

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 735 entitled
3 “An act relating to executive branch and judicial fees” respectfully reports that
4 it has considered the same and recommends that the Senate propose to the
5 House that the bill be amended in Sec. 20, by striking out Sec. 20 in its entirety
6 and inserting in lieu thereof the following:

7 Sec. 20. 20 V.S.A. § 2307 is added to read:

8 § 2307. FIREARMS RELINQUISHED PURSUANT TO RELIEF FROM
9 ABUSE ORDER; STORAGE; FEES; RETURN

10 (a) As used in this section:

11 (1) “Federally licensed firearms dealer” means a licensed importer,
12 licensed manufacturer, or licensed dealer required to conduct national instant
13 criminal background checks under 18 U.S.C. § 922(t).

14 (2) “Firearm” shall have the same meaning as in 18 U.S.C. § 921(a)(3).

15 (3) “Law enforcement agency” means the Vermont State Police, a
16 municipal police department, or a sheriff’s department.

17 ~~(4) “Person” means anyone who meets the definition of “intimate~~
18 ~~partner” under 18 U.S.C. § 921(a)(32) or who qualifies as a family or~~
19 ~~household member under 15 V.S.A. § 1101.~~

20 (b)(1) A person who is required to relinquish firearms, ammunition, or
21 other weapons in the person’s possession by a court order issued under

1 15 V.S.A. chapter 21 (abuse prevention) or any other provision of law
2 consistent with 18 U.S.C. § 922(g)(8) shall, unless the Court orders an
3 alternative relinquishment pursuant to subdivision (2) of this section, upon
4 service of the order immediately relinquish the firearms, ammunition, or
5 weapons to a cooperating law enforcement agency or an approved federally
6 licensed firearms dealer. For the purposes of this section, “person” means
7 anyone who meets the definition of “intimate partner” under 18 U.S.C. §
8 921(a)(32) or who qualifies as a family or household member under 15 V.S.A.
9 § 1101.

10 (2)(A) The Court may order that the person relinquish the firearms,
11 ammunition, or other weapons to a person other than a cooperating law
12 enforcement agency or an approved federally licensed firearms dealer unless
13 the Court finds that relinquishment to the other person will not adequately
14 protect the safety of the victim.

15 (B) A person to whom firearms, ammunition, or other weapons are
16 relinquished pursuant to subdivision (2)(A) of this section shall execute an
17 affidavit on a form approved by the Court Administrator stating that the
18 person:

19 (i) acknowledges receipt of the firearms, ammunition, or other
20 weapons;

1 (ii) assumes responsibility for storage of the firearms,
2 ammunition, or other weapons until further order of the court;

3 (iii) is not prohibited from owning or possessing firearms under
4 State or Federal law; and

5 (iv) understands the obligations and requirements of the Court
6 order, including the potential for the person to be subject to civil contempt
7 proceedings pursuant to this subdivision (2)(A) of this section if the person
8 permits the firearms, ammunition, or other weapons to be possessed, accessed
9 or used by the person who relinquished the firearm or by any other person not
10 authorized by law to do so.

11 (C) A person to whom firearms, ammunition, or other weapons are
12 relinquished pursuant to this subdivision (2)(A) of this section shall be subject
13 to civil contempt proceedings under 12 V.S.A. chapter 5 if the person permits
14 the firearms, ammunition, or other weapons to be possessed, accessed or used
15 by the person who relinquished the firearm or by any other person not
16 authorized by law to do so.

17 (c) A law enforcement agency ~~or an approved federally licensed firearms~~
18 ~~dealer~~ who takes possession of a firearm, ammunition, or other weapon
19 pursuant to subdivision (b)(1) of this section shall photograph, catalogue, and
20 store the item in accordance with standards and guidelines established by the
21 Department of Public Safety pursuant to subdivision (i)(3) of this section. A

1 firearm, ammunition, or other weapon shall not be taken into possession
2 pursuant to this section if it is being or may be used as evidence in a pending
3 criminal matter.

4 (d) Fees.

5 (1) A law enforcement agency or an approved federally licensed firearms
6 dealer who stores firearms, ammunition, or weapons pursuant to subsection (d)
7 of this section may charge the owner a reasonable storage fee, not to exceed:

8 (A) \$X.00 for the first firearm or weapon, and \$X.00 for each
9 additional firearm or weapon for up to one year per week or part thereof; and

10 (B) \$X.00 per firearm or weapon per year for each year or part
11 thereof after the first year

12 ~~(B) a reasonable transport, processing, and retrieval fee, as may be~~
13 ~~applicable, not to exceed \$X.00 in total per relinquishment order.~~

14 ~~(2)(A) Total fees imposed pursuant to this subsection per owner per~~
15 ~~relinquishment order shall not exceed \$X.00 over a 365-day period unless:~~

16 ~~(i) the parties agree to a greater fee; and~~

17 ~~(ii) a greater fee is necessary to cover actual costs.~~

18 ~~(B) As used in this subdivision, "actual costs" means expenses~~
19 ~~directly related to taking possession, transporting, processing, storing,~~
20 ~~retrieving, and selling the item pursuant to this section and shall not include~~
21 ~~costs associated with overhead expenses of the facility.~~

1 (2) A federally licensed firearms dealer who stores firearms,
2 ammunition, or weapons pursuant to subsection (d) of this section may charge
3 the owner a storage fee that is reasonably related to the expenses it incurs in
4 the administration of this section. Any federally licensed firearm dealer who
5 certifies compliance under this section shall provide a copy of its fee schedule
6 to the Court.

7 (3) Fees permitted by this subsection shall not begin to accrue until after
8 the Court issues a final relief from abuse order pursuant to 15 V.S.A. § 1103.

9 (e) Nothing in this section shall be construed to prohibit the lawful sale of
10 firearms or other items.

11 (f) A final relief from abuse order issued pursuant to 15 V.S.A. § 1103
12 requiring a person to relinquish firearms, ammunition, or other weapons shall
13 direct the law enforcement agency, approved federally licensed firearms
14 dealer, or other person in possession of the item under subsection (b) of this
15 section to release it to the owner upon expiration of the order if all applicable
16 fees have been paid.

17 (g)(1) A law enforcement agency, an approved federally licensed firearms
18 dealer, or any other person who takes possession of firearms, ammunition, or
19 weapons for storage purposes pursuant to this section shall not release the item
20 to the owner without a court order unless the item is to be sold pursuant to
21 subdivision (2)(A) of this subsection. If a court orders the release of firearms,

1 ammunition, or weapons stored under this section, the law enforcement agency
2 or firearms dealer in possession of the item shall make it available to the owner
3 within three business days of receipt of the order and in a manner consistent
4 with federal law. The Supreme Court may promulgate rules under 12 V.S.A.
5 § 1 for judicial proceedings under this subsection.

6 (2)(A)(i) If the owner fails to retrieve the firearm, ammunition, or
7 weapon and pay the applicable storage fee within 90 days of the court order
8 releasing the item, or if the owner fails to pay the storage fee for 90 days in
9 violation of the applicable fee schedule, the firearm, ammunition, or weapon
10 may be sold for fair market value. Title to the item shall pass to the law
11 enforcement agency or firearms dealer for the purpose of transferring
12 ownership.

13 (ii) The law enforcement agency or firearms dealer shall make a
14 reasonable effort to notify the owner of the sale before it occurs. In no event
15 shall the sale occur until after the Court issues a final relief from abuse order
16 pursuant to 15 V.S.A. § 1103.

17 (iii) As used in this subdivision, “reasonable effort” shall include
18 providing notice to the owner at least 21 days prior to the date of the sale
19 pursuant to Rule 4 of the Vermont Rules of Civil Procedure.

1 (B) Proceeds from the sale of a firearm, ammunition, or weapon
2 pursuant to subdivision (A) of this subdivision (2) shall be apportioned as
3 follows:

4 (i) Unpaid storage fees and associated costs, including the costs of
5 sale and of locating and serving the owner, shall be paid to the law
6 enforcement agency or firearms dealer who incurred the cost.

7 (ii) Any proceeds remaining after payment is made to the law
8 enforcement agency or firearms dealer pursuant to subdivision (i) of this
9 subdivision (B) shall be paid to the original owner.

10 (h) A law enforcement agency or an **approved federally licensed firearms**
11 **dealer** shall be immune from civil or criminal liability for any damage or
12 deterioration of firearms, ammunition, or weapons stored or transported
13 pursuant to subsection (c) of this section. This subsection shall not apply if the
14 damage or deterioration occurred as a result of recklessness, gross negligence,
15 or intentional misconduct by the law enforcement agency **or firearms dealer.**

16 (i) The Department of Public Safety shall be responsible for the
17 implementation of and establishment of standards and guidelines to carry out
18 this section. To carry out this responsibility, the Department shall:

19 (1) establish minimum standards to be a qualified storage location and
20 maintain a list of qualified storage locations including:

1 (A) federally licensed firearms dealers who annually certify
2 compliance with the Department’s standards to receive firearms, ammunition,
3 or other weapons pursuant to subdivision (b)(2) of this section; and

4 (B) cooperating law enforcement agencies;

5 (2) establish a fee schedule consistent with the fees established in this
6 section for the ~~transportation, processing,~~ storage, ~~and retrieval~~ of firearms,
7 ~~ammunition,~~ and other weapons by law enforcement agencies pursuant to this
8 section;

9 (3) establish standards and guidelines to provide for the ~~transportation~~
10 ~~and~~ storage of firearms, ammunition and other weapons pursuant to this
11 section by law enforcement agencies. ~~Such guidelines shall provide that:~~

12 (A) an owner may provide a storage container for the storage of
13 relinquished firearms, ammunition, or weapons;

14 (B) the law enforcement agency who takes possession of the firearm,
15 ammunition, or weapon may provide a storage container for the relinquished
16 item or items at an additional fee; and

17 (C) the law enforcement agency who takes possession of the firearm
18 or weapon shall present the owner with a receipt at the time of relinquishment
19 which includes the serial number and identifying characteristics of the firearm,
20 ammunition, or weapon and record the receipt of the item or items in a log to
21 be established by the Department.

1 (4) establish a process by which an owner who has failed to make
2 storage fee payments may become current on the payment schedule in order to
3 avoid a sale of the stored item or items; and

4 (5) report on January 15, 2015 and annually thereafter to the House and
5 Senate Committees on Judiciary on the status of the program.

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12 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE