



## **In Support of S. 141 - Important Legislation to Keep Guns Out of the Wrong Hands**

**Ann Braden  
President  
Gun Sense Vermont  
House Judiciary Committee Testimony**

I'm Ann Braden, and I'm the president of GunSenseVT. GunSenseVT is an independent, Vermont-based grassroots organization focused on keeping guns out of the wrong hands. Thank you so much for taking the time to hear this testimony. I'm here to testify in support of S. 141.

First, here's a bit about my background. I was a middle school social studies teacher in Brattleboro before my children were born. I had never been involved in advocacy like this, but when the Newtown shooting happened, as a parent of a two young children (a 3 year-old son and a newborn baby girl), I felt that as a society we needed to make sure we were taking the basic precautions to keep guns out of the wrong hands to protect our most vulnerable citizens. Over the next few months, I connected with other Vermonters around the state who shared the same conviction. However, it was clear that even though statewide polling showed that the vast majority of Vermonters are in favor of strengthening our gun laws, an organized grassroots movement was going to be necessary in order for those voices to be heard in the statehouse. That's how GunSenseVT got started. Since then, dozens of local organizing teams have grown up throughout the state. Supporters have spent hundreds of hours gathering petition signatures and have connected with friends and neighbors at more than a hundred local grassroots events. At the beginning of the session, we delivered 1,400 letters to senators from their constituents and 12,000 petition signatures from Vermonters asking that action be taken on this issue.

We are glad to see that lawmakers are taking this issue seriously because right now we are an outlier compared to other states because of our inaction.

I'd like to focus first on the felony possession provision. We are the only state in the country that does not have this state law.<sup>1</sup> The need for this bill is clear, as reflected in the testimonies from law enforcement yesterday, and the call with the ATF last week. Leaving prosecution of this crime solely to the federal justice system is inefficient and a formula for an inadequate response. The reality is that the ATF is staffed in such a way that they must be selective

---

<sup>1</sup> Law Center for Gun Violence Prevention. <http://smartgunlaws.org/prohibited-people-gun-purchaser-policy-summary/>

about which crimes they prosecute, and their focus is on interstate crimes that are beyond the scope of local law enforcement. As we heard in the ATF testimony last week, this means that the ATF declines to prosecute about half of the cases that are referred to them from local law enforcement each year – and the ATF agent estimates that many more cases aren't even referred to them because it's obvious that the ATF won't prosecute lower level violation. Moreover, requiring local law enforcement officials to refer these possession charges to the federal government for follow up in the separate federal justice system requires additional steps for the charge to be prosecuted.

A state crime makes sense because it can be more efficiently prosecuted. State and local law enforcement has a system of boots on the ground that are knit together in a seamless state criminal justice system. The arresting officers have easy and regular access to the county prosecutors so they can work together to follow up on possession charges. Local law enforcement are the ones who are far more likely to be face-to-face with those committing firearm violations and they should be empowered with the confidence their intervention will be backed by full prosecution. This bill, if passed, would give them the appropriate and needed tool so that prosecution can happen at the local level, and doesn't have to rely upon federal agents. We want to be the kind of state where criminals know that if they get caught with a gun, they are sure to get prosecuted.

Now to focus on the NICS data reporting provision... 38 states have these reporting laws requiring the names of individuals who are adjudicated as a danger to themselves or others to be communicated to the NICS system. We are among the 12 states who don't.<sup>2</sup> Many of these 38 states have taken action just in the past few years after seeing the consequences of inaction in Virginia.

What happened in Virginia was this: in 2005 a Virginia Tech student was found by a court to be a danger to himself or others and required outpatient mental health treatment. At the time, Virginia didn't have a law requiring such a finding to be communicated to the NICS system.

In 2007, that student purchased two guns, passing a background check because his court records were not in the system, even though by definition he was prohibited from possessing a firearm by federal law. One month later he shot and killed 32 Virginia Tech students and faculty and then killed himself.<sup>3</sup>

The following year, in 2008, Virginia passed a law requiring key records involved with court-ordered outpatient mental health treatment (among others) to be communicated to the NICS system,<sup>4</sup> and in 2011, they passed an additional law that created a state petition system for rights to be restored, much like what is proposed in this provision.

---

<sup>2</sup> "Closing the Gap: Strengthening the Background Check System to Keep Guns Away from the Dangerously Mentally Ill." Everytown for Gun Safety. 2013. <http://everytown.org/documents/2014/10/closing-the-gaps.pdf>

<sup>3</sup> Virginia Tech Shooting Fast Facts. CNN. <http://www.cnn.com/2013/10/31/us/virginia-tech-shootings-fast-facts/>

<sup>4</sup> Va. Code Ann. §§ 18.2-308.1:1, 18.2-308.1:2 (2011)

Because of that they were able to receive a federal grant of over \$750,000 from the NICS Act Record Improvement Program (or NARIP) to support the process.<sup>5</sup>

Between August 2010 and November 2013, the number of mental health records submitted in Virginia rose by 45 percent. The number of blocked gun sales to people with serious mental illness rose similarly, by 47 percent.<sup>6</sup>

17 other states passed laws in the immediate aftermath of Virginia Tech, and then between 2011 and 2013, 18 additional states have either passed new legislation or substantially amended pre-existing laws to better facilitate the communication of these key records.

Between 2011 and 2013 alone, there has been a 65% increase in the number of denials based on the individual having been adjudicated as dangerously mentally ill.<sup>7</sup> These laws make sense, and they are helping to keep guns out of the wrong hands.

Concerning the NH Gun Shop Project, we are very supportive of having the Department of Mental Health study how it has worked in New Hampshire and see if it would be applicable here. It has the potential to be an important part of the puzzle to help keep guns out of the wrong hands.

This bill would help bring our state in line with other states when it comes to taking the basic precautions to help prevent gun violence. Thank you for making this issue a priority.

---

<sup>5</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, NARIP Awards, available at <http://bjs.ojp.usdoj.gov/index.cfm?ty=tp&tid=491#funding>

<sup>6</sup> Virginia had reported 139,185 records as of August 2010 and 201,365 records as of November 2013. 215 sales to the seriously mentally ill were blocked in 2010 and 316 were blocked in 2013. Data obtained from the Virginia Department of State Police. Obtained via the report: "Closing the Gap: Strengthening the Background Check System to Keep Guns Away from the Dangerously Mentally Ill." Everytown for Gun Safety. 2013. <http://everytown.org/documents/2014/10/closing-the-gaps.pdf>

<sup>7</sup> These figures exclude denials made by the 13 point-of-contact states, including three of the five states that have submitted the most mental health records per capita. They also partially exclude denials made by the 8 partial point-of-contact states. For a full list of these states, see <http://www.fbi.gov/about-us/cjis/nics/poc>. Obtained via the report: "Closing the Gap: Strengthening the Background Check System to Keep Guns Away from the Dangerously Mentally Ill." Everytown for Gun Safety. 2013. <http://everytown.org/documents/2014/10/closing-the-gaps.pdf>