

## VERMONT TESTIMONY

### **MENTAL HEALTH PROHIBITOR**

Vermont has made remarkable strides in gun violence prevention over the past several years. This bill would address one of the remaining foundational policies that it lacks: a prohibition on firearm possession for those who have been found by a court to be a danger to themselves or to others by reason of mental illness.

This bill would bring Vermont closer into line with federal law and 29 other states. Federal law bars individuals who have been involuntarily committed to psychiatric facilities from having guns and has for more than 50 years. A separate state prohibition is important to ensure that state authorities can properly enforce this law. This bill is a step in the right direction: It prohibits people who are subject to court orders for mental health treatment, whether in a hospital or in outpatient facilities, from possessing firearms. Under Vermont law, courts order such mental health treatment when a person's "capacity to exercise self-control, judgment, or discretion... is so lessened that [they] pose a danger of harm to himself, to herself, or to others." (See 18 V.S.A. § 7101 and 18 V.S.A. § 7617). The key core concept here is that this bill requires a court to find, under existing state law procedures, that a person is a danger to themselves or to others by reason of mental illness. This firearm prohibition therefore does not apply when someone merely has a mental health diagnosis, or when someone is simply voluntarily seeking treatment for a mental health condition. It requires the determination of a court, under a very specific process already firmly established in state law, that a person is a danger to themselves or to others by reason of mental illness. The "dangerousness" element is the key here. These are very longstanding restrictions in both federal and state law. The Supreme Court, in *DC v. Heller*, stated that its decision was not questioning "longstanding prohibitions on the possession of firearms by felons and the mentally ill." And in the Supreme Court's *Rahimi* decision in 2024, the Court specifically evaluated and upheld a prohibition on possession by someone who had been found by a court to be a danger to others. While that involved a domestic violence restraining order rather than a mental health finding, the key is the dangerousness component. These restrictions, which again exist in federal law and the majority of states, are constitutional.

Additionally, a prohibition like this is still important, even in a state that has instituted a "red flag law." That law, which allows a court to order that the firearms of a person posing an immediate threat of harm to themselves or to others be temporarily seized, addresses a very acute, very immediate and emergency situation. The orders are very short, lasting only from 14 days to six months. And though they can continue to be extended under some circumstances, they should exist in conjunction with a more robust and comprehensive system that this bill would provide.