

**H.422**  
**Testimony to House Judiciary Committee**  
**Chris Bradley, President - Vermont Federation of Sportsmen's Clubs**  
**March 14th, 2017**

For the record my name is Chris Bradley and I am the duly-elected President of the Vermont Federation of Sportsmen's Clubs, an organization that has existed in Vermont since 1875. I speak to you today on behalf of the thousands of Vermonters from the more than 50 member clubs that the VTFSC represents.

To begin: I would like to thank this Committee, and specifically Chair Grad, for allowing me to give this testimony.

To the matter at hand: The Federation condemns Domestic Violence (DV) in all its various forms, we sincerely wish there was some way to stop this, but this bill is not the answer and we cannot support it.

According to the 4th Amendment, people have a right to be "secure in their persons, houses, papers, and effects against unreasonable searches and seizures."

According to the 5th Amendment, no one shall be "deprived of life, liberty or property without due process of law." These same eleven words also appear in the 14th Amendment, which obligates the states to honor this individual right in the same manner that the 5th Amendment obligates the federal government.

Unfortunately, each of these Amendments are compromised by the wording and intent of H.422.

As a quick review: When a DV incident happens today, if the situation is serious enough the individual who is alleged to have been the perpetrator is typically arrested. When that arrest is made, Law Enforcement typically adheres to the "Plain View Doctrine" which instructs that the Officer(s) must make the area surrounding the perpetrator safe/free of

weapons. If a weapon was used in the DV incident, then the Law Enforcement Officer would likely seize that object as evidence, with both the alleged perpetrator and any evidence then being secured. The alleged perpetrator and any seized evidence would then remain secured until such time as a Judge can conduct a hearing on the case in a Court. When that hearing occurs: The Judge has the power to order that the perpetrator may not have weapons in his/her possession.

This is what we have in place today, and that process adheres to the rights enumerated in the 4th, 5th and 14th amendments.

With H.422 as proposed however, not only is the arresting Officer given the ability to abridge the alleged perpetrator's 4th, 5th and 14th Amendment's rights; the Officer is also required to violate the alleged victim's 2nd Amendment/Article 16 right to self-defense.

Denying an alleged victim the ability to defend themselves is particularly egregious to me, so let me stress this. Under H.422, and when it is apparent that a DV incident has taken place, the Officer is obligated (I.E. "...SHALL CONFISCATE...") to remove "dangerous or deadly weapons". While the intent of H.422 appears to be the removal of weapons that \*might\* be used by the alleged perpetrator within a 5-day period following a DV arrest, this also has the reverse effect of removing any weapons from the premises with which the alleged victim could possibly use to defend herself / himself should any subsequent incident occur. That subsequent incident of course would not necessarily have to involve the alleged perpetrator again, it could be some other perpetrator of some other crime such as robbery, rape or assault.

Put another way: When a firearm is arguably THE BEST method of self-defense, how logical is it to have Law Enforcement be forced to disarm an alleged victim whether they want to be disarmed or not?

I now turn to the question of what constitutes a "dangerous or deadly weapon". Per this bill, I see that the definition of "dangerous or deadly weapon" is taken from 13 VSA 4016(a)(2); with this statute titled "Weapons in court". While some definition is undoubtedly needed for a proposed law such as this, I point out that this definition appears

to have only been contemplated to be applicable to the concept of "weapons" in court, not the concept of "weapons" in a residential setting. For example: It is highly unlikely that you would find a hammer lying around in a court of law, or knitting needles, or a baseball bat, or a golf club, or a knife, or scissors, or a bottle or some heavy blunt object - all of which can be weapons "...in the manner it is used...". All of those things ARE likely to be found in a residential setting however.

How then does a competent Law Enforcement Officer determine what is or can be a "weapon"? If a DV incident doesn't even involve a firearm or mention the threat of firearm use - wouldn't it be possible for an alleged perpetrator's entire firearm collection be seized? How extensive can a "consensual search" allowed to go looking for something as small as a handgun, without a warrant? How wise is a law that requires discussions about immunity?

Then we have a consideration for what Law Enforcement would be expected to do with any "weapons"(property) that was seized, how and where it would be stored, the time required to handle this property safely, what liability exists for transport, safe storage and care, etc.

I now turn to the reported number of Domestic Violence Homicides in Vermont, as reported by the DVFRC in its 2016 report to the Legislature. On page 13 of that report which was submitted to this body as evidence, the report states: "In 2015 there were 16 homicides. " That number of homicides is then used for the calculation of percentages.

However, if we now look at the number of homicides being reported for 2015 by the FBI in their Uniform Crime Reporting (UCR), we see that there are only 10 homicides in Vermont. Please refer to this link: <https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/table-5>.

The reason for this discrepancy can be found on page 28 of the Domestic Violence Fatality Review Commission Report which indicates that there are 12 "criteria" that are used to determine whether any given death should be categorized as being "Domestic Violence Related" or not. In point of fact, we see that suicides can be counted as a "Domestic

Violence" so long as there is some documentable history - however old - of DV in the past of a DV victim or even the alleged perpetrator.

I make no comment on whether or not it is proper to count "suicides" as "homicides" when it comes to attempting to tally DV homicides. I will point out however that since most suicides are done with firearms, including suicides in with homicides must and will have the effect of increasing the number of DV deaths that are then linkable to firearms.

For the past three years, FBI Uniform Crime Statistics show that Vermont is the safest State in the nation for the past three years by having the lowest Violent Crime Rate per 100,000 people in the United States, with Vermont being the 3rd lowest number of murder and non-negligent manslaughter for 2015.

The Federation fully believes that the enactment of laws should be based on sound public policy that adheres to both the State of Vermont's and the United States Constitution.

Despite what other states may or may not have done, and whether what those states passed occurred before or after the SCOTUS decision with Heller and MacDonald, this bill requires strict scrutiny when it comes to Constitutional Rights. Passing this bill can only be done by conscientiously setting aside Constitutional concerns, and because it specifically has the effect of disarming victims, we respectfully ask that this bill be voted down.

Thank You