

Consensus Memorandum on H. 610, Draft 6.1

February 12, 2020

To:

Rep. Maxine Grad, Chair
Members of House Judiciary Committee

From:

Vermont Police Association
Vermont Network Against Domestic and Sexual Violence
Office of the Commissioner, Department of Public Safety
Office of Vermont Attorney General

Dear Chair Grad and Members of the Committee,

Thank you for your work on H. 610, An Act Related to Firearms and Domestic Violence. We met as stakeholders of the bill to discuss draft 6.1 and clarify what areas of disagreement remain. The items listed below are the final items on which the stakeholders could reach agreement. Consensus recommendations for revisions are:

Section 3 – Emergency Relief

- Page 7, line 11: add **number** to read “type, number and location of firearms”

Section 5 – Warrants

- Page 9, line 17: insert **personal** and strike additional to read “transmit the order for personal service”
- Page 10, lines 20-21: revise to read “~~whether and~~ how many firearms were relinquished by the defendant **at the time of service**”
- Page 11, lines 2-3: revise to read “~~if obtainable with reasonable effort,~~ the defendant’s mailing address for service of future orders, **if provided by the defendant**”
- Page 11, line 3: insert (iii) to read “whether a law enforcement officer has attempted to contact plaintiff after service prior to the return of service being filed with the court”
- Page 11, line 6-8: revise to read “The return of service shall be filed with the court at the earliest possible time and shall take precedence over other summonses and **orders following completion of the information in subsection (A). Failure to properly complete the information required in subsection (A) shall not affect the validity of service.**”
- Page 12, line 7: revise to read “...Rule 41 of the Vermont Rules of Criminal Procedure. ~~that there is probable cause to believe.~~”
- Page 12, lines 8-20: strike lines 8-20
- Page 13, line 17: revise to read “...damage of deterioration of firearms relinquished **or seized**...”
- Page 13, lines 1-12: Signed stakeholders accept the Vermont Police Association’s proposal regarding liability language (attached on page 2 of this memo).

The signed stakeholders have engaged in difficult yet very productive conversations about changes and improvements to H. 610, and appreciate the committee’s work to finalize this bill. The Vermont Police Association will be testifying independently about their remaining concerns that the stakeholders could not properly vet.

**Proposed Immunity Language from the Vermont Police Association
Draft 6.1, Page 13, lines 1-12**

(4) Law enforcement agencies and law enforcement officers shall be immune from civil or criminal liability for any act undertaken or omission made in good faith reliance on the provisions of Chapter 21 Title 15, including:

(A) failing to search, learn of, or locate, remove or seize a firearm while executing a warrant issued pursuant to this subsection, or for;

(B) returning a seized or relinquished weapon to its owner if the owner is not prohibited from owning or possessing firearms under state or Federal law;

(C) causing damage to any property, including a safe, damaged while accessing and removing firearms;

(D) enforcing a court order or search warrant; or

(E) conducting a search or seizure pursuant to a judicially recognized exception to the warrant requirement; or

The provisions in this Chapter 21 of Title 15 shall not be construed to create a legal duty to plaintiff or any person, and no action may be filed based upon a claim for which there is no liability under this section.