

Ladies and gentlemen, members of the House Judiciary committee, good morning and thank you for the opportunity to speak today regarding H.133.

My name is Eric Davis, and I am the President of Gun Owners of Vermont, an all-volunteer, non-profit advocacy group dedicated to the preservation of the right to keep and bear arms.

It is our understanding that this bill was drafted in an attempt to clarify a long-standing assumption in existing law that the court has the discretion to remove firearms from a person subject to a relief from abuse order. At first glance this seemed pretty straightforward and I was actually looking forward to a quick and easy testimony today thinking I wouldn't have much to say. However, on closer inspection, a couple things caught our attention.

Our first and most immediate concern is in the last line of the bill where we see that H.133 seeks not only to confiscate the firearms from the defendant, but also those "...that another person possesses or controls on behalf of the defendant."

Current Vermont law allows firearms to be stored by a person accepting legal responsibility for their safekeeping, on behalf of persons subject to a relief from abuse order. That statute is [20 V.S.A. § 2307](#) **Firearms relinquished pursuant to relief from abuse order; storage; fees; return.**

20 V.S.A. 2307 (b)(2)(A) allows that a person relinquish firearms, ammunition, or other weapons to a person other than a cooperating law enforcement agency or an approved FFL during the time period an RFA is in effect **"unless the court finds that relinquishment to the other person will not adequately protect the victim."**

20 V.S.A. 2307 (B) states the requirements of the court order to hold firearms for another person who is subject to an RFA.

20 V.S.A. 2307 (C) states the penalties for violation of the court order to hold firearms.

If existing law on relinquishing firearms already details the restrictions on third party storage, we believe this last line of H.133 to be redundant and unnecessary as it potentially creates new and conflicting processes. We have concern that such a provision might be misinterpreted and even exploited in some cases to take firearms from people who had nothing to do with the incident or abuse in question.

We also have concerns about the standard of evidence in [15 V.S.A. 1103](#), [1104](#) AND [13 V.S.A. 4054](#) (Vermont's ERPO or "Red Flag" law) being that of "Preponderance". It is our position, that in instances where an individual presents significant enough danger to justify forfeiture of their right to keep and carry a firearm, that the decision be made ONLY by due process of law and ONLY by the HIGHEST evidentiary standard, "Beyond a Reasonable Doubt" (or approximately 90% certainty.) We believe that any decision to suspend any constitutional rights of any individual should not be taken lightly, rather, it should be thoroughly deliberated and scrutinized to the highest degree. We hope the committee will take this into consideration when discussing this bill.

Generally speaking, if I may, we also have broader concerns with the overall approach to the problem as it were. If we assume that the problem which we purport to address by legislation is ensuring the safety of victims of domestic violence, or violence in general for that matter, the legislature's attempts in recent years at fixing this problem seem narrowly focused. Specifically, they seem to be focused creating ways to take guns from people who have not yet been convicted of a crime. This is disturbing to us for a few reasons.

Every time we hear about any sort of incident involving a firearm the conversation immediately changes to one that, regardless of all other circumstances, presumes the gun as the focal point of discussion. We have been conditioned to think that every incident involving a gun, even the mere mention of guns should, by default, be viewed through the paradigm of "gun control." We (gun rights advocates) have been tricked into arguing from a predetermined position because the conversation presupposes that "guns" are in themselves a problem and that we should discuss the relative merits of "controlling" them. Considering this, it's no surprise that I cannot remember the last conversation the legislature has had which involves the PROTECTION of this constitutional right, rather we always seem to be discussing what further RESTRICTIONS will be considered this year and what new "tools" will allow us to keep people safe by circumventing the constitution. Gun owners are consistently inundated with the presumption of guilt, as well as restrictive and confiscatory efforts against ALL users.

We believe that we do a disservice not only to gun owners, but to all those impacted by violence when we allow the conversation to take place within these parameters. When we narrowly tailor our focus in this manner; when we approach the problem of violence with the idea that controlling objects will somehow control behavior, we neglect to address the multitude of other contributing factors and thereby lessen our effectiveness. We have to ask the questions: if an individual is such a threat to those around them that they cannot be trusted with a firearm, why would we trust them with any other dangerous devices, and why are those not specified by law? Additionally, if a person has been objectively determined to be "an immediate danger" to those around them, why are they out walking around unsupervised anyway? Does not having a gun suddenly make this person "safe?"

We do not take the issue of violence in our society lightly and we recognize that there are people who need help and protection from those who seek to do harm. We seek to preserve Article 16 and the

Second Amendment specifically because they guarantee protection and deterrence for the average person, and not just those who are physically able to protect themselves or those can afford to outsource their personal security. We also realize that the actions of a very few individuals with guns reflect poorly on the vastly larger group of gun owners as a whole and specifically brings criticism to those of us who seem stubborn about retaining our rights. It is our hope that we might start a conversation about a different approach to the issue of mitigating violence where we begin to analyze individuals and their actions from a psychological perspective and not just a judicial one with a narrow focus on guns.

We find ourselves having to oppose H.133 in its current form as we cannot, in good conscience, support any legislation which allows seizure of firearms without the highest level of adherence to due process.

In Liberty,

Eric Davis  
President  
Gun Owners of Vermont  
[www.gunownersofvt.org](http://www.gunownersofvt.org)