

March 31, 2015

I am writing to ask that you **OPPOSE** S.141.

The current bill, S.141, consists of 3 main parts.

Felons in possession, **Mental Health**, and the **NH Gun Shop Project**.

**Part 1.**

You will hear that this bill is going forward because federal prosecutors are not enforcing federal laws, so Vermont prosecutors need this new legislation.

Currently, there is a Vermont statute, Title 13, Chapter 85, Section 4005 that states:

***“While committing a crime, except as otherwise provided in 18 V.S.A. § 4253, a person who carries a dangerous or deadly weapon, openly or concealed, while committing a felony shall be imprisoned not more than five years or fined not more than \$500.00, or both.”***

If a felon is in possession of a firearm under this law he/she is committing a felony therefor in violation of the above VT law. Also it is already federal law that a felon cannot possess a firearm making a new statute would be redundant. If federal prosecutors aren't doing their jobs then we need to make them do their jobs, not create a new law for Vermont to have to pay to prosecute, especially in a time where this state is in a financial crisis.

**Part 2.**

There are currently 260 persons in the mental health system which have been adjudicated as a danger to themselves or others.

The vast majority of them are not violent. Some of these people are anorexic, diabetics who refuse to take their insulin, or people who cannot take care of themselves.

Mental illness is a curable disease and turning their names over to the NICS will not help them get better.

I believe this is unconstitutional and wrong for the following reason.

Is there any other way to regain the right to own a gun? In theory, you can make application to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) under 18 U.S.C. § 925(c) to request restoration of your gun rights. The application is supposedly granted if "it is established . . . that the circumstances . . . and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest."

The problem is that since October 1992, Congress has prohibited ATF from spending any money to handle such applications. If you submit the application, ATF will not act on it. They will simply return it with an explanation that they cannot process it, due to a lack of available funds. Someone who went through this procedure sued in federal court, arguing that the court should bypass Congress in order to make available a procedure to restore the right to own a gun. The Supreme Court rejected the argument in *United States v. Bean*, 537 U.S. 71 (2002).

The answer to that question is no, once on the FEDERAL list you cannot get off it even if S.131 states you can. Vermont has no say over what the federal government does. The reality is that if you report someone to the federal list you are taking their right to own and possess a firearm for the rest of their life.

### **Part 3.**

This section deals with researching the New Hampshire Gun Shop Project as a pro-active concept to help Vermont's gun owners in times of stress to receive the help they need without stigmatizing them.

If this is why you're voting for this bill, rest assured, the sportsmen's groups in Vermont will be implementing a similar program - with or without legislation!

This bill is nothing more than the **start** of an attack of our rights brought on by out of state influences. The following is a quote from a Vermont Watchdog article.

***“Despite Gun Sense’s apparent loss on background check legislation, state Sen. Joe Benning, R-Caledonia, said the group’s president, Ann Braden, is preparing to bring the checks back, whether this year or the next.***

***“I asked her directly, ‘What is your intention after this?’ and she said they’ll be back for universal background checks,” Benning told Vermont Watchdog.”***

I respectfully ask that you vote “NO” on S.141.

Jason Knapp

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