

VPLC SUPPORTS SENATOR STUART'S SB 144 TO GIVE JUDGES DISCRETION TO ISSUE POS FOR LONGER THAN TWO YEARS IN MATTERS WHERE THERE ARE UNDERLYING VIOLENT FELONY CONVICTIONS

The Problem:

- Currently, victims of intimate partner and sexual violence are only able to obtain protective orders against their perpetrators that last for up to two years. Those orders may be renewed indefinitely, but only in additional two-year increments.
- This means that victims of violent felonies are forced to reconfront their perpetrators in court every two years or forego the opportunity to maintain a protective order. Such orders are routinely granted by the district courts. The repetitive court process is not only inefficient and unnecessary, it can increase the danger of future harm to the victim, and often retraumatizes the victim.
- In many cases, as part of a felony sentence, the perpetrator is court-ordered to have no contact with the victim for a period of time after his or her release from prison. However, those court orders are not directly enforceable by the victim. Instead, the Commonwealth's Attorney must file and prosecute a probation violation to hold the perpetrator accountable.
- A protective order is a more effective tool to protect a victim because it is easily enforced by the victim themselves. Upon a violation of the protective order, law enforcement or the victim can immediately seek a warrant for criminal violation of protective order charges.

Real Life Examples:

- Jane Doe and Mr. X have a 1-year old child in common. Jane Doe tries to leave Mr. X, who has been abusing her. Mr. X abducts Jane Doe at gunpoint, in front of their child, and holds her hostage for two days while he continues to physically and sexually abuse her. He tells her that if he ever goes to jail, the first thing he does when he gets out will be to find her and kill her. After a stand-off with police, Jane Doe is rescued and Mr. X is arrested. He is ultimately convicted of several felony offenses and serves 17 years in prison. Eventually, Jane Doe remarries and has two more children. Upon learning that Mr. X is about to be released from prison, Jane Doe must file for a protective order and confront her abuser in court, because she fears for her safety and the safety of her new family. Although the order is issued for a period of two years, the process of filing for the protective order triggers anxiety and increased symptoms of PTSD for Jane Doe. She knows she will have to repeat this process in two more years. This could have been avoided with an extended protective order issued at the time of Mr. X's convictions.

- John Doe rapes Mary Smith, an acquaintance. He is convicted after a jury trial and serves four years in prison. Upon learning that his release is imminent, Mary Smith must file for a protective order, which is granted. John Doe appeals the order, and Mary Smith must testify about the rape yet again to maintain the order. Although the order is affirmed on appeal, John Doe sues Mary Smith for defamation and abuse of process, claiming that the rape did not occur “within a reasonable time” to qualify for a protective order under current law. Mary Smith could have been spared this ordeal if an extended protective order had been issued at the time of John Doe’s conviction.

What Senator Stuart's SB 144 Proposes and Why VPLC Supports It

- Victims of violent crimes should be able to receive protective orders that reflect the seriousness of the situation. This legislation allows a circuit court judge to enter a protective order on behalf of the victim, in conjunction with a criminal conviction for certain violent felonies, for whatever length of time the court determines is necessary to protect the victim. Relief is limited to prohibiting further violent or criminal acts against the victim and prohibiting contact by the perpetrator with the victim.
- Many other states provide for protective orders that last many years or may be indefinite. Adopting the same process in Virginia will improve judicial economy and eliminate unnecessary hearings from the district court dockets, in addition to providing better protection for victims of violent crimes.

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