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H.200

Introduced by Representative LaLonde of South Burlington

Referred to Committee on

Date:

Subject: Crimes; possession of firearms; prohibited persons

Statement of purpose of bill as introduced: This bill proposes to make Vermont law consistent with federal law by prohibiting the possession of firearms by persons who have been found by a court to pose a danger of harm to themselves or others as the result of a mental illness, and increases the penalties for second or subsequent offenses of firearms possession by prohibited persons.

An act relating to persons prohibited from possessing firearms

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

Sec. 1. 13 V.S.A. § 4017 is amended to read:

§ 4017. PERSONS PROHIBITED FROM POSSESSING FIREARMS;

CONVICTION OF VIOLENT CRIME

(a) A person shall not possess a firearm if the person has been convicted of a violent crime.

(b) A person who violates this section shall:

1 (1) for a first offense, be imprisoned not more than two years or fined
2 not more than \$1,000.00, or both; or

3 (2) for a second or subsequent offense, be imprisoned not more than
4 three years or fined not more than \$5,000.00, or both.

5 (c) This section shall not apply to a person who is exempt from federal
6 firearms restrictions under 18 U.S.C. § 925(c).

7 (d) As used in this section:

8 (1)(A) “Firearm” means:

9 (i) any weapon (including a starter gun) that will or is designed to
10 or may readily be converted to expel a projectile by the action of an explosive;

11 (ii) the frame or receiver of any such weapon; or

12 (iii) any firearm muffler or firearm silencer.

13 (B) “Firearm” shall not include an antique firearm.

14 (2) “Antique firearm” means:

15 (A) Any firearm (including any firearm with a matchlock, flintlock,
16 percussion cap, or similar type of ignition system) manufactured in or before
17 1898.

18 (B) Any replica of any firearm described in subdivision (A) of this
19 subdivision (2) if the replica:

20 (i) is not designed or redesigned for using rimfire or conventional
21 centerfire fixed ammunition; or

1 (ii) uses rimfire or conventional centerfire fixed ammunition that
2 is no longer manufactured in the United States and that is not readily available
3 in the ordinary channels of commercial trade.

4 (C) Any muzzle loading rifle, muzzle loading shotgun, or muzzle
5 loading pistol that is designed to use black powder or a black powder substitute
6 and that cannot use fixed ammunition. As used in this subdivision (C),
7 “antique firearm” shall not include a weapon that incorporates a firearm frame
8 or receiver, a firearm that is converted into a muzzle loading weapon, or any
9 muzzle loading weapon that can be readily converted to fire fixed ammunition
10 by replacing the barrel, bolt, breechblock, or any combination thereof.

11 (3) “Violent crime” means:

12 (A)(i) A listed crime as defined in subdivision 5301(7) of this title
13 other than:

14 (I) lewd or lascivious conduct as defined in section 2601 of this
15 title;

16 (II) recklessly endangering another person as defined in section
17 1025 of this title;

18 (III) operating a vehicle under the influence of alcohol or other
19 substance with either death or serious bodily injury resulting as defined in 23
20 V.S.A. § 1210(f) and (g);

1 (IV) careless or negligent operation resulting in serious bodily
2 injury or death as defined in 23 V.S.A. § 1091(b);

3 (V) leaving the scene of an accident resulting in serious bodily
4 injury or death as defined in 23 V.S.A. § 1128(b) or (c); or

5 (VI) a misdemeanor violation of chapter 28 of this title, relating
6 to abuse, neglect, and exploitation of vulnerable adults; or

7 (ii) a comparable offense and sentence in another jurisdiction if
8 the offense prohibits the person from possessing a firearm under 18 U.S.C. §
9 922(g)(1) or 18 U.S.C. § 921(a)(20).

10 (B) An offense involving sexual exploitation of children in violation
11 of chapter 64 of this title; or a comparable offense and sentence in another
12 jurisdiction if the offense prohibits the person from possessing a firearm under
13 18 U.S.C. § 922(g)(1) or 18 U.S.C. § 921(a)(20).

14 (C) A violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c) (selling,
15 dispensing, or trafficking cocaine); 4232(b)(2) or (b)(3) (selling or dispensing
16 LSD); 4233(b)(2), (b)(3), or (c) (selling, dispensing, or trafficking heroin);
17 4234(b)(2) or (b)(3) (selling or dispensing depressants, stimulants, and
18 narcotics); 4234a(b)(2), (b)(3), or (c) (selling, dispensing, or trafficking
19 methamphetamine); 4235(c)(2) or (c)(3) (selling or dispensing hallucinogenic
20 drugs); 4235a(b)(2) or (b)(3) (selling or dispensing Ecstasy), or a comparable
21 offense and sentence in another jurisdiction if the offense prohibits the person

1 from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C. §
2 921(a)(20).

3 (D) A conviction of possession with intent to distribute a controlled
4 substance other than cannabis in another jurisdiction if the offense prohibits the
5 person from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C.
6 § 921(a)(20).

7 Sec. 2. 13 V.S.A. § 4017a is amended to read:

8 § 4017a. FUGITIVES FROM JUSTICE; PERSONS SUBJECT TO FINAL
9 RELIEF FROM ABUSE OR STALKING ORDER; PERSONS
10 CHARGED WITH CERTAIN OFFENSES; PROHIBITION ON
11 POSSESSION OF FIREARMS

12 (a) A person shall not possess a firearm if the person:

13 (1) is a fugitive from justice;

14 (2) is the subject of a final relief from abuse order issued pursuant to
15 15 V.S.A. § 1103;

16 (3) is the subject of a final order against stalking issued pursuant to
17 12 V.S.A. § 5133 if the order prohibits the person from possessing a firearm;

18 ~~or~~

19 (4) is a person against whom charges are pending for:

20 (A) carrying a dangerous weapon while committing a felony in
21 violation of section 4005 of this title;

1 (B) trafficking a regulated drug in violation of 18 V.S.A. chapter 84,
2 subchapter 1; or

3 (C) human trafficking or aggravated human trafficking in violation of
4 section 2652 or 2653 of this title; or

5 (5)(A)(i) has been found by the court to be a person in need of treatment
6 pursuant to section 4822 of this title; or

7 (ii) has been the subject of a hospitalization order issued by the
8 court pursuant to 18 V.S.A. § 7617(b)(1) or (2) or a nonhospitalization order
9 issued by the court pursuant to 18 V.S.A. § 7617(b)(3).

10 (B) This subdivision (5) shall not apply to a person if the Family
11 Division grants a petition for relief from firearms disability for the person
12 pursuant to section 4825 of this title.

13 (b) A person who violates this section shall:

14 (1) for a first offense, be imprisoned not more than two years or fined
15 not more than \$1,000.00, or both; or

16 (2) for a second or subsequent offense, be imprisoned not more than
17 three years or fined not more than \$5,000.00, or both.

18 (c) As used in this section:

19 (1) “Firearm” has the same meaning as in section 4017 of this title.

20 (2) “Fugitive from justice” means a person who has fled to avoid
21 prosecution for a crime or to avoid giving testimony in a criminal proceeding.

- 1 Sec. 3. EFFECTIVE DATE
- 2 This act shall take effect on passage.