



**Testimony on House Bill 422  
Removal of Weapons at Scene of a Domestic Violence Incident  
House Committee on Judiciary  
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**The Vermont Network knows that victims are safer when our communities are safer. We are committed to ensuring that Vermont’s neighborhoods are places where future generations can live in safety, grow, and thrive.**

**The lives of victims of domestic violence literally depend on our state’s ability to keep firearms out of the hands of those who choose to use guns for violence.**

While Vermont’s long history of responsible gun ownership contributes to the safety of our state, we **must** call attention to the disproportionate effects of firearms in domestic violence related homicides in Vermont. In 2015, 6 of Vermont’s 16 homicides were domestic violence related, and all 6 were committed with a firearm.

Between 1994 and 2015: 59% of all domestic violence-related homicides were committed with firearms. 131 homicides were committed and 77 of them were committed with firearms.<sup>i</sup>

It is important to note that these numbers do not include the abuse, control, and torture suffered by victims of abusers who use firearms to threaten their partners.

Vermont law does not go far enough to protect domestic violence victims from abusers with firearms

Current law allows for the confiscation of firearms at two points in a domestic violence situation: (1) when the court orders the removal at the point of a final relief from abuse order (as mandated by federal law) or (2) following a conviction of a violent crime.

Adding the removal of weapons at the scene of a crime is necessary, because the most dangerous time for a victim is when she reaches out for help. There is a toxic question that surrounds abused women: “Why didn’t she just leave him?” The answer, too often, is that many women who do leave – or attempt to leave - get killed. Research indicates that the most dangerous time for a battered woman is when she attempts to end the relationship. A call for help can often place the victim and the victim’s children in grave danger. Statistics show that women who leave their batterers are at a 75% greater risk of being killed by their batterers than those who stay.

Many states have similar laws

There are currently 18 states with laws governing the removal of firearms at the scene of a domestic violence incident.<sup>ii</sup> 13 of those states, including neighboring New Hampshire, have statutes which



direct that law enforcement officers shall remove weapons from the scene when there is probable cause to believe a domestic assault has occurred. Prohibiting the purchase of a firearm by a person subject to a domestic violence restraining order is associated with a reduction in the number of intimate partner homicides.<sup>iii</sup>

### There is real risk in just leaving firearms in the household where there is domestic violence

When a gun is present in a domestic violence situation, it increases the risk of homicide for women by 500 percent.<sup>iv</sup>

A recent survey of female domestic violence shelter residents in California found that more than one third (36.7%) reported having been threatened or harmed with a firearm.<sup>v</sup> In nearly two thirds (64.5%) of the households that contained a firearm, the intimate partner had used the firearm against the victim, usually threatening to shoot or kill the victim.<sup>vi</sup>

### **What this bill does**

When a law enforcement officer arrives at the scene of a domestic violence incident and arrests or cites a person for domestic assault, they shall remove any firearm, ammunition, or dangerous and deadly weapons that are

- in the immediate possession or control of the offender
- in plain view of the officer
- discovered during a consensual search

Law enforcement shall return the weapons within 5 days unless:

- the weapon is being or may be used as evidence in a pending criminal or civil proceeding;
- a court orders relinquishment of the weapon - according to current statutes (abuse prevention or convicted of a violent crime), in which case the weapon shall be stored according to current statute; or
- the person from whom it was confiscated declines to accept return of the weapon.

This bill also ensures the preservation of constitutional rights: “This section shall not be construed to permit conduct by a law enforcement officer that violates the U.S. or Vermont Constitution.”

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<sup>i</sup> State of Vermont Domestic Violence Fatality Review Commission, *2015 Report*, p. 2.

<sup>ii</sup> Alaska, Arizona, California, Connecticut, Hawaii, Illinois, Indiana, Maryland, Montana, Nebraska, New Hampshire, New Jersey, Ohio, Oklahoma, Pennsylvania, Tennessee, Utah, West Virginia.

<sup>iii</sup> Elizabeth R. Vigdor et al., *Do Laws Restricting Access to Firearms by Domestic Violence Offenders Prevent Intimate Partner Homicide?*, 30 *Evaluation Rev.* 313, 332 (June 2006).

<sup>iv</sup> J.C. Campbell, S.W. Webster, J.Koziol-McLain, et al., Risk factors for femicide within physically abusive intimate relationships: results from a multi-state case control study, 93 *Amer. J. of Public Health* 1089-97 (2003).

<sup>v</sup> Susan B. Sorenson et al., *Weapons in the Lives of Battered Women*, 94 *Am. J. Pub. Health* 1412, 1413 (2004)

<sup>vi</sup> *Id.* at 1414.