

Testimony and witness documents for relevant legal and Constitutional Citations regarding S. 4 and other Bills mentioned below. Please consider this submission as documentation now officially within the Notice of the Legislature of the State of Vermont as pertains to future litigation and appeals by any Citizen of the State of Vermont.

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Item 1: The current status and expressed system of Supreme Court of the United States Decisions and precedent directing a "text, history and tradition" by use of "historical analogues" test for any and all infringements upon 2nd Amendment Rights precludes many elements of Bills now being considered by the 2023-2024 Biennium of the Legislature of the State of Vermont.

"Bruen approvingly quoted Heller that "Constitutional rights are enshrined with the scope they were understood to have when the people adopted them," and noted that Heller looked at mid-to-late nineteenth century evidence only "as mere confirmation of what the Court thought had already been established." See: <https://www.harvard-jlpp.com/attention-originalists-the-second-amendment-was-adopted-in-1791-not-1868-mark-smith/> also cited below.

As such and accordingly we oppose and ask deletion from the Bill as follows:

Including especially Sections 1, 7 and 8 of S.4 as restrictions based on arbitrary age stratifications for otherwise lawful possession and the irrational and unlawful exposure of otherwise protected Juvenile Criminal or Family Court records and investigations by any state agency such as DCF and law enforcement generally.

To treat Constitutionally enumerated, unalienable, pre-existent rights as we would civil privileges like operating an automobile is offensive to the other enumerated rights such as Habeus Corpus and right to a legal defense and a speedy trial.

Item 2: Items of proposed legislation and related infringements listed here such as bans on firearms and related self-defense weapons, so-called "dangerous weapons" including non-lethal items like sprays and electronic devices (bear spray and Taser type devices), age related discriminatory infringements and device restrictions (i.e. magazine bans based upon capacity) are all unconstitutional prima facia following the Caetano and

Bruens Decisions built upon Heller and McDonald. These case Cited below and elsewhere in Mr. Chris Bradley's testimony.

As such, all such legislation should include budget appropriations of between \$100K and \$350K in anticipation of the inevitable legal challenges forthcoming after passage. I would propose a standing estimate for such legal process to be prepared by the Joint Fiscal Office to be attached as evidence here and where similar legal challenges are likely.

Referral to the Senate Appropriations Committee is here formally requested for the purpose of evaluating budgetary impacts on the long list of injuries and usurpations likely to be the result of passage of S.4. Recent ongoing lower and Supreme Court actions regarding the magazine ban statute should provide an excellent fiscal cautionary tale for JFO to produce good guidance for the Senate.

Item 3:

As a nation our legal system and citizenship are encased in a robust form of faith. We exercise Faith in each other while we drive the road expecting others to submit to the rules of the road. We trust our children to the dangers of car travel every day based on this faith. In criminal law we also expect and exercise Faith in others to support us in our pursuit of living a free and virtuous life as we do the same; that we will not be accosted, abused, cheated or otherwise subject to assault by either the Powers of the State or our fellow Citizens.

In fact of history and law, all our Civil Laws and Constitutional protections are based in faith that our fellow citizens agree to these social compacts and expect the same from us. When these traditions and the faith that underpins moral virtue we expect and understand to be our birthright break down, crime, violence and other abuses are the result. We obviously are living in that unfortunate condition in some areas of the State of Vermont.

Destroying and infringing upon the ability for citizens to defend life, liberty, family and the pursuit of a virtuous moral community will not replace these underlying and essential moral equations. Our Vermont Constitutional Founders expected as such and repeatedly inserted these understandings in the formation of our frame of government and enumerated rights.

The Founders of both the Vermont State and United States Constitutions took robust and proud notice of our history and traditions in the British Common Laws, the philosophical underpinnings of the Enlightenment and its connected foundations to Judeo-Christian ethical and communitarian expectations. It was that very foundation, abused and usurped by a rogue British King that led to our Revolutionary stance and

Declaration of Independence after attempting in the Parliament and the Courts to regain our freedoms.

Vermont's Constitution contains many elements that reflect these expectations and speak them eloquently. Many are familiar with regards recent school and marriage cases, some are sadly all too unfamiliar and bear rebirth and repetition.

I offer below a selection and also now will read into the record Chapter I, Article 18. [Regard to fundamental principles and virtues necessary to preserve liberty]

That frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the blessings of liberty, and keep government free; the people ought, therefore to pay particular attention to these points, in the choice of officers and representatives, and have a right, in a legal way, to exact a due and constant regard to them, from their legislators and magistrates, in making and executing such laws as are necessary for the good government of the State.

I submit today that infringements upon Rights and Priveleges of Vermont lawful gun owners is a feel-good false confidence that ignores the true issues plaguing our children such as drugs, depression and mental illness, gang activity, human trafficking and more. To ignore the clear and present danger of the depraved, immoral and indecent nature of our present madness across this great nation, reducing the prescription to more restrictions on freedoms whilst ignoring the deplorable condition our society finds itself in, we invite further disiater and misery for ourselves and generations to follow.

I further assert that a renewed "recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the blessings of liberty" and if taught early and often to ourselves and our children at every turn is a better way out of this present madness.

Senators addressing better schools, stronger families, healthy kids and robust religious institutions to support these should be appauded and these kinds of restrictive and useless laws should be rejected. Chart a new course here today and reject the false economy of infringement and usurpations.

Love your children, love liberty, hug your family and seek Faith in our ability to overcome todays malaise.

Thank you for your efforts and attentions here today.

William Moore

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Footnotes and Citations:

Heller v. D. C. <https://supreme.justia.com/cases/federal/us/554/570/>

Caetano v. Massachusetts <https://supreme.justia.com/cases/federal/us/561/742/>

McDonald v. Chicago <https://www.law.cornell.edu/supremecourt/text/14-10078>

New York State Rifle & Pistol Association, Inc. v. Bruen, 597 U.S. ____ (2022)
<https://www.law.cornell.edu/supremecourt/text/20-843>

On Bruens and Strict Scrutiny as described with Decision - <https://www.harvard-jlpp.com/attention-originalists-the-second-amendment-was-adopted-in-1791-not-1868-mark-smith/>

How current "Mass Shooting" statistics mask the true dynamic crisis of drug trafficking, gang related and suicide deaths as the primary causes of firearms deaths -
<https://crimeresearch.org/2018/08/new-cprc-research-how-a-botched-study-fooled-the-world-about-the-u-s-share-of-mass-public-shootings-u-s-rate-is-lower-than-global-average/>

<https://www.mprnews.org/story/2019/10/01/the-majority-of-us-gun-deaths-are-suicides-but-a-new-poll-suggests-few-americans-know-it>

Vermont Supreme Court, State v. Rosenthal, 75 Vt. 295, 55 A. 610 (1903)

"Const. c. 1, art. 16, declares that the people have a right to bear arms for the defense of themselves and the state. V. S. 4922, prohibits any person from carrying a dangerous weapon, openly or concealed, with the intent of injuring another. Section 4923 prohibits a person, while a member of and in attendance on a school, from having in his possession any dangerous weapon. Held, that a city ordinance prohibiting a person from carrying within the city any brass knuckles, pistol, slung shot, or weapon of similar character, or any weapon concealed on his person, without permission of the mayor or chief of police, so far as it relates to the carrying of a pistol under any circumstances without such consent, is repugnant to the Constitution, and to that extent void."

<https://guncite.com/court/state/55a610.html>

Vermont Supreme Court, State v. Carlton, 48 Vt. 636 (1876)

"Held, also, that if the respondent was carrying the pistol for a lawful purpose, the carrying of it for such purpose was not, in itself, carelessness; and that if it was afterwards accidentally discharged in consequence of the unlawful act of the deceased,

without fault on the part of the respondent, the respondent was not responsible for the consequences.”

<https://guncite.com/court/state/48vt636.html#fn242.1>

Vermont Constitutional Relevant Citations –

Chapter I, Article 1. [All persons born free; their natural rights; slavery and indentured servitude prohibited]

That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; therefore slavery and indentured servitude in any form are prohibited.

Article 2. [Private property subject to public use; owner to be paid]

That private property ought to be subservient to public uses when necessity requires it, nevertheless, whenever any person's property is taken for the use of the public, the owner ought to receive an equivalent in money.

Article 3. [Freedom in religion; right and duty of religious worship]

That all persons have a natural and unalienable right, to worship Almighty God, according to the dictates of their own consciences and understandings, as in their opinion shall be regulated by the word of God; and that no person ought to, or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any minister, contrary to the dictates of conscience, nor can any person be justly deprived or abridged of any civil right as a citizen, on account of religious sentiments, or peculiar mode of religious worship; and that no authority can, or ought to be vested in, or assumed by, any power whatever, that shall in any case interfere with, or in any manner control the rights of conscience, in the free exercise of religious worship. Nevertheless, every sect or denomination of christians ought to observe the sabbath or Lord's day, and keep up some sort of religious worship, which to them shall seem most agreeable to the revealed will of God.

Article 4. [Remedy at law secured to all]

Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which one may receive in person, property or character; every person ought to obtain right and justice, freely, and without being obliged to purchase it; completely and without any denial; promptly and without delay; conformably to the laws.

Article 16. [Right to bear arms; standing armies; military power subordinate to civil]

That the people have a right to bear arms for the defence of themselves and the State-- and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to and governed by the civil power.

Article 17. [Martial law restricted]

That no person in this state can in any case be subjected to law martial, or to any penalties or pains by virtue of that law except those employed in the army, and the militia in actual service.

Article 18. [Regard to fundamental principles and virtues necessary to preserve liberty]

That frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the blessings of liberty, and keep government free; the people ought, therefore to pay particular attention to these points, in the choice of officers and representatives, and have a right, in a legal way, to exact a due and constant regard to them, from their legislators and magistrates, in making and executing such laws as are necessary for the good government of the State.

Chapter II, § 41. [HABEAS CORPUS]

The Writ of Habeas Corpus shall in no case be suspended. It shall be a writ issuable of right; and the General Assembly shall make provision to render it a speedy and effectual remedy in all cases proper therefor.

§ 59. [MILITIA]

The inhabitants of this State shall be trained and armed for its defense, under such regulations, restrictions, and exceptions, as Congress, agreeably to the Constitution of the United States, and the Legislature of this State, shall direct.

§ 67. [HUNTING; FOWLING AND FISHING]

The inhabitants of this State shall have liberty in seasonable times, to hunt and fowl on the lands they hold, and on other lands not inclosed, and in like manner to fish in all boatable and other waters (not private property) under proper regulations, to be made and provided by the General Assembly.

§ 68. [LAWS TO ENCOURAGE VIRTUE AND PREVENT VICE; SCHOOLS; RELIGIOUS ACTIVITIES]

Laws for the encouragement of virtue and prevention of vice and immorality ought to be constantly kept in force, and duly executed; and a competent number of schools ought to be maintained in each town unless the general assembly permits other provisions for the convenient instruction of youth. All religious societies, or bodies of people that may be united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities, and estates, which they in justice ought to enjoy, under such regulations as the general assembly of this state shall direct.