

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 * * * Firearms Transfer Background Checks * * *

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

7 § 4019. FIREARMS TRANSFERS; BACKGROUND CHECKS

8 (a) As used in this section:

9 * * *

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

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

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

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

18 (8) “Unlicensed person” means a person who has not been issued a
19 license as a dealer, importer, or manufacturer in firearms pursuant to 18 U.S.C.
20 § 923(a).

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

1 (A) the proposed transferor and the proposed transferee physically
2 appear together with the firearm before a licensed dealer and request that the
3 licensed dealer facilitate the transfer; and

4 (B) the licensed dealer agrees to facilitate the transfer.

5 (2) A person shall not, in connection with the transfer or attempted
6 transfer of a firearm pursuant to this section, knowingly make a false statement
7 or exhibit a false identification intended to deceive a licensed dealer with
8 respect to any fact material to the transfer.

9 * * *

10 (d) A person shall not transfer a firearm to another person if:

11 (1) the transfer requires a background check under this section or under
12 federal law; and

13 (2) the licensed dealer facilitating the transfer has not been provided
14 with a unique identification number for the transfer by the National Instant
15 Criminal Background Check System, provided that if the identification number
16 has not been provided within 30 days, then the transfer may proceed.

17 ~~(d)~~(e)(1) An unlicensed person who transfers a firearm to another
18 unlicensed person in violation of subdivision (b)(1) of this section shall be
19 imprisoned not more than one year or fined not more than \$500.00, or both.

20 (2) A person who violates subdivision (b)(2) or subsection (d) of this
21 section shall be imprisoned not more than one year or fined not more than
22 \$500.00, or both.

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

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

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

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

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

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

16 * * * Relief from Abuse Orders * * *

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

18 § 1103. REQUESTS FOR RELIEF

19 (a) Any family or household member may seek relief from abuse by
20 another family or household member on behalf of himself or herself or his or
21 her children by filing a complaint under this chapter. A minor 16 years of age
22 or older, or a minor of any age who is in a dating relationship as defined in

1 subdivision 1101(2) of this chapter, may file a complaint under this chapter
2 seeking relief on his or her own behalf. The plaintiff shall submit an affidavit
3 in support of the order.

4 * * *

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

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

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

14 * * *

15 (3) The court order shall:

16 (A) if there is evidence that the defendant possesses, owns, or
17 controls firearms, require the immediate relinquishment, until the expiration of
18 the order, of all firearms that are in the defendant's possession, ownership, or
19 control or that another person possesses or controls on behalf of the defendant;

20 (B) if the order includes a requirement to vacate, prohibit the
21 defendant from residing at a residence where firearms can be accessed by the
22 defendant;

1 (C) inform the defendant that he or she is prohibited from possessing
2 firearms until the expiration of the order; and

3 (D) if the order requires relinquishment of firearms:

4 (i) include all information available to the court regarding the
5 type, number, and location of firearms subject to the order;

6 (ii) inform the defendant of the provisions of 20 V.S.A.
7 § 2307(b)(1) regarding where the defendant is permitted to relinquish firearms,
8 including notice that third-party storage of firearms is not permitted unless the
9 court has made the findings required by 20 V.S.A. § 2307(b)(2);

10 (iii) require the defendant to relinquish the firearms pursuant to
11 the instructions of a law enforcement officer; and

12 (iv) require the defendant to provide the law enforcement officer
13 with:

14 (I) the location of firearms, production or location of keys, and
15 combinations to locks for firearms, safes, and doors unless firearms are turned
16 over without requiring law enforcement access to such locations; and

17 (II) any other information that will assist the officer in the
18 expedited access, retrieval, or delivery of firearms subject to relinquishment.

19 * * *

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

1 (2) The Complaint for Relief from Abuse and the Affidavit in Support
 2 of Relief From Abuse Complaint shall include specific provisions collecting
 3 information about the defendant’s firearms, including questions that permit the
 4 plaintiff to state with particularity the type and location of any firearm in the
 5 defendant’s possession, ownership, or control or that another person possesses
 6 or controls on behalf of the defendant.

7 * * *

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

9 § 1104. EMERGENCY RELIEF

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

18 * * *

19 (4) An order issued under this section shall:

20 (A) if the plaintiff’s complaint or affidavit includes information that
 21 the defendant possesses, owns, or controls firearms, require the immediate
 22 relinquishment, until the expiration of the order, of all firearms that are in the

1 defendant's possession, ownership, or control or that another person possesses
2 or controls on behalf of the defendant;

3 (B) if the order includes a requirement to vacate, prohibit the
4 defendant from residing at a residence where firearms can be accessed by the
5 defendant;

6 (C) inform the defendant that he or she is prohibited from possessing
7 firearms until the expiration of the order; and

8 (D) if the order requires relinquishment of firearms:

9 (i) include all information available to the court regarding the
10 type, number, and location of firearms subject to the order;

11 (ii) inform the defendant of the provisions of 20 V.S.A.
12 § 2307(b)(1) regarding where the defendant is permitted to relinquish firearms,
13 including notice that third party storage of firearms is not permitted unless the
14 court has made the findings required by 20 V.S.A. § 2307(b)(2);

15 (iii) require the defendant to relinquish the firearms pursuant to
16 the instructions of a law enforcement officer; and

17 (iv) require the defendant to provide the law enforcement officer
18 with:

19 (I) the location of firearms, production or location of keys, and
20 combinations to locks for firearms, safes, and doors unless firearms are turned
21 over without requiring law enforcement access to such locations; and

1 (II) any other information that will assist the officer in the
2 expedited access, retrieval, or delivery of firearms subject to relinquishment.

3 * * *

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

7 (2)(A) The Complaint for Relief from Abuse and the Affidavit in
8 Support of Relief From Abuse Complaint shall include specific provisions
9 collecting information about the defendant’s firearms, including questions that
10 permit the plaintiff to state with particularity the type and location of any
11 firearm in the defendant’s possession, ownership, or control or that another
12 person possesses or controls on behalf of the defendant.

13 (B) The return of service shall include provisions permitting the law
14 enforcement officer to make the indications required by subdivision
15 1105(e)(1)(A) of this title.

16 * * *

17 Sec. 4. 13 V.S.A. § 4017a is added to read:

18 § 4017a. PERSONS SUBJECT TO RELIEF FROM ABUSE ORDERS:

19 PROHIBITION ON POSSESSION OF FIREARMS

20 (a) A person shall not possess, ship, transport, or receive a firearm if the
21 person is the subject of an emergency relief from abuse order issued pursuant

1 to 15 V.S.A. § 1103 or a final relief from abuse order issued pursuant to
2 15 V.S.A. § 1104.

3 (b) A person who violates this section shall be imprisoned not more than
4 two years or fined not more than \$1,000.00, or both.

5 Sec. 5. 15 V.S.A. § 1105 is amended to read:

6 § 1105. SERVICE; WARRANTS

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

13 (b)(1) A defendant who attends a hearing held under section 1103 ~~or 1104~~
14 of this title at which a ~~temporary or~~ final order under this chapter is issued and
15 who receives notice from the court on the record that the order has been issued
16 shall be deemed to have been served. A defendant notified by the court on the
17 record shall be required to adhere immediately to the provisions of the order.
18 However, even when the court has previously notified the defendant of the
19 order, the court shall transmit the order for ~~additional~~ personal service by a law
20 enforcement agency.

21 (2) An ex parte temporary order issued under this chapter shall remain
22 in effect until it is either dismissed by the court or the petition is denied at the

1 final hearing. If a final order is issued, the temporary order shall remain in
2 effect until personal service of the final order.

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

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

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

18 (i) how many firearms were relinquished by the defendant at the
19 time of service; and

20 (ii) whether a law enforcement officer has attempted to contact the
21 plaintiff after service of the order and prior to the return of service being filed
22 with the court.

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

3 (C) After the law enforcement officer has made the indications
4 required by subdivision (1)(A) of this subsection (e), the return of service shall
5 be filed with the court at the earliest possible time and shall take precedence
6 over other summonses and orders. Failure to properly make or complete the
7 indications required by subdivision (1)(A) of this subsection (e), shall not
8 affect the validity of the service.

9 (2) The court may issue a warrant under this subsection for seizure of
10 firearms from the defendant in response to an application for a warrant filed by
11 a law enforcement officer pursuant to Rule 41 of the Vermont Rules of
12 Criminal Procedure.

13 (3)(A) Law enforcement agencies and law enforcement officers shall be
14 immune from civil or criminal liability for any act undertaken or omission
15 made in good faith reliance on the provisions of this subchapter, including:

16 (i) failing to search for, learn of, locate, or seize a firearm;

17 (ii) returning a seized or relinquished weapon to its owner if the
18 owner is not prohibited from owning or possessing firearms under State or
19 Federal law;

20 (iii) causing damage to any property, including a safe damaged
21 while accessing or removing firearms;

22 (iv) enforcing a court order or search warrant; or

1 (A) the location of firearms, production or location of keys, and
2 combinations to locks for firearms, safes, and doors;

3 (B) the time, place, manner, and conditions of relinquishment; and

4 (C) any other information that will assist the officer in the expedited
5 access, retrieval, or delivery of firearms subject to relinquishment.

6 Sec. 7. 15 V.S.A. § 1116 is added to read:

7 § 1116. EXISTING LAW ENFORCEMENT OFFICER AUTHORITY

8 UNAFFECTED

9 Nothing in this subchapter shall be construed in any way to limit or affect
10 the authority of law enforcement officers under existing law or procedure,
11 including any lawful authority to control the movement of individuals at a
12 scene in the interest of protecting safety.

13 * * * Extreme Risk Protection Orders * * *

14 Sec. 8. 13 V.S.A. § 4057 is amended to read:

15 § 4057. PROCEDURE

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

20 * * *

21 (d)(1) For purposes of a petition filed pursuant to this subchapter, a health
22 care provider may notify a law enforcement officer when the provider believes

1 in good faith that disclosure of the information is necessary to prevent or lessen
2 a serious and imminent threat to the health or safety of a person or the public.

3 (2) As used in this subsection:

4 (A) “Health care provider” has the same meaning as in 18 V.S.A.
5 § 9432.

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

12 * * * Conditions of Release Prior to Trial * * *

13 Sec. 9. 13 V.S.A. § 7554 is amended to read:

14 § 7554. RELEASE PRIOR TO TRIAL

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

19 * * *

20 (2) If the judicial officer determines that conditions of release imposed
21 to ensure appearance will not reasonably protect the public, the judicial officer
22 may impose in addition the least restrictive of the following conditions or the

1 least restrictive combination of the following conditions that will reasonably
2 ensure protection of the public:

3 * * *

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

5 * * *

6 * * * Reports * * *

7 Sec. 10. DEPARTMENT OF PUBLIC SAFETY REPORT

8 On or before December 15, 2021, the Department of Public Safety shall
9 inform the House and Senate Committees on Judiciary on the progress of its
10 modernization reform program, including data collection and reporting, and the
11 steps it has taken to provide assistance to local law enforcement agencies in
12 seizing and storing relinquished firearms.

13 Sec. 11. ATTORNEY GENERAL REPORT

14 On or before December 15, 2021, the Attorney General's Office shall report
15 to the House and Senate Committees on Judiciary on the progress of the
16 Firearms Technical Assistance Project, including any barriers to implementing
17 this act.

18 * * * Effective Date * * *

19 Sec. 12. EFFECTIVE DATE

20 This act shall take effect on July 1, 2020.