

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, to the extent practicable, remove any ~~weapon~~ firearm obtained  
12 pursuant to a ~~lawful search~~ search warrant or judicially recognized exception to  
13 the warrant requirement that the officer has probable cause to believe is  
14 contraband or evidence of the offense; and;

15 (2) may remove any firearm obtained pursuant to a ~~lawful search~~ search  
16 warrant or judicially recognized exception to the warrant requirement if the  
17 removal is necessary for the protection of the officer or any other person.

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

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

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

7           (C) the person requesting the return is prohibited by law from  
8 possessing a firearm; or

9           (D) the person from whom it was removed declines to accept return  
10 of the weapon.

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

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

16           (d)(1) A law enforcement officer shall not be subject to civil or criminal  
17 liability for acts or omissions made in good faith reliance on the provisions of  
18 this section. This section shall not be construed to create a legal duty to a  
19 victim or to any other person, and no action may be filed based upon a claim  
20 that a law enforcement officer removed or did not remove a weapon as  
21 authorized by this section.

1           (2) A law enforcement agency shall be immune from civil or criminal  
2           liability for any damage or deterioration of firearms removed, stored, or  
3           transported pursuant to this section. This subdivision shall not apply if the  
4           damage or deterioration occurred as a result of recklessness, gross negligence,  
5           or intentional misconduct by the law enforcement agency.

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

10       Sec. 2. EFFECTIVE DATE

11           This act shall take effect on passage.

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

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18           (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

FOR THE COMMITTEE