



**Testimony on S.221 – Senate Judiciary  
February 21, 2018  
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Policy Director**

Thank you for the opportunity to testify on S.221. The Network strongly supports the goal of providing law enforcement with the tools necessary to potentially prevent another senseless death.

The main focus of our organization is to ensure that the laws protect victims of domestic and sexual violence. Here in Vermont, from 1994 to 2016, nearly 3 out of every 5 domestic violence-related homicides and 78 percent of the suicides associated with these homicides were committed with firearms.<sup>i</sup> Our member programs are well aware that the presence of firearms in a household where there is domestic violence increases the risk that the victim will be killed fivefold.<sup>ii</sup> At the public hearing last month on firearms, this committee had the opportunity to hear from survivors whose loved ones were killed in domestic violence related homicides involving firearms. As you are aware, the past 8 years of mass shootings in the United States have revealed a common thread: domestic violence. In 54 percent of the attacks, the perpetrator targeted either a family member or an intimate partner.<sup>iii</sup>

For all of these reasons, The Network maintains that law enforcement should also be allowed the ability to remove firearms at the earliest possible moment in an abusive household, immediately following an arrest or citation at the scene of a domestic assault. While we support the intent of S.221, we would like to offer the following suggestions for the protection of victims of domestic and sexual violence.

**Removal of Firearms at the Scene of a Domestic Violence**

The Network respectfully requests that the Senate Judiciary Committee consider either including language from H.422 or moving H.422 itself. H.422 allows law enforcement to remove firearms at what is the most dangerous time for a victim and the victim's children. H.422 is one more tool to help law enforcement protect victims and children from homicide by firearm. **It more directly addresses the immediate safety needs of victims and their families.**

**Federal Law – RFA statutes**

Current federal law (Title 18) prohibits the receipt or possession of firearms by anyone subject to domestic violence protection orders. While it is current practice in Vermont courts to do so, there is no such language in our current state statutes. **The Network would recommend that this practice be codified in Vermont's current relief from abuse order statutes (15 VSA 1103 and 1104).**

**Witness Evidence**

Pg 4 - Witnesses:

“(e) The court may consider any relevant evidence in determining whether to grant the petition, including: (1) testimony from the petitioner, the respondent, and **other relevant witnesses;**”



If the law enforcement officer determines a “relevant witness” to be a victim of domestic violence who chose not to file any case (RFA) to remove the firearms, we do not support compelling the victim to testify if she does not want to. It is also possible that the victim will feel she needs to testify in defense of her abuser in order to stay safe in her household, which would be counterproductive to the goal of this bill.

### **Burden of Proof**

Pg 5 and pg 8 - Burden of proof (see attached chart):

“The petitioner shall have the burden of proof by **clear and convincing evidence.**”

The Network recommends “preponderance of the evidence” in keeping with our current RFA order process.

### **Relinquishment to Third Party**

Pg 6 and pg 9 – and process explained on pg. 16-17, (2)(A) – (C): Relinquishment to third party (in current statute):

“If you have not done so already, you are required to surrender all firearms in your custody, control, or possession to [insert name of law enforcement agency], a federally licensed firearms dealer, or **a person approved by the court**”. Current language reads: “unless the court finds that relinquishment to the other person will not adequately protect the safety of any person.” This has proven to be problematic in current relief from abuse order cases. How does the Court determine whether the 3<sup>rd</sup> party will comply and ensure that the firearms are not returned to the defendant? How does the court determine that the perpetrator’s sister/mother/father will not return the firearms if pressured by the perpetrator to do so? Our advocates have worked to adjust safety planning with domestic violence victims in the RFA process who remain concerned that the third party ordered to keep firearms is not the safest option.

### **Ex Parte Filing and Order**

Pg 7 – Ex parte filing and order issuance:

“...on the day the motion is filed or **on the day immediately following the day the motion is filed.**”

If the danger truly posed is immediate and significant but cannot be ordered during normal court hours (before 5 pm), the ex parte order should be able to be considered after court hours.

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<sup>i</sup> State of Vermont, “Domestic violence fatality review commission report,” 2016, Retrieved from: <http://vtnetwork.org/wp-content/uploads/2017/04/2016-Fatality-Review-Commission-Report.pdf>

<sup>ii</sup> Campbell, J. C., Webster, D., Koziol-McLain, J. et al. (2003). Risk factors for femicide in abusive relationships: Results from a multisite case control study. *American journal of public health*, 93(7), 1089-1097.

<sup>iii</sup> “Mass Shootings in the United States: 2009-20016”, March 2017, Report, Everytown for Gun Safety, p 2-3.