

VPLC Opposes SB 174 as Unconstitutional and Dangerous for Victims of Violence

- 1. Imposing a no-contact provision against Petitioner in the very protective order (PO) designed to protect Petitioner is unconstitutional because it violates Petitioner’s due process rights:**
 - a. In order for Petitioner to obtain a PO to prevent further acts of violence, force, or threat by Respondent, they first must file a petition for said PO, including allegations of what acts of violence, force, or threat Respondent committed and notice of the next hearing. Respondent then gets served with this documentation, upholding their due process rights—namely, the opportunity to defend themselves against these allegations and notice of the hearing where they may do that. Arbitrarily including a no-contact provision against Petitioner without a corresponding cross-petition from Respondent...in the very PO designed to protect Petitioner from Respondent’s violence, force, or threat...impairs Petitioner’s due process rights—Petitioner hasn’t received the same opportunity to defend themselves against allegations and notice of the hearing where they may do that.
 - b. Virginia law already has remedies for Respondent who is concerned about Petitioner contacting them: Respondent may file a Motion to Dismiss, Amend, Revise, or Appeal the PO.
- 2. Imposing a no-contact order against Petitioner in their own PO is bad policy and can lead to dangerous outcomes, including prosecutors not being able to obtain convictions for PO violations.** For a full PO, the court hears evidence and make findings about one person’s acts of violence, force, or threat against the other. Unless the court hears two petitions—one by Petitioner against Respondent and the other by Respondent against Petitioner—it makes findings that Respondent committed acts of violence, force, or threat against Petitioner that warrant the issuance of a PO to protect Petitioner. If the court arbitrarily imposes a no-contact order against Petitioner in that very PO, it gives Respondents a tool with which to *continue* to commit acts of violence, force, or threat against Petitioner. Additionally, if and when Respondent violates the PO, reciprocal contact provisions without corresponding petitions mean prosecutors can’t obtain convictions.
- 3. Imposing a no-contact provision against Petitioner in their own PO means these POs do not receive Full Faith and Credit:** Under federal law, “[a] protective order is not entitled to Full Faith and Credit if no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.” [18 U.S.C. § 2265\(c\)](#).
- 4. Imposing a no-contact order against Petitioner in their own PO jeopardizes Virginia’s federal Violence Against Women Act (VAWA) funding.** State and local sexual and domestic violence programs, including legal services, rely on federal VAWA funding to serve survivors. These programs must sign assurances that their area does not allow or enforce mutual protective orders in order to receive federal funding.

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