

1 H.610

2 Representatives Grad of Moretown and LaLonde of South Burlington move
3 that the bill be amended by striking out all after the enacting clause and
4 inserting in lieu thereof the following:

5 Sec. 1. 13 V.S.A. § 4019 is amended to read:

6 § 4019. FIREARMS TRANSFERS; BACKGROUND CHECKS

7 (a) As used in this section:

8 * * *

9 (4) “Licensed dealer” means a person issued a license as a dealer in
10 firearms pursuant to 18 U.S.C. § 923(a).

11 (5) “Proposed transferee” means an unlicensed person to whom a
12 proposed transferor intends to transfer a firearm.

13 (6) “Proposed transferor” means an unlicensed person who intends to
14 transfer a firearm to another unlicensed person.

15 (7) “Transfer” means to transfer ownership of a firearm by means of
16 sale, trade, or gift.

17 (8) “Unlicensed person” means a person who has not been issued a
18 license as a dealer, importer, or manufacturer in firearms pursuant to 18 U.S.C.
19 § 923(a).

20 (b)(1) Except as provided in subsection (e) of this section, an unlicensed
21 person shall not transfer a firearm to another unlicensed person unless:

1 (2) A person who violates subdivision (b)(2) or subsection (d) of this
2 section shall be imprisoned not more than one year or fined not more than
3 \$500.00, or both.

4 ~~(e)~~(f) This section shall not apply to:

5 (1) the transfer of a firearm by or to a law enforcement agency;

6 (2) the transfer of a firearm by or to a law enforcement officer or
7 member of the U.S. Armed Forces acting within the course of his or her
8 official duties;

9 (3) the transfer of a firearm from one immediate family member to
10 another immediate family member; or

11 (4) a person who transfers the firearm to another person in order to
12 prevent imminent harm to any person, provided that this subdivision shall only
13 apply while the risk of imminent harm exists.

14 ~~(f)~~(g) A licensed dealer who facilitates a firearm transfer pursuant to this
15 section shall be immune from any civil or criminal liability for any actions
16 taken or omissions made when facilitating the transfer in reliance on the
17 provisions of this section. This subsection shall not apply to reckless or
18 intentional misconduct by a licensed dealer.

19 * * * Relief from Abuse Orders * * *

20 Sec. 2. 15 V.S.A. § 1103 is amended to read:

21 § 1103. REQUESTS FOR RELIEF

1 (a) Any family or household member may seek relief from abuse by
2 another family or household member on behalf of himself or herself or his or
3 her children by filing a complaint under this chapter. A minor 16 years of age
4 or older, or a minor of any age who is in a dating relationship as defined in
5 subdivision 1101(2) of this chapter, may file a complaint under this chapter
6 seeking relief on his or her own behalf. The plaintiff shall submit an affidavit
7 in support of the order.

8 * * *

9 (c)(1) The court shall make such orders as it deems necessary to protect the
10 plaintiff or the children, or both, if the court finds that the defendant has
11 abused the plaintiff, and:

12 (A) there is a danger of further abuse; or

13 (B) the defendant is currently incarcerated and has been convicted of
14 one of the following: murder, attempted murder, kidnapping, domestic assault,
15 aggravated domestic assault, sexual assault, aggravated sexual assault,
16 stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a
17 child in a sexual performance, or consenting to a sexual performance.

18 * * *

19 (3)(A) The court order shall:

20 (i) require the immediate relinquishment, until the expiration of
21 the order, of all firearms that are in the defendant's possession, ownership, or

1 control or that another person possesses, owns, or controls on behalf of the
2 defendant, unless the court makes a written finding by clear and convincing
3 evidence relinquishment is not required to protect the safety of the victim or
4 the public;

5 (ii) if the order includes a requirement to vacate, prohibit the
6 defendant from residing at a residence where firearms are present can be
7 accessed by the defendant, unless the court makes a written finding by clear
8 and convincing evidence relinquishment is not required to protect the safety of
9 the victim or the public;

10 (iii) inform the defendant that he or she is prohibited from
11 possessing firearms until the expiration of the order; and

12 (iv) if the order requires relinquishment of firearms, include all
13 available information regarding the type and location of firearms subject to the
14 order.

15 * * *

16 (h)(1) Form complaints and form orders shall be provided by the Court
17 Administrator and shall be maintained by the clerks of the courts.

18 (2) The Complaint for Relief from Abuse and the Affidavit in Support
19 of Relief From Abuse Complaint shall include specific provisions collecting
20 information about the defendant's firearms, including questions that permit the
21 plaintiff to state with particularity the type and location of any firearm in the

1 defendant’s possession, ownership, or control or that another person possesses,
2 owns, or controls on behalf of the defendant.

3 * * *

4 Sec 3. 15 V.S.A. § 1104 is amended to read:

5 § 1104. EMERGENCY RELIEF

6 (a) In accordance with the Vermont Rules of Civil Procedure, temporary
7 orders under this chapter may be issued ex parte, without notice to the
8 defendant, upon motion and findings by the court that the defendant has abused
9 the plaintiff or the plaintiff’s children, or both. The plaintiff shall submit an
10 affidavit in support of the order. A minor 16 years of age or older, or a minor
11 of any age who is in a dating relationship as defined in subdivision 1101(2) of
12 this chapter, may seek relief on his or her own behalf. Relief under this section
13 shall be limited as follows:

14 * * *

15 (4)(A) An order issued under this section shall:

16 (i) if the plaintiff’s complaint or affidavit indicates that the
17 defendant is in possession of or has access to firearms, require the immediate
18 relinquishment, until the expiration of the order, of all firearms that are in the
19 defendant’s possession, ownership, or control or that another person possesses,
20 owns, or controls on behalf of the defendant, unless the court makes a written

1 finding by clear and convincing evidence relinquishment is not required to
2 protect the safety of the victim or the public;

3 (ii) if the order includes a requirement to vacate, prohibit the
4 defendant from residing at a residence where firearms are present can be
5 accessed by the defendant, unless the court makes a written finding by clear
6 and convincing evidence relinquishment is not required to protect the safety of
7 the victim or the public;

8 (iii) inform the defendant that he or she is prohibited from
9 possessing firearms until the expiration of the order;

10 (iv) if the order requires relinquishment of firearms, include all
11 available information regarding the type and location of firearms subject to the
12 order; and

13 (v) notify the defendant that after having been served with a
14 temporary order issued pursuant to this section, the defendant shall be required
15 to adhere to the provision of any subsequent order upon issuance of the
16 subsequent order.

17 * * *

18 (c)(1) Form complaints, and form orders, and return of service forms shall
19 be provided by the Court Administrator and shall be maintained by the clerks
20 of the courts.

1 (a) A complaint or ex parte temporary order or final order issued under this
2 chapter shall be served in accordance with the Vermont Rules of Civil
3 Procedure and may be served by any law enforcement officer. A court that
4 issues an order under this chapter during court hours shall promptly transmit
5 the order electronically or by other means to a law enforcement agency for
6 service.

7 (b)(1) A defendant who attends a hearing held under section 1103 ~~or 1104~~
8 of this title at which a ~~temporary or~~ final order under this chapter is issued and
9 who receives notice from the court on the record that the order has been issued
10 shall be deemed to have been served. A defendant notified by the court on the
11 record shall be required to adhere immediately to the provisions of the order.
12 However, even when the court has previously notified the defendant of the
13 order, the court shall ~~transmit the order for additional service by a law~~
14 ~~enforcement agency~~ served the order by first class mail to the defendant's last
15 known address.

16 (2) A defendant who has been served with a temporary order issued
17 under section 1103 of this title may be served with all subsequent orders in the
18 case by first class mail to the defendant's last known address. The defendant
19 shall inform the court of any changes to the defendant's address. The
20 subsequent order, including any changes made to the temporary order, shall be
21 effective when the subsequent order is issued.

1 (c) Abuse orders shall be served by the law enforcement agency at the
2 earliest possible time and shall take precedence over other summonses and
3 orders. Orders shall be served in a manner calculated to ensure the safety of the
4 plaintiff. Methods of service that include advance notification to the defendant
5 shall not be used. The person making service shall file a return of service with
6 the court stating the date, time, and place at which the order was delivered
7 personally to the defendant.

8 (d) If service of a notice of hearing issued under section 1103 or 1104 of
9 this title cannot be made before the scheduled hearing, the court shall continue
10 the hearing and extend the terms of the order upon request of the plaintiff for
11 such additional time as it deems necessary to achieve service on the defendant.

12 (e)(1)(A) A complaint or ex parte temporary order or final order requiring
13 relinquishment of firearms that is served pursuant to this section shall be
14 accompanied by a return of service form on which the law enforcement officer
15 shall indicate with specificity:

16 (i) whether firearms were relinquished by the defendant;

17 (ii) whether a warrant is being sought; and

18 (iii) if obtainable with with reasonable effort, the defendant's
19 mailing address for service of future orders.

20 (B) The court shall provide a copy of the return of service to the
21 plaintiff.

1 (C)The return of service and the affidavit shall be filed with the court
2 at the earliest possible time and shall take precedence over other summonses
3 and orders.

4 (2) If the defendant does not relinquish firearms upon service of the
5 order in a timely manner, and the law enforcement officer has probable cause
6 to believe the defendant possesses, owns, or controls firearms, the officer shall,
7 unless a judicially recognized exception to the warrant requirement applies,
8 submit the return of service form to the court along with file with the court an
9 affidavit and an application for requesting that a warrant for seizure of the
10 firearms be issued pursuant to Vermont Rule of Criminal Procedure 41.

11 (3) If the defendant does not relinquish firearms upon service of the
12 order, and the law enforcement officer has a reasonable suspicion that the
13 defendant possesses, owns, or controls firearms, the officer shall investigate
14 the matter within 48 hours, or as soon as practicable. If the officer determines
15 that there is probable cause to believe the defendant possesses, owns, or
16 controls firearms, the officer shall submit the return of service form pursuant to
17 subdivision (2) of this subsection. If the officer does not determine that
18 probable cause exists, the return of service shall include a statement describing
19 the efforts that were made to establish probable cause during the investigation.

1 (4) The court shall issue a warrant under this subsection for seizure of
2 firearms from the defendant if the court finds there is probable cause to
3 believe:

4 (A) there are firearms in the defendant’s possession, ownership, or
5 control while the order is in effect; and

6 (B) a search for and seizure of the firearms is necessary to protect the
7 life, health, or well-being of a victim on whose behalf the relief is sought.

8 (5) A law enforcement agency shall be immune from civil or criminal
9 liability for failing to learn of or locate, or seize a firearm while executing a
10 warrant issued pursuant to this subsection, or for returning a seized weapon to
11 its owner if the owner is not prohibited from owning or possessing firearms
12 under state or Federal law.

13 (6)(A) Firearms relinquished or seized pursuant to this subsection or
14 subsections 1103(c) or 1104(a) of this title shall be relinquished, transported,
15 and stored pursuant to 20 V.S.A. § 2307.

16 (B) A law enforcement agency shall be immune from civil or
17 criminal liability for any damage or deterioration of firearms relinquished
18 pursuant to this subsection or subsections 1103(c) or 1104(a) of this title. This
19 subdivision (B) shall not apply if the damage or deterioration occurred as a
20 result of recklessness, gross negligence, or intentional misconduct by the law
21 enforcement agency.

1 § 4052. JURISDICTION AND VENUE; FILING

2 * * *

3 (c) Proceedings under this chapter shall be commenced in the county where
4 the law enforcement agency is located, the county where the family or
5 household member or the respondent resides, or the county where the events
6 giving rise to the petition occur.

7 (d) A petition or motion filed by a family or household member pursuant to
8 subsection 4053(a) or 4054(a) of this title shall be filed during the court's
9 regular business hours only.

10 Sec. 8. 13 V.S.A. § 4053 is amended to read:

11 § 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

12 (a) A State's Attorney ~~or~~, the Office of the Attorney General, or a family or
13 household member may file a petition requesting that the court issue an
14 extreme risk protection order prohibiting a person from purchasing, possessing,
15 or receiving a dangerous weapon or having a dangerous weapon within the
16 person's custody or control. The petitioner shall submit an affidavit in support
17 of the petition.

18 * * *

19 Sec. 9. 13 V.S.A. § 4054 is amended to read:

20 § 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

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

7 * * *

8 Sec. 10. 13 V.S.A. § 4055 is amended to read:

9 § 4055. TERMINATION AND RENEWAL MOTIONS

10 * * *

11 (b)(1) A State's Attorney ~~or~~ the Office of the Attorney General, or a
12 family or household member may file a motion requesting that the court renew
13 an extreme risk protection order issued under this section or section 4053 of
14 this title for an additional period of up to six months. The motion shall be
15 accompanied by an affidavit and shall be filed not more than 30 days and not
16 less than 14 days before the expiration date of the order. The motion and
17 affidavit shall comply with the requirements of subsection 4053(c) of this title,
18 and the moving party shall have the burden of proof by clear and convincing
19 evidence.

20 * * *

21 Sec. 11. 13 V.S.A. § 4057 is amended to read:

1 § 4057. PROCEDURE

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

6 * * *

7 (d)(1) For purposes of a petition filed pursuant to this subchapter, a health
8 care provider may notify a law enforcement officer when the provider believes
9 in good faith that disclosure of the information is necessary to prevent or lessen
10 a serious and imminent threat to the health or safety of a person or the public.

11 (2) As used in this subsection:

12 (A) “Health care provider” has the same meaning as in 18 V.S.A.
13 § 9432.

14 (B) “Necessary to prevent or lessen a serious and imminent threat to
15 the health or safety of a person or the public” includes circumstances when the
16 health care provider reasonably believes that the patient poses an extreme risk
17 of causing harm to himself or herself or another person by purchasing,
18 possessing, or receiving a dangerous weapon or by having a dangerous weapon
19 within his or her custody or control.

20 * * * Conditions of Release Prior to Trial * * *

21 Sec. 12. 13 V.S.A. § 7554 is amended to read:

1 § 7554. RELEASE PRIOR TO TRIAL

2 (a) Release; conditions of release. Any person charged with an offense,
3 other than a person held without bail under section 7553 or 7553a of this title,
4 shall at his or her appearance before a judicial officer be ordered released
5 pending trial in accordance with this section.

6 * * *

7 (2) If the judicial officer determines that conditions of release imposed
8 to ensure appearance will not reasonably protect the public, the judicial officer
9 may impose in addition the least restrictive of the following conditions or the
10 least restrictive combination of the following conditions that will reasonably
11 ensure protection of the public:

12 * * *

13 (G) Require a defendant not to possess firearms or other weapons.

14 * * *

15 * * * Reports * * *

16 **Sec. 13. DEPARTMENT OF PUBLIC SAFETY REPORT**

17 On or before December 15, 2020, the Department of Public Safety shall
18 report to the House and Senate Committees on Judiciary on the progress of its
19 modernization reform program and the steps it has taken to provide assistance
20 to local law enforcement agencies in seizing and storing relinquished firearms.

21 **Sec. 14. ATTORNEY GENERAL REPORT**

