

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 422
3 entitled “An act relating to confiscation of dangerous or deadly weapons from
4 a person arrested or cited for domestic assault” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 13 V.S.A. § 1048 is added to read:

8 § 1048. REMOVAL OF WEAPONS

9 (a) When a law enforcement officer arrests or cites a person for domestic
10 assault in violation of this subchapter, the officer:

11 (1) shall remove any weapon obtained pursuant to a lawful search that is
12 contraband or is alleged to have been involved in the offense or threatened to
13 be used in the offense; and;

14 (2) may remove any firearm obtained pursuant to a lawful search if the
15 removal is necessary for the protection of the officer or any other person.

16 (b)(1) The law enforcement agency in possession of a weapon removed
17 pursuant to his section shall return the weapon to the person from whom it was
18 removed within five days after removal, if the person requests that the weapon
19 be returned, unless:

20 (A) the weapon is being or may be used as evidence in a pending
21 criminal or civil proceeding;

1 (B) a court orders relinquishment of the weapon pursuant to 15
2 V.S.A. chapter 21 (abuse prevention) or any other provision of law consistent
3 with 18 U.S.C. § 922(g)(8), in which case the weapon shall be stored pursuant
4 to 20 V.S.A. § 2307; or

5 (C) the person from whom it was removed declines to accept return
6 of the weapon.

7 (2) A law enforcement officer who removes a weapon pursuant to this
8 section shall provide notice of the procedure to obtain return of the weapon to
9 the person from whom it was removed.

10 (c) This section shall not be construed to permit conduct by a law
11 enforcement officer that violates the U.S. or Vermont Constitution.

12 (d) A law enforcement officer shall not be subject to civil or criminal
13 liability for acts or omissions made in good faith reliance on the provisions of
14 this section. This section shall not be construed to create a legal duty to a
15 victim or to any other person, and no action may be filed based upon a claim
16 that a law enforcement officer removed or did not remove a weapon as
17 authorized by this section.

18 (2) A law enforcement agency shall be immune from civil or criminal
19 liability for any damage or deterioration of firearms removed, stored, or
20 transported pursuant to this section. This subdivision 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.

3 (3) This section shall not be construed to limit the authority of a law
4 enforcement agency to take any necessary and appropriate action, including
5 disciplinary action, regarding an officer’s performance in connection with this
6 section.

7 Sec. 2. EFFECTIVE DATE

8 This act shall take effect on passage.

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10 and that after passage the title of the bill be amended to read: “An act
11 relating to removal of weapons from a person arrested or cited for domestic
12 assault”

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18 (Committee vote: _____)

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Representative _____

FOR THE COMMITTEE