

Vermont Federation of Sportsman's Clubs

Chris Bradley – President & Executive Director

Testimony on S.30 – House Judiciary

1/13/2022

Sec. 1 13 VSA §4023

Sec. 2 13 VSA §4019

Sec. 3 13 VSA §4057

Sec. 4 13 VSA §4062

New 13 VSA §4012

Sec. 1 – Review of Existing Vermont Gun Laws

[13 VSA 1023](#) - Simple Assault (reference to deadly weapon)

[13 VSA 0124](#) - Aggravated Assault

[13 VSA 1025](#) - Reckless Endangerment

[13 VSA 1702](#) - Criminal Threatening

[13 VSA 1703](#) - Domestic Terrorism

[13 VSA 4003](#) - Carrying Dangerous Weapons with intent to injure

[13 VSA 4005](#) - Carrying while committing a felony (exception in 18 VSA 4253)

[13 VSA 4009](#) - Negligent Use of a gun which wounds

[13 VSA 4011](#) - Aiming gun at another

[13 VSA 4016](#) - Weapons in Court

[13 VSA 4017](#) - Persons prohibited from possessing firearms

[13 VSA 4023](#) - **Possession of Firearms in Hospitals (S.30)**

[13 VSA 4053](#) - Extreme Risk Protection Orders

Sec. 1 - Premise of Original S.30

Quote of Lead Sponsor when initially introducing S.30:

As it stands now, if someone carries a gun into a hospital, ... and someone sees the gun and asks them to leave, they have no recourse, a Police Officer can't get rid of that gun, and the person can stand on their rights to have the gun in the environment.

The VTFSC responded that 13 VSA 3705 handles this exact situation; with this statute already in use at Hospitals.

Sec. 1 - Examples of No Trespassing Signage



Central Vermont Hospital



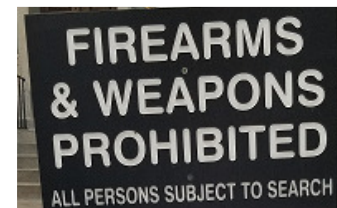
Maplewoods



Pavillion



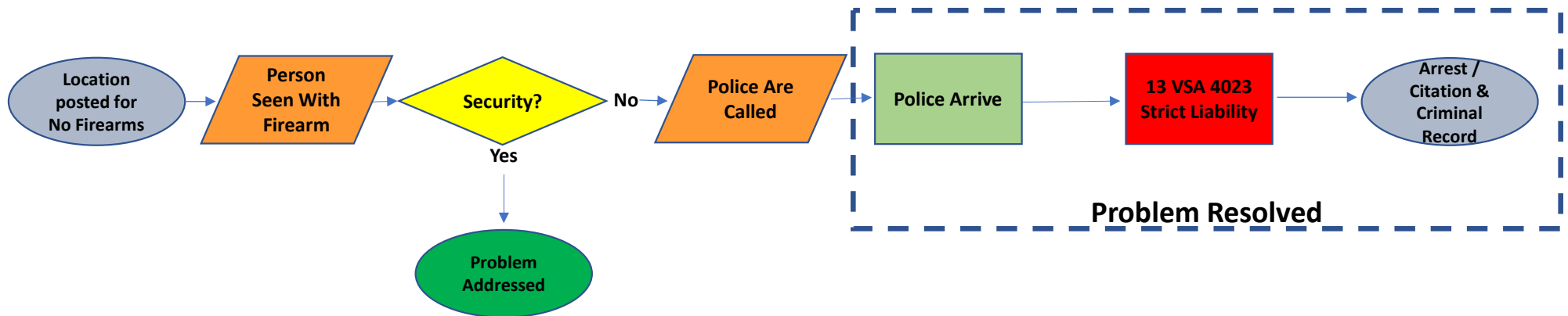
State Buildings and Day Cares were removed from the original version of S.30 as being UN-NEEDED; **13 VSA 3705 works for them.**



Statehouse

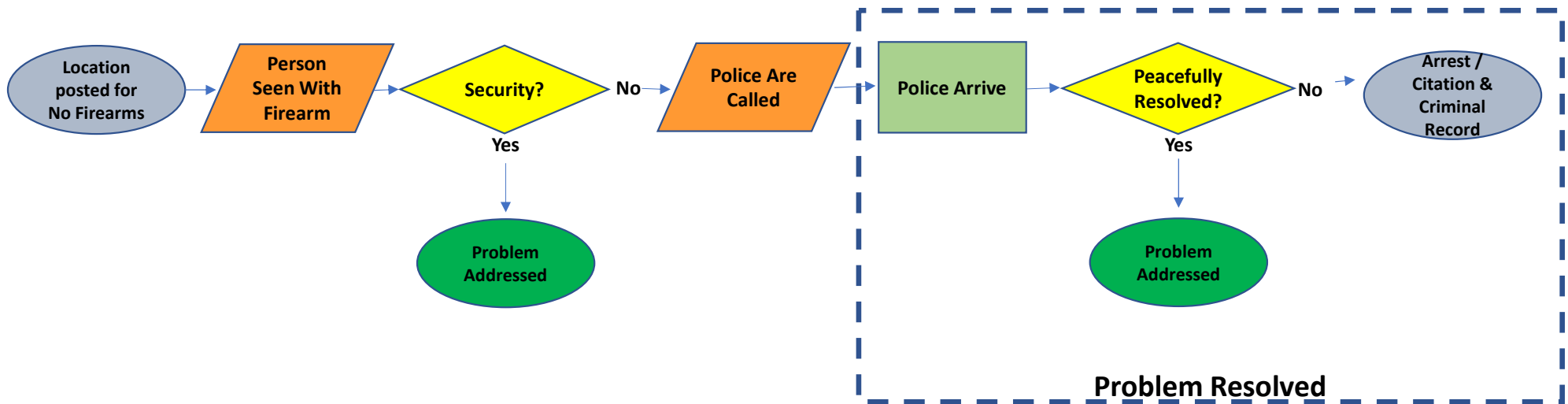
Sec. 1 – Processing of 13 VSA §4023 (S.30)

How 13 VSA §4023 will work:



Sec. 1 - Processing of 13 VSA §3705

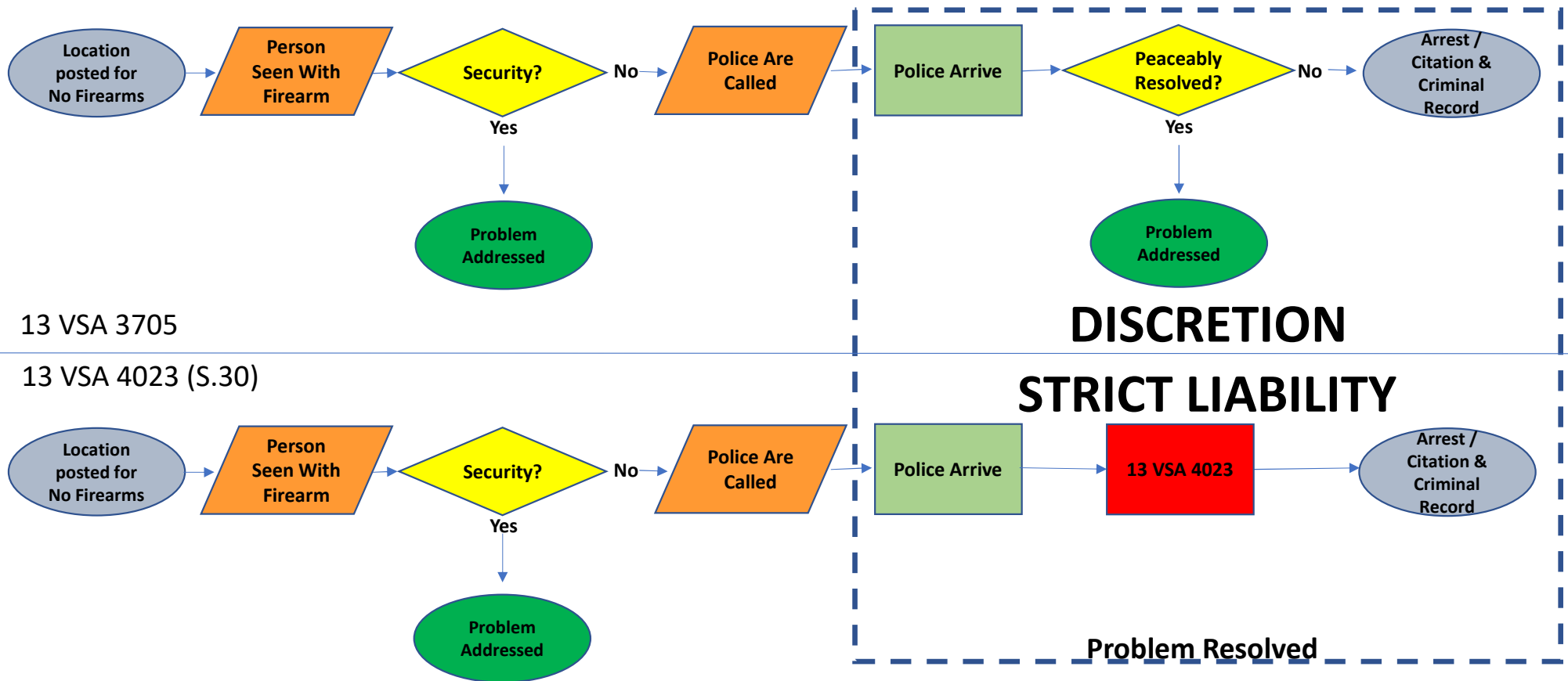
How 13 VSA §3705 works Today:



Lead Sponsor of Original S.30:

"I think it is a fair enough set of questions you pose, if in fact there are other laws that do what S.30 purports to do, then I would say it is a strong argument for not passing it."

Sec. 1 - Comparison 13 VSA 3705 vs 4023 (S.30)



Sec. 1 – Reality of a Bad Person with a Gun



Will a person with evil intent be dissuaded, let alone stopped, by a misdemeanor law?

Sec. 1 - Definition of “Hospital” (18 VSA §1902)

1. "Hospital" means a place devoted primarily to the maintenance and operation of diagnostic and therapeutic facilities for in-patient medical or surgical care of individuals who have an illness, disease, injury, or physical disability, or for obstetrics.
 - A. "**General hospital**" is a hospital of which not more than 50 percent of the total patient days during the year are customarily assignable to the following categories of cases: chronic, convalescent and rest, drug and alcoholic, epilepsy, developmental and psychiatric disabilities and mental conditions, and tuberculosis, and which provides adequate and separate facilities and equipment for the performance of surgery and obstetrics, or either, and for diagnostic X-ray and laboratory services.
 - B. "**Psychiatric hospital**" means a hospital for the diagnosis and treatment of mental illness.
 - C. "**Tuberculosis facility**" means a hospital (excluding preventoria), or the separate tuberculosis unit of a general, psychiatric, or chronic disease hospital for the diagnosis and treatment of tuberculosis.
 - D. "**Chronic disease facility**" means a hospital, or the separate chronic disease unit of a general hospital, for the treatment of chronic illness, including the degenerative diseases. The term does not include facilities primarily for the care of individuals with mental conditions and psychiatric disabilities or tuberculosis, nursing homes, and institutions the primary purpose of which is domiciliary care.
 - E. "**Maternity hospital**" means a hospital which receives maternity patients exclusively, for care during pregnancy, during delivery, or within ten days after delivery.
 - F. "**Nonprofit hospital**" means any hospital owned and operated by a corporation or association, no part of the net earnings of which is applied, or may lawfully be applied, to the benefit of any private shareholder or individual.
 - G. "**Proprietary hospital**" means any hospital operated for individual gain or reward.
 - H. "**Psychiatric facility**" means a type of psychiatric hospital, or separate unit of a general hospital, where patients may obtain diagnostic services and receive intensive treatment for mental illness and where only a minimum of continued treatment facilities will be afforded.
 - I. The provisions of this subdivision (1) do not apply to any of the following institutions:
 - i. Nursing and convalescent homes, boarding homes, homes for the aged, nurseries, and institutions used primarily for domiciliary care;
 - ii. Any hospital conducted, maintained, or operated by the U.S. government or a duly authorized agency thereof.

The Definition of Hospital is EXTREMELY Expansive...it is NOT just “Main” Hospital Buildings

Sec. 1 - Senate Testimony on S.30

Defender General Matt Valerio suggested 4 criteria for evaluation of bills:

1. Are there any constitutional rights implicated?
2. Are there current laws on the books that cover that activity?
3. Will the bill achieve it's intended purpose?
4. Will the bill make anything worse inadvertently for those intended to be corrected?

Sec. 1 - Senate Testimony on S.30

Defender General Matt Valerio then applied that to S.30:

1. Are there any constitutional rights implicated? **“YES”**
2. Are there current laws on the books that cover that activity? **“YES”**
3. Will the bill achieve it’s intended purpose? **“PROBABLY NOT”**
4. Will the bill make anything worse inadvertently for those intended to be corrected? **“YES”. He further indicated that the bill would prevent an employee of the hospital from being able to respond to a threat.**

Sec. 1 - Senate Testimony on S.30

Defender General Valerio shared that he served on the Governor's Violence Prevention Task Force. He then made this statement:

“One of the things that became pretty well recognized when you are talking about actual safety was that more criminal laws and prohibitions on weapons were not going to be the way to increase Public Safety.”

He also stated:

“I understand that there are times to pass bills that in and of themselves aren't going to have a major effect on anything, and this might be one of those times.”

Sec. 1 - VTFSC Request for S.30

Assuming House Judiciary wishes to move forward with this section despite 13 VSA 3705, the Federation respectfully requests that Section (a) of 4023 be changed from:

“A person shall not knowingly possess a firearm while within a hospital building.”

To Be:

“A person shall not knowingly possess a firearm with intent to injure while within a hospital building.”

Sec. 2 – Amendment to 13 VSA §4019

Quick Review of Background Checks:

- Federal Firearm License-holder (FFL) is federally licensed to sell guns
 - Extremely Regulated by Federal Law
- A FFL is not obligated to sell to anyone
 - If an FFL does not like how a person acts or responds – no sale
- When an FFL transfers a gun, a NICS Background Check must be done
 - Except for rare situations, Background Checks are virtually instantaneous
- If problems develop, they are usually due to interpreting state law
 - What is a Felony in one state may be a misdemeanor in another

Sec. 2 – Amendment to 13 VSA §4019

- Under Federal law, if a definitive answer cannot be determined, the sale is allowed to proceed after 3 business days, a “Default Proceed”.
 - Federal Law errs on the side of protecting people’s right to defend themselves
- The perpetrator in Charleston was NOT a Prohibited Person
 - No “loophole”
- For 2018, there were 26,181,936 Background Check transfers in the USA
 - 4,240 (0.0162%) went to prohibited persons thru Default Proceed
- For 2019, there were 35,843 Transfers in Vermont
 - 9 (0.025%) went to prohibited persons thru Default Proceed
 - Mr. Wallin (VCIC Director) testified that:
 - 7 had already been recovered
 - remaining 2 may have already been recovered or were in process of being recovered
 - ATF does the work of recovery

Sec. 2 – Amendment to 13 VSA §4019

- When problems are encountered with NICS data, those problems are typically as a result of records not being properly handled by individual states
- Fix NICS Act of 2017 has been underway to correct errors
 - Instantaneous response rates are increasing
- NICS System works as designed and is being constantly improved
- In (f)(4) states that a person can receive who is imminent risk
 - How does a person convince an FFL that they are in danger such that the FFL will ignore the 30 day requirement and not be in danger of a \$500 fine and/or 1 year?

Sec. 3 – Amendment to 13 VSA §4057

The VTFSC acknowledges that there seem to be a ever increasing number of people with severe problems, and that one source of information is Health Care Providers.

The Definition of Health Care Provider is (18 VSA §9432):

“Health care provider” means a person, partnership, corporation, facility, or institution, licensed or certified or authorized by law to provide professional health care service in this State to an individual during that individual's medical care, treatment, or confinement.

45 CFR refers to “Covered Entity”

Covered Entity Definition:

- A health care plan
- A health care clearing house
- A health care provider who transmits any health information in electronic form

How does “Covered Entity” square with “Health Care Provider”?

Sec. 3 – Amendment to 13 VSA §4057

- Effect on people with problems
 - Will they speak candidly, knowing they may be negatively impacted?
- Veterans
 - These men and women deserve special consideration
- HIPPA
 - The VTFSC believes that HIPPA addresses Patient Confidentiality. Does this proposed law come into conflict with HIPPA?

Sec. 4 – New Statute – 13 VSA §4062

The VTFSC has no issues at this time with this section. We would however be interested in reports that:

1. Show the number of times firearms were relinquished w/ERPO
2. Whether or not relinquished firearms were returned Later

The Federation has no objections to this section as written

New Amendment – 13 VSA §4012

The VTFSC Strongly supports this section, and we would be pleased to answer any questions about this as it was the VTFSC / VSRPA that requested this amendment.

We would ask that:

“...organized shooting competition...”

Be changed to be:

“...organized shooting activity, or historical or educational events...”