An act relating to implementing mechanisms to reduce suicide

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS

The General Assembly finds:

(1) More than 700 Vermont residents died of gunshot wounds in the decade from 2011 to 2020. 88 percent of these deaths were suicide.

(2) Of all the deaths in Vermont involving firearms in 2021, 89 percent were by suicide and eight percent were by homicide.

(3) The 2021 suicide rate by all methods in Vermont was 20.3 per 100,000 persons, compared to a national rate of 14.0 per 100,000 persons. Suicide among Vermont men and boys is 50 percent higher than the national average.

(4) In 2021, the number of suicides in Vermont was 142, with 83 of them completed by firearm, or 58 percent.

(5) Rand Corporation research estimates that in 2016, firearms were present in 47 percent of Vermont homes and in 32 percent of homes in the United States.

(6) Children are 4.4 times more likely to die by suicide in a home with a firearm compared to a home without a firearm.
(7) Persons at greatest risk of suicide in Vermont are men, persons living in rural areas, persons with a disability, veterans, and members of the LGBTQ+ community.

(8) Extreme risk protection orders have proven successful in situations where other protective orders, mental health proceedings, or criminal charges could not address the risk presented. In fiscal year 2022, 18 extreme risk protection order petitions were filed statewide. In at least five of these cases, a temporary or final order was based on a finding that the respondent had “threatened or attempted suicide or serious bodily harm.” None of the respondents subject to an extreme risk prevention order are known to have died by suicide.

(9) Emphasis on the eight percent of firearm deaths by homicide in the State of Vermont does not portray the full impact of Vermont firearms on public safety. Firearms purchased in Vermont and transferred, lawfully or unlawfully, out of state contribute to violent crime in other states, including homicide. A report prepared by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives revealed that in 2016 there were 51 traces of firearms involved in a homicide to the State of Vermont.

(10) The National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns - Volume Two report prepared by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) revealed that between
2017 and 2021, 6,333 firearms that were used in a crime were traced to Vermont. Of the 1,903 firearms that could be traced to a known purchaser, 65 percent were recovered from someone other than the purchaser, and 64 percent were recovered outside the State of Vermont. Over 750 of these firearms were recovered in our neighboring states of New York, Massachusetts, and New Hampshire.

(11) Vermont’s existing laws are not successfully deterring straw purchases where an individual lawfully acquires and then unlawfully transfers a firearm to a prohibited person or someone unable to acquire a firearm in the State of Vermont. Waiting periods are among the policy options available to deter straw purchases and to allow greater opportunity for law enforcement detection and response to such attempts.

(12) Waiting period laws, which create a buffer between the time of gun purchase and gun acquisition, can help to prevent impulsive acts of gun violence. One study found that waiting period laws that delay the purchase of firearms by a few days can reduce gun homicides by roughly 17 percent.

Sec. 2. LEGISLATIVE PURPOSE

The purpose of this legislation is to prevent death by suicide by reducing access to lethal means of firearms. Although there are many other methods for completing suicide, firearms are unique in their ability to create instantaneous and irreversible outcomes. Nearly every other commonly used method for
suicide has a high survivability rate. It is extremely rare for someone to
survive a suicide attempt in which a firearm is used. This fact, combined with
the high prevalence of firearms in Vermont, is why this method alone is being
addressed by this bill.

Sec. 3. 13 V.S.A. § 4024 is added to read:

§ 4024. SECURE FIREARMS STORAGE

(a)(1) Prohibition. A person shall not, within any premises that are under
the person’s custody or control, store or keep a firearm if the person knows or
reasonably should know that a child or prohibited person is likely to gain
access to the firearm, unless the person stores or keeps the firearm:

(A) separate from ammunition; and

(B) in a locked container or equipped with a tamper-resistant
mechanical lock or other safety device, properly engaged so as to render the
firearm inoperable by any person other than the owner or authorized user.

(2) Exception. This subsection shall not apply if the firearm is carried
by or within such close proximity that it can be readily retrieved and used by
the owner or another authorized user.

(3) Conduct not a violation. It shall not be a violation of this subsection
if:

(A) a child or prohibited person accesses the firearm as a result of an
illegal entry; or
(B) a child or prohibited person accesses and uses the firearm during
the course of a lawful act of self-defense or defense of another person.

(b) Penalties. A person who violates subsection (a) of this section shall be:

(1) imprisoned not more than one year or fined not more than $1,000.00,
or both, if a child or prohibited person gains access to the firearm and uses it in
the commission of a crime, or displays it in a threatening manner; or

(2) imprisoned not more than five years or fined not more than
$5,000.00, or both, if a child or prohibited person gains access to the firearm
and uses it to cause death or serious bodily injury to any person.

(c) Charging discretion. If a person who allegedly violates this section is a
parent or guardian of a child who gains access to a firearm that is used in an
unintentional or self-inflicted shooting that causes death or serious bodily
injury to the child, the impact of the child’s death or serious bodily injury on
the person who committed the alleged violation may be considered by the
State’s Attorney when deciding whether to file criminal charges in the case.

(d) Information distribution.

(1) At any location where a licensed dealer conducts firearm sales or
transfers, the licensed dealer shall conspicuously display a sign containing the
information required by subdivision (2) of this subsection in any area where
the sales or transfers occur. The sign shall be posted so that it can be easily
viewed by persons purchasing or receiving firearms, and the sign shall not be
removed, obscured, or rendered illegible. If the location where the sales or
transfers occur is the premises listed on the dealer’s federal firearms license, an
additional sign shall be placed at or near the entrance to the premises.

(2) The sign required by subdivision (1) of this subsection shall be at
least eight and one-half inches high by 11 inches wide and shall contain black
text at least half an inch high against a white background. The sign shall
contain the following text, and no other statements or markings:

“WARNING: Access to a firearm in the home significantly increases the
risk of suicide, death during domestic violence disputes, and the unintentional
death of children, household members, and others. If you or a loved one is
experiencing distress or depression, call the 988 Suicide and Crisis hotline or
text “VT” to 741741.

Vermont law requires gun owners to securely store their firearms
separately from ammunition in their homes and other premises under their
control if a person prohibited from purchasing or possessing firearms or a child
is likely to gain access to them. Failure to securely store firearms as required
by law may result in criminal prosecution.

Posted pursuant to 13 V.S.A. § 4024.”

(e) Definitions. As used in this section:
(1) “Authorized user” means a person 18 years of age or older who is
not a prohibited person and who has been authorized to carry or use the firearm
by the owner.

(2) “Child” means a person under 18 years of age.

(3) “Firearm” has the same meaning as in subsection 4017(d) of this
title.

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

(5) “Locked container” means a box, case, chest, locker, safe, or other
similar receptacle equipped with a tamper-resistant lock.

(6) “Prohibited person” means a person who is prohibited from
possessing a firearm by state or federal law or by court order.

(7) “Serious bodily injury” has the same meaning as in subdivision
1021(a)(2) of this title.

Sec. 4. 13 V.S.A. § 4051 is amended to read:
§ 4051. DEFINITIONS

As used in this subchapter:

* * *

(7) “Household member” means persons who are living together, are
sharing occupancy of a dwelling, are engaged in a sexual relationship, or
minors or adults who are dating. “Dating” means a social relationship of a
romantic nature. Factors that the court may consider when determining whether a dating relationship exists include:

(A) the nature of the relationship;

(B) the length of time the relationship has existed; and

(C) the frequency of interaction between the parties.

Sec. 5. 13 V.S.A. § 4053 is amended to read:

§ 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

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

(b)(1) Except as provided in section 4054 of this title, the court shall grant relief only after notice to the respondent and a hearing. The petitioner shall have the burden of proof by clear and convincing evidence.

(2) When a petition has been filed by a family or household member, the State’s Attorney or Attorney General shall be substituted as the plaintiff in the action upon the issuance of an ex-parte order under section 4054 of this title or at least seven days prior to the hearing for a petition filed under this section.
Upon substitution of the State’s Attorney or Attorney General as the plaintiff, the family or household member shall no longer be a party.

* * *

(d)(1) The court shall hold a hearing within 14 days after a petition is filed under this section. Notice of the hearing shall be served pursuant to section 4056 of this title concurrently with the petition and any ex parte order issued under section 4054 of this title.

(2) If a petition is filed by a family or household member under this section, the court shall transmit a copy of the petition to the State’s Attorney or the Attorney General, along with all supporting documents and the notice of the initial status conference or hearing.

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Sec. 6. 13 V.S.A. § 4054 is amended to read:

§ 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

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

* * *
(b)(1)(A) The court shall grant the motion and issue a temporary ex parte extreme risk protection order if it finds by a preponderance of the evidence that at the time the order is requested the respondent poses an imminent and extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent’s custody or control. The petitioner shall cause a copy of the order to be served on the respondent pursuant to section 4056 of this title, and the court shall deliver a copy to the holding station.

(B) If a motion is filed by a family or household member under this section and the court has issued an ex parte order, the court shall transmit a copy of the motion to the State’s Attorney or the Attorney General, along with all supporting documents and the notice of the initial status conference or hearing.

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Sec. 7. 13 V.S.A. § 4019a is added to read:

§ 4019a. FIREARMS TRANSFERS; WAITING PERIOD

(a) A person shall not transfer a firearm to another person until 72 hours after the licensed dealer facilitating the transfer is provided with a unique identification number for the transfer by the National Instant Criminal Background Check System (NICS), or seven business days have elapsed since
the dealer contacted NICS to initiate the background check, whichever occurs first.

(b) A person who transfers a firearm to another person in violation of subsection (a) of this section shall be imprisoned not more than one year or fined not more than $500.00, or both.

c) This section shall not apply to a firearm transfer that does not require a background check under 18 U.S.C. § 922(s) or section 4019 of this title.

d) As used in this section, “firearm” has the same meaning as in subsection 4017(d) of this title.

e)(1) This section shall not apply to a firearms transfer at a gun show.

(2) As used in this subsection, “gun show” means a function sponsored by:

(A) a national, state, or local organization, devoted to the collection, competitive use, or other sporting use of firearms; or

(B) an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.

(3) This subsection shall be repealed on July 1, 2024.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2023.