

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 735 entitled
3 “An act relating Executive Branch and Judiciary fees” respectfully reports that
4 it has considered the same and recommends that the bill be amended by
5 striking Sec. 20 in its entirety and inserting in lieu thereof a new Sec. 20 to
6 read as follows:

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 15

1 V.S.A. chapter 21 (abuse prevention) or any other provision of law consistent
2 with 18 U.S.C. § 922(g)(8) shall, unless the Court orders an alternative
3 relinquishment pursuant to subdivision (2) of this section, upon service of the
4 order immediately relinquish the firearms, ammunition, or weapons to a
5 cooperating law enforcement agency or an approved federally licensed
6 firearms dealer.

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

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

16 (i) acknowledges receipt of the firearms, ammunition, or other
17 weapons;

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

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

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

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

13 (c) A law enforcement agency or an approved federally licensed firearms
14 dealer who takes possession of a firearm, ammunition, or other weapon
15 pursuant to subdivision (b)(1) of this section shall photograph, catalogue, and
16 store the item in accordance with standards and guidelines established by the
17 Department of Public Safety pursuant to subdivision (h)(3) of this section. A
18 firearm, ammunition, or other weapon shall not be taken into possession
19 pursuant to this section if it is being or may be used as evidence in a pending
20 criminal matter.

1 (d)(1) A law enforcement agency or an approved federally licensed
2 firearms dealer who stores firearms, ammunition, or weapons pursuant to
3 subsection (d) of this section may charge the owner:

4 (A) a reasonable storage fee, not to exceed \$X.00 per firearm per
5 week or part thereof; and

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

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

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

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

12 (B) As used in this subdivision, “actual costs” means expenses
13 directly related to taking possession, transporting, processing, storing,
14 retrieving, and selling the item pursuant to this section and shall not include
15 costs associated with overhead expenses of the facility.

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

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

20 (f) A final relief from abuse order issued pursuant to 15 V.S.A. § 1103
21 requiring a person to relinquish firearms, ammunition, or other weapons shall

1 direct the law enforcement agency, approved federally licensed firearms
2 dealer, or other person in possession of the item under subsection (b) of this
3 section to release it to the owner upon expiration of the order if all applicable
4 fees have been paid.

5 (g)(1) A law enforcement agency, an approved federally licensed firearms
6 dealer, or any other person who takes possession of firearms, ammunition, or
7 weapons for storage purposes pursuant to this section shall not release the item
8 to the owner without a court order unless the item is to be sold pursuant to
9 subdivision (2)(A) of this subsection. If a court orders the release of firearms,
10 ammunition, or weapons stored under this section, the law enforcement agency
11 or firearms dealer in possession of the item shall make it available to the owner
12 within three business days of receipt of the order and in a manner consistent
13 with federal law. The Supreme Court may promulgate rules under 12 V.S.A.
14 § 1 for judicial proceedings under this subsection.

15 (2)(A)(i) If the owner fails to retrieve the firearm, ammunition, or
16 weapon and pay the applicable storage fee within 90 days of the court order
17 releasing the item, or if the owner fails to pay the storage fee for 90 days in
18 violation of the applicable fee schedule, the firearm, ammunition, or weapon
19 may be sold for fair market value. Title to the item shall pass to the law
20 enforcement agency or firearms dealer for the purpose of transferring
21 ownership.

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

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

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

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

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

17 (h) A law enforcement agency or an approved federally licensed firearms
18 dealer shall be immune from civil or criminal liability for any damage or
19 deterioration of firearms, ammunition, or weapons stored or transported
20 pursuant to subsection (c) of this section. This subsection shall not apply if the

1 damage or deterioration occurred as a result of recklessness, gross negligence,
2 or intentional misconduct by the law enforcement agency or firearms dealer.

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

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

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

11 (B) cooperating law enforcement agencies;

12 (2) establish a fee schedule consistent with the fees established in this
13 section for the transportation, processing, storage, and retrieval of firearms,
14 ammunition, and other weapons pursuant to this section;

15 (3) establish standards and guidelines to provide for the transportation
16 and storage of firearms, ammunition and other weapons pursuant to this
17 section;

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

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

3

4

5

6