-402(a)(3) of this title, denying paternity or disclaiming any interest in the minor;

(4) a person other than the petitioner who has legal or physical custody of the minor adoptee or who has a right of communication or visitation with the minor under an existing court order issued by a court in this or another state;

(5) the spouse of the petitioner if the spouse has not joined in the petition; and

(6) a grandparent of a minor adoptee if the grandparent's child is a deceased parent of the minor and, before death, the deceased parent had not executed a consent or relinquishment or the deceased parent's parental relationship to the minor had not been terminated.

(b) The court shall require notice of a proceeding for adoption of a minor to be served upon any person the court finds, at any time during the proceeding, is:

(1) a person described in subsection (a) of this section who has not been given notice;

(2) a person who has revoked a consent or relinquishment pursuant to subsection 2-408(a) or 2-409(a) of this title or is attempting to have a consent or relinquishment set aside pursuant to subsection 2-408(b) or 2-409(b) of this title; or

(3) a person who, on the basis of a previous relationship with the minor adoptee, a parent, an alleged parent, or the petitioner, can provide information that is relevant to the proposed adoption and that the court in its discretion wants to hear.

(c) If, at any time in the proceeding, it appears to the court that there is an alleged father of the adoptee who has not been given notice, the court shall require notice of the proceeding to be given to him.

(d) The court shall send a duplicate copy of the petition to the department. The department shall determine whether or not the petitioners have been the subject of a substantiated complaint filed with the department, and shall report its findings to the court within 14 days of receiving the petition. If a substantiated complaint has been filed with the department, the department shall include a copy of the investigative report that relates to the complaint with the findings it files with the court.

15A V.S.A. § 3-402

A notice required by section 3-401 of this title shall use initials for the name of a petitioner or any person named in the petition for adoption who has not waived confidentiality and shall contain:

- (1) the caption of the petition;
- (2) the address and telephone number of the court where the petition is pending;
- (3) a concise summary of the relief requested in the petition;
- (4) the name, mailing address, and telephone number of the petitioner's attorney;
- (5) a statement that the person served with the notice shall file a written appearance in the adoption proceeding within 20 days after service in order to participate in the proceeding and to receive further notice of the proceeding, including notice of the time and place of any hearing.

15A V.S.A. § 3-403

- (a) Service of the notice required by section 3-401 of this title shall be made in a manner appropriate under the Vermont Rules of Probate Procedure unless the court otherwise directs; provided however, a parent or alleged parent who has not consented to the adoption or whose parental rights have not been terminated shall be personally served in accordance with the Vermont Rules of Civil Procedure.
- (b) Except as otherwise provided in subsection (c) of this section, a person who fails, without good cause, to respond to the notice within 20 days after its service may not appear in or receive further notice of the proceeding for adoption.
- (c) If a person is a respondent in a petition to terminate the relationship of parent and child and the petition is served upon the respondent with the notice required by section 3-401, the respondent may not appear in or receive further notice of the proceeding for adoption or for termination unless the respondent responds to the notice as required by section 3-503 of this title.

Domestic Violence – Jurisdiction

15 V.S.A. § 1102

[Jurisdiction and venue in domestic violence proceedings]

- (a) The family division of the superior court shall have jurisdiction over proceedings under this chapter.
- (b) Emergency orders under section 1104 of this title may be issued by a judge of the criminal, civil, or family division of the superior court.
- (c) Proceedings under this chapter may be commenced in the county in which the plaintiff resides. If the plaintiff has left the residence or household to avoid abuse, the plaintiff shall have the option to bring an action in the county of the previous residence or household or the county of the new residence or household.

Domestic Violence– Service/Notification Requirements

15 V.S.A. § 1105

[Service under Abuse Prevention, Title 15, Chapter 21]

- (a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.
- (b) A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) Abuse orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the defendant.

(d) If service of a notice of hearing issued under section 1103 or 1104 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

15 V.S.A. § 1103

[Notice and opportunity to be heard]

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of himself or herself or his or her children by filing a complaint under this chapter. 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 file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 1104 of this title, the court shall grant relief only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving abuse by a preponderance of the evidence.

(c)(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

(A) there is a danger of further abuse; or

(B) the defendant is currently incarcerated and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a child in a sexual performance, or consenting to a sexual performance.

(2) The court order may include the following:

(A) an order that the defendant refrain from abusing the plaintiff or his or her children, or both, and from interfering with their personal liberty, including restrictions on the defendant's ability to contact 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, and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or the plaintiff's children are likely to spend time;

(B) an order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence;

(C) a temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title;

(D) an order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court;

(E) if the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months;

(F) if the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage;

- (G) an order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household; and
- (H) an order that the defendant return any personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards:
 - (i) pertaining to the plaintiff; or
 - (ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown.
- (d) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:
 - (1) Evidence of the plaintiff's past sexual conduct with the defendant.
 - (2) Evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease.
 - (3) Evidence of specific instances of the plaintiff's past false allegations of violations of 13 V.S.A. chapter 59 or 72.
- (e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff, the children, or both, from abuse. It is not necessary for the court to find that abuse has occurred during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.
- (f) No filing fee shall be required.
- (g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, the date and time of the order, and shall be signed by the judge.
- (h) Form complaints and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.
- (i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.