



Testimony on S.222 - House Judiciary Committee

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Policy Director

Thank you for your consideration of an amendment to S.222 which would further protect domestic violence victims in Vermont by requiring in statute the relinquishment of firearms at the point of a temporary and a final relief from abuse order.

As you are aware, it is current court practice for Vermont judges to use their discretion and order the relinquishment of firearms both in temporary and final relief from abuse orders. In addition, in 1996, Congress amended 18 U.S.C. § 921 in what has become known as the Lautenberg Amendment which prohibits anyone convicted of a felony and anyone subject to a domestic violence protective order from possessing a firearm. The amendment passed with almost unanimous support and represents Congress's recognition that "anyone who attempts or threatens violence against a loved one has demonstrated that he or she poses an unacceptable risk, and should be prohibited from possessing firearms." *Congressional Record*, p. S11878, September 30, 1996.

While our current practice follows federal law - and goes beyond to include occasional orders of relinquishment at the point of a temporary order according to judicial discretion - our state statutes do not codify this practice. Yet, it is known that rates of intimate-partner homicide are lower in states that *require* people served with domestic-violence restraining orders to surrender their guns.ⁱ In a 2017 study, researchers at five different institutions found that intimate-partner homicide rates are 9.7 percent lower on average in the 14 states with gun-surrender laws than in the other 36 states. Firearm-specific homicide rates are 14 percent lower in those states.ⁱⁱ

Federal law prohibits abusers who have been convicted of domestic violence misdemeanors and abusers subject to certain domestic violence protective orders from purchasing or possessing guns. However, **the federal law intended to prevent access to firearms by domestic abusers who are subject to protective orders has significant limitations:**

- ***The federal law does not apply to many abusers who victimize non-spouse partners.*** Domestic violence affects people in family or intimate relationships that fall outside the protections of federal law. For example, dating partners are not within the federal prohibitions unless the partners have cohabitated as spouses or have a child in common. The risk of domestic violence being committed by a dating partner is well documented. In 2008, individuals killed by current dating partners made up almost half of all spouse and current dating partner homicides.ⁱⁱⁱ A study of applicants for domestic violence restraining orders in Los Angeles found that the most common relationship between the victim and abuser was a dating relationship.^{iv} Between 1994- 2016, the large majority (68%) of the domestic violence homicides were committed by a person who was NOT a current



intimate partner. During that same time, only 32% of the domestic violence-related homicides in Vermont involved a current intimate partner.^v

- ***The federal law does not apply to abusers who victimize a family member other than a partner or child.*** The current federal prohibitions also do not address violence against family members other than a child or intimate partner. They therefore do not address violence against someone like an abused sibling or parent. According to data from the U.S Department of Justice, the proportion of family homicides that involve a murdered parent has been increasing, rising steadily from 9.7% of all family homicides in 1980 to 13% in 2008.^{vi}
- ***The federal law fails to require domestic abusers to surrender their firearms.*** Federal law does not require domestic abusers to turn in their firearms once they are convicted of a crime of domestic violence or become subject to a restraining order. As a result, abusers continue to commit crimes with guns they are prohibited from owning under federal law. In 2011, more than 50 people in Washington State were arrested on gun charges while subject to protective orders.^{vii}

In Vermont, according to 15 VSA 1103, any family or household member may seek relief from abuse by another family or household member on behalf of himself or herself or his or her children. 15 VSA 1101 defines "household members" as persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or who have dated. By requiring the relinquishment of firearms in Vermont's protective order statutes this committee would be codifying current practice and improving current practice by remedying the federal law limitations listed above.

Thus, in keeping with the Governor's stated desire to reduce the connection between guns and domestic violence in Vermont, **the Network strongly supports this as a proposed amendment to S.222.**

Thank you.

ⁱ 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).

ⁱⁱ Díez, Carolina, et al, *State Intimate Partner Violence–Related Firearm Laws and Intimate Partner Homicide Rates in the United States, 1991 to 2015*, *Ann Intern Med.* 2017;167(8):536-543 (2017).

ⁱⁱⁱ *Bureau of Justice Statistics, U.S. Dep't of Justice, Homicide Trends in the United States, 1980-2008, 20 (Nov. 2011), at <http://bjs.gov/content/pub/pdf/htus8008.pdf>.*

^{iv} Katherine A. Vittes et al., *Are Temporary Restraining Orders More Likely to be Issued When Application Mention Firearms?*, 30 Evaluation Rev. 266, 271, 275 (2006). Applications for protective orders were also more likely to mention firearms when the parties had not lived together and were not married.

^v *Vermont Domestic Violence Fatality Review Commission Report 2017*; Vermont Attorney General's Office, p. 13.

^{vi} *Homicide Trends in the U.S, supra note 4, at 21.*

^{vii} Michael Luo, "In Some States, Gun Rights Trump Orders of Protection," *The New York Times*, March 17, 2013, at http://www.nytimes.com/2013/03/18/us/facing-protective-orders-and-allowed-to-keep-guns.html?pagewanted=all&_r=0.