

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 221
3 entitled “An act relating to establishing extreme risk protection orders”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 Sec. 1. 13 V.S.A. chapter 85 is amended to read:

8 CHAPTER 85. WEAPONS

9 Subchapter 1. Generally

10 * * *

11 Subchapter 2. Extreme Risk Protection Orders

12 § 4051. DEFINITIONS

13 As used in this subchapter:

14 (1) “Court” means the Family Division of the Superior Court.

15 (2) “Dangerous weapon” means an explosive or a firearm.

16 (3) “Explosive” means dynamite, or any explosive compound of which
17 nitroglycerin forms a part, or fulminate in bulk or dry condition, or blasting

18 caps, or detonating fuses, or blasting powder or any other similar explosive.

19 The term does not include a firearm or ammunition therefor or any components

20 of ammunition for a firearm, including primers, smokeless powder, or black

21 gunpowder.

1 (4) “Federally licensed firearms dealer” means a licensed importer,
2 licensed manufacturer, or licensed dealer required to conduct national instant
3 criminal background checks under 18 U.S.C. § 922(t).

4 (5) “Firearm” shall have the same meaning as in subsection 4017(d)
5 of this title.

6 (6) “Law enforcement agency” means the Vermont State Police, a
7 municipal police department, or a sheriff’s department.

8 § 4052. JURISDICTION AND VENUE

9 (a) The Family Division of the Superior Court shall have jurisdiction over
10 proceedings under this subchapter.

11 (b) Emergency orders under section 4054 of this title may be issued by a
12 judge of the Criminal, Civil, or Family Division of the Superior Court.

13 (c) Proceedings under this chapter shall be commenced in the county where
14 the law enforcement agency is located, the county where the respondent
15 resides, or the county where the events giving rise to the petition occur.

16 § 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

17 (a) A State’s Attorney or the Office of the Attorney General may file a
18 petition requesting that the court issue an extreme risk protection order
19 prohibiting a person from purchasing, possessing, or receiving a dangerous
20 weapon or having a dangerous weapon within the person’s custody or control.
21 The petitioner shall submit an affidavit in support of the petition.

1 (b) Except as provided in section 4054 of this title, the court shall grant
2 relief only after notice to the respondent and a hearing. The petitioner shall
3 have the burden of proof by clear and convincing evidence.

4 (c)(1) A petition filed pursuant to this section shall allege that the
5 respondent poses an extreme risk of causing harm to himself or herself or
6 another person by purchasing, possessing, or receiving a dangerous weapon or
7 by having a dangerous weapon within the respondent's custody or control.

8 (2)(A) An extreme risk of harm to others may be shown by
9 establishing that:

10 (i) the respondent has inflicted or attempted to inflict bodily harm
11 on another; or

12 (ii) by his or her threats or actions the respondent has intended to
13 place others in reasonable fear of physical harm to themselves; or

14 (iii) by his or her actions or inactions the respondent has presented
15 a danger to persons in his or her care.

16 (B) An extreme risk of harm to himself or herself may be shown by
17 establishing that the respondent has threatened or attempted suicide or serious
18 bodily harm.

19 (3) The affidavit in support of the petition shall state:

20 (A) the specific facts supporting the allegations in the petition;

1 (B) any dangerous weapons the petitioner believes to be in the
2 respondent’s possession, custody, or control; and

3 (C) whether the petitioner knows of an existing order with respect to
4 the respondent under 15 V.S.A. chapter 21 (abuse prevention orders) or
5 12 V.S.A. chapter 178 (orders against stalking or sexual assault).

6 (d) The court shall hold a hearing within 14 days after a petition is filed
7 under this section. Notice of the hearing shall be served pursuant to section
8 4056 of this title concurrently with the petition and any ex parte order issued
9 under section 4054 of this title.

10 (e)(1) The court shall grant the petition and issue an extreme risk protection
11 order if it finds by clear and convincing evidence that at the time of the hearing
12 the respondent poses an extreme risk of causing harm to himself or herself or
13 another person by purchasing, possessing, or receiving a dangerous weapon or
14 by having a dangerous weapon within the respondent’s custody or control.

15 (2) An order issued under this subsection shall prohibit a person from
16 purchasing, possessing, or receiving a dangerous weapon or having a
17 dangerous weapon within the person’s custody or control for a period of up to
18 60 days. The order shall be signed by the judge and include the following
19 provisions:

20 (A) A statement of the grounds for issuance of the order.

1 (B) The name and address of the court where any filings should be
2 made, the names of the parties, the date of the petition, the date and time of the
3 order, and the date and time the order expires.

4 (C) A description of how to appeal the order.

5 (D) A description of the requirements for relinquishment of
6 dangerous weapons under section 4059 of this title.

7 (E) A description of how to request termination of the order under
8 section 4055 of this title. The court shall include with the order a form for a
9 motion to terminate the order.

10 (F) A statement directing the law enforcement agency, approved
11 federally licensed firearms dealer, or other person in possession of the firearm
12 to release it to the owner upon expiration of the order.

13 (G) A statement in substantially the following form:

14 “To the subject of this protection order: This order shall be in effect until
15 the date and time stated above. If you have not done so already, you are
16 required to surrender all dangerous weapons in your custody, control, or
17 possession to [insert name of law enforcement agency], a federally licensed
18 firearms dealer, or a person approved by the court. While this order is in
19 effect, you are not allowed to purchase, possess, or receive a dangerous
20 weapon; attempt to purchase, possess, or receive a dangerous weapon; or have
21 a dangerous weapon in your custody or control. You have the right to request

1 one hearing to terminate this order during the period that this order is in effect,
2 starting from the date of this order. You may seek the advice of an attorney
3 regarding any matter connected with this order.”

4 (f) If the court denies a petition filed under this section, the court shall state
5 the particular reasons for the denial in its decision.

6 (g) No filing fee shall be required for a petition filed under this section.

7 (h) Form petitions and form orders shall be provided by the Court
8 Administrator and shall be maintained by the clerks of the courts.

9 (i) When findings are required under this section, the court shall make
10 either written findings of fact or oral findings of fact on the record.

11 (j) Every final order issued under this section shall bear the following
12 language: “VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A
13 TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY
14 13 V.S.A. § 4058, AND MAY ALSO BE PROSECUTED AS CRIMINAL
15 CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.”

16 (k) Affidavit forms required pursuant to this section shall bear the
17 following language: “MAKING A FALSE STATEMENT IN THIS
18 AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT
19 OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058.”

1 § 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

2 (a)(1) A State’s Attorney or the Office of the Attorney General may file a
3 motion requesting that the court issue an extreme risk protection order ex parte,
4 without notice to the respondent. A law enforcement officer may notify the
5 court that an ex parte extreme risk protection order is being requested pursuant
6 to this section, but the court shall not issue the order until after the motion is
7 filed.

8 (2) The petitioner shall submit an affidavit in support of the motion
9 alleging that the respondent poses an imminent and extreme risk of causing
10 harm to himself or herself or another person by purchasing, possessing, or
11 receiving a dangerous weapon or by having a dangerous weapon within the
12 respondent’s custody or control. The affidavit shall state:

13 (A) the specific facts supporting the allegations in the motion,
14 including the imminent danger posed by the respondent; and

15 (B) any dangerous weapons the petitioner believes to be in the
16 respondent’s possession, custody, or control.

17 (b)(1) The court shall grant the motion and issue a temporary ex parte
18 extreme risk protection order if it finds by a preponderance of the evidence that
19 at the time the order is requested the respondent poses an imminent and
20 extreme risk of causing harm to himself or herself or another person by
21 purchasing, possessing, or receiving a dangerous weapon or by having a

1 dangerous weapon within the respondent's custody or control. The petitioner
2 shall cause a copy of the order to be served on the respondent pursuant to
3 section 4056 of this title.

4 (2)(A) An extreme risk of harm to others may be shown by
5 establishing that:

6 (i) the respondent has inflicted or attempted to inflict bodily harm
7 on another; or

8 (ii) by his or her threats or actions the respondent has intended to
9 place others in reasonable fear of physical harm to themselves; or

10 (iii) by his or her actions or inactions the respondent has presented
11 a danger to persons in his or her care.

12 (B) An extreme risk of harm to himself or herself may be shown by
13 establishing that the respondent has threatened or attempted suicide or serious
14 bodily harm.

15 (c)(1) Unless the petition is voluntarily dismissed pursuant to subdivision
16 (2) of this subsection, the court shall hold a hearing within 14 days after the
17 issuance of a temporary ex parte extreme risk protection order to determine if a
18 final extreme risk protection order should be issued. If not voluntarily
19 dismissed, the temporary ex parte extreme risk protection order shall expire
20 when the court grants or denies a motion for an extreme risk protection order
21 under section 4053 of this title.

1 (2) The prosecutor may voluntarily dismiss a motion filed under this
2 section at any time prior to the hearing if the prosecutor determines that the
3 respondent no longer poses an extreme risk of causing harm to himself or
4 herself or another person by purchasing, possessing, or receiving a dangerous
5 weapon or by having a dangerous weapon within the respondent's custody or
6 control. If the prosecutor voluntarily dismisses the motion pursuant to this
7 subdivision, the court shall vacate the temporary ex parte extreme risk
8 protection order and direct the person in possession of the dangerous weapon
9 to return it to the respondent consistent with section 4059 of this title.

10 (d)(1) An order issued under this section shall prohibit a person from
11 purchasing, possessing, or receiving a dangerous weapon or having a
12 dangerous weapon within the person's custody or control for a period of up to
13 14 days. The order shall be in writing and signed by the judge and shall
14 include the following provisions:

15 (A) A statement of the grounds for issuance of the order.

16 (B) The name and address of the court where any filings should be
17 made, the names of the parties, the date of the petition, the date and time of the
18 order, and the date and time the order expires.

19 (C) The date and time of the hearing when the respondent may
20 appear to contest the order before the court. This opportunity to contest shall

1 be scheduled as soon as reasonably possible, which in no event shall be more
2 than 14 days after the date of issuance of the order.

3 (D) A description of the requirements for relinquishment of
4 dangerous weapons under section 4059 of this title.

5 (E) A statement in substantially the following form:

6 “To the subject of this protection order: This order shall be in effect
7 until the date and time stated above. If you have not done so already, you are
8 required to surrender all dangerous weapons in your custody, control, or
9 possession to [insert name of law enforcement agency], a federally licensed
10 firearms dealer, or a person approved by the court. While this order is in
11 effect, you are not allowed to purchase, possess, or receive a dangerous
12 weapon; attempt to purchase, possess, or receive a dangerous weapon; or have
13 a dangerous weapon in your custody or control. A hearing will be held on the
14 date and time noted above to determine if a final extreme risk prevention order
15 should be issued. Failure to appear at that hearing may result in a court
16 making an order against you that is valid for up to 60 days. You may seek the
17 advice of an attorney regarding any matter connected with this order.”

18 (2)(A) The court may issue an ex parte extreme risk protection order by
19 telephone or by reliable electronic means pursuant to this subdivision if
20 requested by the petitioner.

1 (B) Upon receipt of a request for electronic issuance of an ex parte
2 extreme risk protection order, the judicial officer shall inform the petitioner
3 that a signed or unsigned motion and affidavit may be submitted electronically.
4 The affidavit shall be sworn to or affirmed by administration of the oath over
5 the telephone to the petitioner by the judicial officer. The administration of the
6 oath need not be made part of the affidavit or recorded, but the judicial officer
7 shall note on the affidavit that the oath was administered.

8 (C) The judicial officer shall decide whether to grant or deny the
9 motion and issue the order solely on the basis of the contents of the motion and
10 the affidavit or affidavits provided. If the motion is granted, the judicial officer
11 shall immediately sign the original order, enter on its face the exact date and
12 time it is issued, and transmit a copy to the petitioner by reliable electronic
13 means. The petitioner shall cause a copy of the order to be served on the
14 respondent pursuant to section 4056 of this title.

15 (D) On or before the next business day after the order is issued:

16 (i) the petitioner shall file the original motion and affidavit with
17 the court; and

18 (ii) the judicial officer shall file the signed order, the motion, and
19 the affidavit with the clerk. The clerk shall enter the documents on the docket
20 immediately after filing.

1 (e) Form motions and form orders shall be provided by the Court
2 Administrator and shall be maintained by the clerks of the courts.

3 (f) Every order issued under this section shall bear the following language:
4 “VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF
5 IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A.
6 § 4058, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT
7 PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.”

8 (g) Affidavit forms required pursuant to this section shall bear the
9 following language: “MAKING A FALSE STATEMENT IN THIS
10 AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT
11 OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058.”

12 (h) If the court denies a petition filed under this section, the court shall state
13 the particular reasons for the denial in its decision.

14 § 4055. TERMINATION AND RENEWAL MOTIONS

15 (a)(1) The respondent may file a motion to terminate an extreme risk
16 protection order issued under section 4053 of this title or an order renewed
17 under subsection (b) of this section. A motion to terminate shall not be filed
18 more than once during the effective period of the order. The State shall have
19 the burden of proof by clear and convincing evidence.

20 (2) The court shall grant the motion and terminate the extreme risk
21 protection order unless it finds by clear and convincing evidence that the

1 respondent continues to pose an extreme risk of causing harm to himself or
2 herself or another person by purchasing, possessing, or receiving a dangerous
3 weapon or by having a dangerous weapon within the respondent's custody or
4 control.

5 (b)(1) A State's Attorney or the Office of the Attorney General may file a
6 motion requesting that the court renew an extreme risk protection order issued
7 under this section or section 4053 of this title for an additional period of up to
8 60 days. The motion shall be accompanied by an affidavit and shall be filed
9 not more than 30 days and not less than 14 days before the expiration date of
10 the order. The motion and affidavit shall comply with the requirements of
11 subsection 4053(c) of this title, and the moving party shall have the burden of
12 proof by clear and convincing evidence.

13 (2) The court shall grant the motion and renew the extreme risk
14 protection order for an additional period of up to 60 days if it finds by clear
15 and convincing evidence that the respondent continues to pose an extreme risk
16 of causing harm to himself or herself or another person by purchasing,
17 possessing, or receiving a dangerous weapon or by having a dangerous weapon
18 within the respondent's custody or control. The order shall comply with the
19 requirements of subdivision 4053(f)(2) and subsections 4053(j) and (k) of this
20 title.

1 (c) The court shall hold a hearing within 14 days after a motion to
2 terminate or a motion to renew is filed under this section. Notice of the
3 hearing shall be served pursuant to section 4056 of this title concurrently with
4 the motion.

5 (d) If the court denies a motion filed under this section, the court shall state
6 the particular reasons for the denial in its decision.

7 (e) Form termination and form renewal motions shall be provided by the
8 Court Administrator and shall be maintained by the clerks of the courts.

9 (f) When findings are required under this section, the court shall make
10 either written findings of fact or oral findings of fact on the record.

11 § 4056. SERVICE

12 (a) A petition, ex parte temporary order, or final order issued under this
13 subchapter shall be served in accordance with the Vermont Rules of Civil
14 Procedure and may be served by any law enforcement officer. A court that
15 issues an order under this chapter during court hours shall promptly transmit
16 the order electronically or by other means to a law enforcement agency for
17 service.

18 (b) A respondent who attends a hearing held under section 4053, 4054, or
19 4055 of this title at which a temporary or final order under this subchapter is
20 issued and who receives notice from the court on the record that the order has
21 been issued shall be deemed to have been served. A respondent notified by the

1 court on the record shall be required to adhere immediately to the provisions of
2 the order. However, even when the court has previously notified the
3 respondent of the order, the court shall transmit the order for additional service
4 by a law enforcement agency.

5 (c) Extreme risk protection orders shall be served by the law enforcement
6 agency at the earliest possible time and shall take precedence over other
7 summonses and orders. Orders shall be served in a manner calculated to
8 ensure the safety of the parties. Methods of service that include advance
9 notification to the respondent shall not be used. The person making service
10 shall file a return of service with the court stating the date, time, and place at
11 which the order was delivered personally to the respondent.

12 (d) If service of a notice of hearing issued under section 4053 or 4055 of
13 this title cannot be made before the scheduled hearing, the court shall continue
14 the hearing and extend the terms of the order upon request of the petitioner for
15 such additional time as it deems necessary to achieve service on the
16 respondent.

17 § 4057. PROCEDURE

18 (a) Except as otherwise specified, proceedings commenced under this
19 subchapter shall be in accordance with the Vermont Rules for Family
20 Proceedings and shall be in addition to any other available civil or criminal
21 remedies.

1 (b) The Court Administrator shall establish procedures to ensure access to
2 relief after regular court hours or on weekends and holidays. The Court
3 Administrator is authorized to contract with public or private agencies to assist
4 petitioners to seek relief and to gain access to Superior Courts. Law
5 enforcement agencies shall assist in carrying out the intent of this section.

6 (c) The Court Administrator shall ensure that the Superior Court has
7 procedures in place so that the contents of orders and pendency of other
8 proceedings can be known to all courts for cases in which an extreme risk
9 protection order proceeding is related to a criminal proceeding.

10 § 4058. ENFORCEMENT; CRIMINAL PENALTIES

11 (a) Law enforcement officers are authorized to enforce orders issued under
12 this chapter. Enforcement may include collecting and disposing of dangerous
13 weapons pursuant to section 4059 of this title and making an arrest in
14 accordance with the provisions of Rule 3 of the Vermont Rules of Criminal
15 Procedure.

16 (b)(1) A person who intentionally commits an act prohibited by a court or
17 fails to perform an act ordered by a court, in violation of an extreme risk
18 protection order issued pursuant to section 4053, 4054, or 4055 of this title,
19 after the person has been served with notice of the contents of the order as
20 provided for in this subchapter, shall be imprisoned not more than one year or
21 fined not more than \$1,000.00, or both.

1 (2) A person who files a petition for an extreme risk protection order
2 under this subchapter knowing that information in the petition is false or with
3 the intent to harass the respondent shall be imprisoned not more than one year
4 or fined not more than \$1,000.00, or both.

5 (c) In addition to the provisions of subsections (a) and (b) of this section,
6 violation of an order issued under this subchapter may be prosecuted as
7 criminal contempt under Rule 42 of Vermont Rules of Criminal Procedure.
8 The prosecution for criminal contempt may be initiated by the State’s Attorney
9 in the county in which the violation occurred. The maximum penalty that may
10 be imposed under this subsection shall be a fine of \$1,000.00 or imprisonment
11 for six months, or both. A sentence of imprisonment upon conviction for
12 criminal contempt may be stayed, in the discretion of the court, pending the
13 expiration of the time allowed for filing notice of appeal or pending appeal if
14 any appeal is taken.

15 § 4059. RELINQUISHMENT, STORAGE, AND RETURN OF

16 DANGEROUS WEAPONS

17 (a) A person who is required to relinquish a dangerous weapon other than a
18 firearm in the person’s possession, custody, or control by an extreme risk
19 protection order issued under section 4053, 4054, or 4055 of this title shall
20 upon service of the order immediately relinquish the dangerous weapon to a
21 cooperating law enforcement agency. The law enforcement agency shall

1 transfer the weapon to the Bureau of Alcohol, Tobacco, Firearms and
2 Explosives for proper disposition.

3 (b)(1) A person who is required to relinquish a firearm in the person's
4 possession, custody, or control by an extreme risk protection order issued
5 under section 4053, 4054, or 4055 of this title shall, unless the court orders an
6 alternative relinquishment pursuant to subdivision (2) of this subsection, upon
7 service of the order immediately relinquish the firearm to a cooperating law
8 enforcement agency or an approved federally licensed firearms dealer.

9 (2)(A) The court may order that the person relinquish a firearm to a
10 person other than a cooperating law enforcement agency or an approved
11 federally licensed firearms dealer unless the court finds that relinquishment to
12 the other person will not adequately protect the safety of any person.

13 (B) A person to whom a firearm is relinquished pursuant to
14 subdivision (A) of this subdivision (2) shall execute an affidavit on a form
15 approved by the Court Administrator stating that the person:

16 (i) acknowledges receipt of the firearm;

17 (ii) assumes responsibility for storage of the firearm until further
18 order of the court and specifies the manner in which he or she will provide
19 secure storage;

20 (iii) is not prohibited from owning or possessing firearms under
21 State or federal law; and

1 (iv) understands the obligations and requirements of the court
2 order, including the potential for the person to be subject to civil contempt
3 proceedings pursuant to subdivision (C) of this subdivision (2) if the person
4 permits the firearm to be possessed, accessed, or used by the person who
5 relinquished the item or by any other person not authorized by law to do so.

6 (C) A person to whom a firearm is relinquished pursuant to
7 subdivision (A) of this subdivision (2) shall be subject to civil contempt
8 proceedings under 12 V.S.A. chapter 5 if the person permits the firearm to be
9 possessed, accessed, or used by the person who relinquished the item or by any
10 other person not authorized by law to do so. In the event that the person
11 required to relinquish the firearm or any other person not authorized by law to
12 possess the relinquished item obtains access to, possession of, or use of a
13 relinquished item, all relinquished items shall be immediately transferred to the
14 possession of a law enforcement agency or approved federally licensed
15 firearms dealer pursuant to subdivision (b)(1) of this section.

16 (b) A law enforcement agency or an approved federally licensed firearms
17 dealer that takes possession of a firearm pursuant to subdivision (b)(1) of this
18 section shall photograph, catalogue, and store the item in accordance with
19 standards and guidelines established by the Department of Public Safety
20 pursuant to 20 V.S.A. § 2307(i)(3).

1 (c) Nothing in this section shall be construed to prohibit the lawful sale of
2 firearms or other items.

3 (d) An extreme risk protection order issued pursuant to section 4053 of this
4 title or renewed pursuant to section 4055 of this title shall direct the law
5 enforcement agency, approved federally licensed firearms dealer, or other
6 person in possession of a firearm under subsection (b) of this section to release
7 it to the owner upon expiration of the order.

8 (e)(1) A law enforcement agency, an approved federally licensed firearms
9 dealer, or any other person who takes possession of a firearm for storage
10 purposes pursuant to this section shall not release it to the owner without a
11 court order unless the firearm is to be sold pursuant to subdivision (2)(A) of
12 this subsection. If a court orders the release of a firearm stored under this
13 section, the law enforcement agency or firearms dealer in possession of the
14 firearm shall make it available to the owner within three business days after
15 receipt of the order and in a manner consistent with federal law.

16 (2)(A)(i) If the owner fails to retrieve the firearm within 90 days after
17 the court order releasing it, the firearm may be sold for fair market value. Title
18 to the firearm shall pass to the law enforcement agency or firearms dealer for
19 the purpose of transferring ownership.

20 (ii) The law enforcement agency or firearms dealer shall make a
21 reasonable effort to notify the owner of the sale before it occurs. In no event

1 shall the sale occur until after the court issues a final extreme risk protection
2 order pursuant to section 4053 of this title.

3 (iii) As used in this subdivision (2)(A), “reasonable effort” shall
4 mean notice shall be served as provided for by Rule 4 of the Vermont Rules of
5 Civil Procedure.

6 (B) Proceeds from the sale of a firearm pursuant to subdivision (A) of
7 this subdivision (2) shall be apportioned as follows:

8 (i) associated costs, including the costs of sale and of locating and
9 servicing the owner, shall be paid to the law enforcement agency or firearms
10 dealer that incurred the cost; and

11 (ii) any proceeds remaining after payment is made to the law
12 enforcement agency or firearms dealer pursuant to subdivision (i) of this
13 subdivision (2)(B) shall be paid to the original owner.

14 (f) A law enforcement agency shall be immune from civil or criminal
15 liability for any damage or deterioration of a firearm stored or transported
16 pursuant to this section. This subsection shall not apply if the damage or
17 deterioration occurred as a result of recklessness, gross negligence, or
18 intentional misconduct by the law enforcement agency.

19 (g) This section shall be implemented consistent with the standards and
20 guidelines established by the Department of Public Safety under 20 V.S.A.
21 § 2307(i).

1 (h) Notwithstanding any other provision of this chapter:

2 (1) A dangerous weapon shall not be returned to the respondent if the
3 respondent’s possession of the weapon would be prohibited by state or federal
4 law.

5 (2) A dangerous weapon shall not be taken into possession pursuant to
6 this section if it is being or may be used as evidence in a pending criminal
7 matter.

8 § 4060. APPEALS

9 An extreme risk protection order issued by the court under section 4053 or
10 4055 of this title shall be treated as a final order for the purposes of appeal.
11 Appeal may be taken by either party to the Supreme Court under the Vermont
12 Rules of Appellate Procedure, and the appeal shall be determined forthwith.

13 Sec. 2. EFFECTIVE DATE

14 This act shall take effect on passage.

15

16

17 (Committee vote: _____)

18

19

Senator _____

20

FOR THE COMMITTEE