

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 230
3 entitled “An act relating to implementing mechanisms to reduce suicide”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 Sec. 1. FINDINGS

8 The General Assembly finds:

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

11 (2) Of all the deaths in Vermont involving firearms in 2021, 89 percent
12 were by suicide and 8 percent were by homicide.

13 (3) The 2021 suicide rate by all methods in Vermont was 20.3 per
14 100,000 persons, compared to a national rate of 14.0 per 100,000 persons.
15 Suicide among Vermont men and boys is 50 percent higher than the national
16 average.

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

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

1 (6) Children are 4.4 times more likely to die by suicide in a home with a
2 firearm compared to a home without a firearm.

3 (7) Persons at greatest risk of suicide in Vermont are men, persons
4 living in rural areas, persons with a disability, veterans, and members of the
5 LGBTQ+ community.

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

14 (9) Emphasis on the 8% of firearm deaths by homicide in the State of
15 Vermont does not portray the full impact of Vermont firearms on public
16 safety. Firearms purchased in Vermont and transferred, lawfully or
17 unlawfully, out of state contribute to violent crime in other states, including
18 homicide. A report prepared by the Federal Bureau of Alcohol, Tobacco,
19 Firearms, and Explosives revealed that in 2016 there were 51 traces of firearms
20 involved in a homicide to the State of Vermont.

1 (10) The National Firearms Commerce and Trafficking Assessment
2 (NFCTA): Crime Guns - Volume Two report prepared by the Federal Bureau
3 of Alcohol, Tobacco, Firearms, and Explosives (ATF) revealed that between
4 2017 and 2021, 6,333 firearms that were used in a crime were traced to
5 Vermont. Of the 1,903 firearms that could be traced to a known
6 purchaser, 65% were recovered from someone other than the purchaser,
7 and 64% were recovered outside the State of Vermont. Over 750 of these
8 firearms were recovered in our neighboring states of New York,
9 Massachusetts, and New Hampshire.

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

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

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1 Sec. 2. LEGISLATIVE PURPOSE

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

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

11 § 4024. SECURE FIREARMS STORAGE

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

16 (A) separate from ammunition; and

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

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

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

6 (A) a child or prohibited person accesses the firearm as a result of an
7 illegal entry; or

8 (B) a child or prohibited person accesses and uses the firearm during
9 the course of a lawful act of self-defense or defense of another person; ~~or~~

10 (C) a child accesses the firearm with the consent of the child's parent
11 or guardian.

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

13 ~~(1) fined not more than \$100.00;~~

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

17 (2) imprisoned not more than five years or fined not more than
18 \$5,000.00, or both, if a child or prohibited person gains access to the firearm
19 and uses it to cause death or ~~serious bodily~~ injury to any person.

20 (c) Charging discretion. If a person who allegedly violates this section is a
21 parent or guardian of a child who gains access to a firearm that is used in an

1 unintentional or self-inflicted shooting that causes death or serious bodily
2 injury to the child, the impact of the child’s death or serious bodily injury on
3 the person who committed the alleged violation shall may be considered by the
4 State’s Attorney when deciding whether to file criminal charges in the case.

5 (d) Information distribution.

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

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

18 “WARNING: Access to a firearm in the home significantly increases the
19 risk of suicide, death during domestic violence disputes, and the unintentional
20 death of children, household members, and others. If you or a loved one is

1 experiencing distress or depression, call the 988 Suicide and Crisis hotline or
2 text “VT” to 741741.

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

8 Posted pursuant to 13 V.S.A. § 4024.”

9 (e) Definitions. As used in this section:

10 (1) **“Authorized user” means a person 18 years of age or older who is**
11 **not a prohibited person and who has been authorized to carry or use the firearm**
12 **by the owner.**

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

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

16 (4) **“Serious bodily injury” means a harmful effect on an individual’s**
17 **health, including the individual’s mental, emotional, or physical health, or a**
18 **combination of these has the same meaning as in subdivision 1021(a)(2) of this**
19 **title.**

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

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

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

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

6 § 4051. DEFINITIONS

7 As used in this subchapter:

8 * * *

9 (7) “Household member” has the same meaning as in 15 V.S.A. § 1101
10 means persons who are living together, are sharing occupancy of a dwelling,
11 are engaged in a sexual relationship, or minors or adults who are dating.
12 “Dating” means a social relationship of a romantic nature. Factors that the
13 court may consider when determining whether a dating relationship exists
14 include:

15 (A) the nature of the relationship;

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

17 (C) the frequency of interaction between the parties.

18 Sec. 5. 13 V.S.A. § 4052 is amended to read:

19 § 4052. JURISDICTION AND VENUE

20 * * *

1 ~~(c) Proceedings under this chapter shall be commenced in the county where~~
2 ~~the law enforcement agency is located, the county where the family or~~
3 ~~household member or the respondent resides, or the county where the events~~
4 ~~giving rise to the petition occur.~~

5 Sec. 6. 13 V.S.A. § 4053 is amended to read:

6 § 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

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

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

16 ~~(2) When a petition has been filed by a family or household member, the~~
17 ~~state's attorney or Attorney General shall be substituted as the plaintiff in the~~
18 ~~action upon the issuance of an ex-parte order under section 4054 of this title or~~
19 ~~at least 7 days prior to the hearing for a petition filed under this section. Upon~~
20 ~~substitution of the state's attorney or Attorney General as the plaintiff, the~~
21 ~~family or household member shall no longer be a party.~~

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(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. 7. 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

1 at the time the order is requested the respondent poses an imminent and
2 extreme risk of causing harm to himself or herself or another person by
3 purchasing, possessing, or receiving a dangerous weapon or by having a
4 dangerous weapon within the respondent's custody or control. The petitioner
5 shall cause a copy of the order to be served on the respondent pursuant to
6 section 4056 of this title, and the court shall deliver a copy to the holding
7 station.

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

13 * * *

14 Sec. 8. 13 V.S.A. § 4055 is amended to read:

15 § 4055. TERMINATION AND RENEWAL MOTIONS

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17 (b)(1) A State's Attorney or, the Office of the Attorney General, or a
18 family or household member may file a motion requesting that the court renew
19 an extreme risk protection order issued under this section or section 4053 of
20 this title for an additional period of up to six months. The motion shall be
21 accompanied by an affidavit and shall be filed not more than 30 days and not

1 ~~less than 14 days before the expiration date of the order. The motion and~~
2 ~~affidavit shall comply with the requirements of subsection 4053(c) of this title,~~
3 ~~and the moving party shall have the burden of proof by clear and convincing~~
4 ~~evidence.~~

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6 Sec. 9. 13 V.S.A. § 4019a is added to read:

7 § 4019a. FIREARMS TRANSFERS; WAITING PERIOD

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

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

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

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

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

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

2 by:

3 (A) a national, state, or local organization, devoted to the collection,

4 competitive use, or other sporting use of firearms; or

5 (B) an organization or association that sponsors functions devoted to

6 the collection, competitive use, or other sporting use of firearms in the

7 community.

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

9 Sec. 10. EFFECTIVE DATE

10 This act shall take effect on ~~passage~~ July 1, 2023.

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13 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE

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