

1 S.329

2 Senator Hashim moves that the bill be amended by adding a new Secs. 6, 7,  
3 and 8 to read as follows:

4 Sec. 6. 20 V.S.A. § 2307 is amended to read:

5 § 2307. FIREARMS RELINQUISHED PURSUANT TO RELIEF FROM  
6 ABUSE ORDER; STORAGE; FEES; RETURN

7 (a) Definitions. As used in this section:

8 (1) “Federally licensed firearms dealer” means a licensed importer,  
9 licensed manufacturer, or licensed dealer required to conduct national instant  
10 criminal background checks under 18 U.S.C. § 922(t).

11 (2) “Firearm” ~~shall have~~ has the same meaning as in 18 U.S.C. §  
12 921(a)(3).

13 (3) “Law enforcement agency” means the Vermont State Police, a  
14 municipal police department, or a sheriff’s department.

15 (4) “Third party” means a person other than a cooperating law  
16 enforcement agency or an approved federally licensed firearms dealer.

17 (b) Relinquishment.

18 (1) A person who is required to relinquish firearms, ~~ammunition,~~ or  
19 other weapons in the person’s possession by a court order issued under 15  
20 V.S.A. chapter 21 (abuse prevention), 13 V.S.A chapter 85, subchapter 2  
21 (extreme risk protection orders) or any other provision of law consistent with

1 18 U.S.C. § 922(g)(8) shall, ~~unless the court orders an alternative~~  
2 ~~relinquishment pursuant to subdivision (2) of this subsection,~~ upon service of  
3 the order immediately relinquish the firearms, ~~ammunition,~~ or weapons to a  
4 cooperating law enforcement agency or an approved federally licensed  
5 firearms dealer. As used in this subdivision, “person” means anyone who  
6 meets the definition of “intimate partner” under 18 U.S.C. § 921(a)(32) or who  
7 qualifies as a family or household member under 15 V.S.A. § 1101, or any  
8 person who is subject to an extreme risk protection order. The court may order  
9 an alternative relinquishment to a third party if after a hearing the court finds  
10 that the alternative relinquishment adequately protects the safety of the  
11 protected parties.

12 (2)(A) ~~The court may order that the person relinquish the firearms,~~  
13 ~~ammunition, or other weapons to a person other than a cooperating law~~  
14 ~~enforcement agency or an approved federally licensed firearms dealer unless~~  
15 ~~the court finds that relinquishment to the other person will not adequately~~  
16 ~~protect the safety of the victim~~

17 (i) Firearms shall not be held by a third party unless approved by  
18 the court using the process set forth in this subdivision (2).

19 (ii) A final relief from abuse hearing under 15 V.S.A. § 1103 or an  
20 extreme risk protection order hearing under 13 V.S.A. § 4053 shall not be  
21 continued solely for the purpose of approval of a third party. If the court is

1 unable to accommodate hearing from the proposed third party at the hearing or  
2 if the defendant is not prepared to present the third party, the defendant may  
3 file a motion using a form approved by the court administrator to request a  
4 hearing at a later date on whether the proposed third party should be permitted  
5 to hold surrendered firearms.

6 (iii) To be considered as a third party eligible to hold surrendered  
7 firearms, the third party shall agree to undergo a background check through the  
8 National Instant Criminal Background Check System (NICS) to verify that the  
9 person is legally permitted to have a firearm. The background check required  
10 by this subdivision shall be provided to the court.

11 (B) ~~A person to whom firearms, ammunition, or other weapons are~~  
12 ~~relinquished pursuant to subdivision (2)(A) of this subsection (b)~~ The proposed  
13 third party shall execute an affidavit on a form approved by the Court  
14 Administrator stating that the person:

15 (i) acknowledges receipt of the firearms, ~~ammunition,~~ or other  
16 weapons;

17 (ii) assumes responsibility for storage of the firearms,  
18 ~~ammunition,~~ or other weapons until further order of the court, and specifies the  
19 manner in which ~~he or she~~ the person will provide secure storage of such  
20 items;

1 (iii) is not prohibited from owning or possessing firearms under  
2 State or federal law; and

3 (iv) understands the obligations and requirements of the court  
4 order, including the potential for the person to be subject to civil contempt  
5 proceedings pursuant to subdivision ~~(2)~~(C) of this ~~subsection~~ subdivision  
6 (b)(2) if the person permits the firearms, ~~ammunition~~, or other weapons to be  
7 possessed, accessed, or used by the person who relinquished the item or by any  
8 other person not authorized by law to do so.

9 (C) A ~~person to whom firearms, ammunition, or other weapons are~~  
10 ~~relinquished pursuant to subdivision (2)(A) of this subsection (b)~~ third party  
11 shall be subject to civil contempt proceedings under 12 V.S.A. chapter 5 if the  
12 person permits the firearms, ~~ammunition~~, or other weapons to be possessed,  
13 accessed, or used by the person who relinquished the item or by any other  
14 person not authorized by law to do so. In the event that the person required to  
15 relinquish the firearms, ~~ammunition~~, or other weapons or any other person not  
16 authorized by law to possess the relinquished items obtains access to,  
17 possession of, or use of a relinquished item, all relinquished items shall be  
18 immediately transferred to the possession of a law enforcement agency or  
19 approved federally licensed firearms dealer pursuant to subdivision (1) of this  
20 subsection (b).

1       (c) Obligation to catalogue; evidentiary firearms excluded. A law  
2 enforcement agency or an approved federally licensed firearms dealer that  
3 takes possession of a firearm, ~~ammunition~~, or other weapon pursuant to  
4 subdivision (b)(1) of this section shall photograph, catalogue, and store the  
5 item in accordance with standards and guidelines established by the  
6 Department of Public Safety pursuant to ~~subdivision (i)(3)~~ subsection (k) of  
7 this section. A firearm, ~~ammunition~~, or other weapon shall not be taken into  
8 possession pursuant to this section if it is being or may be used as evidence in a  
9 pending criminal matter.

10       (d) Acknowledgement form. A defendant who is required to relinquish  
11 firearms pursuant to a court order issued under 15 V.S.A. chapter 21 (abuse  
12 prevention), 13 V.S.A chapter 85, subchapter 2 (extreme risk protection), or  
13 any other provision of law consistent with 18 U.S.C. § 922(g)(8) shall  
14 complete a form approved by the court administrator acknowledging that  
15 surrender has occurred and documenting the holder of the firearms. The form  
16 shall be filed with the court or law enforcement, or both, as directed by the  
17 court order.

18       (e) Fees.

19           (1) A law enforcement agency that stores firearms, ~~ammunition~~, or  
20 weapons pursuant to subdivision (b)(1) of this section may charge the owner a  
21 reasonable storage fee, not to exceed:

1 (A) \$200.00 for the first firearm or weapon, and \$50.00 for each  
2 additional firearm or weapon for up to 15 months, prorated on the number of  
3 months the items are stored; and

4 (B) \$50.00 per firearm or weapon per year for each year or part  
5 thereof thereafter.

6 (2) A federally licensed firearms dealer that stores firearms,  
7 ~~ammunition~~, or weapons pursuant to subdivision (b)(1) of this section may  
8 charge the owner a storage fee that is reasonably related to the expenses it  
9 incurs in the administration of this section. Any federally licensed firearm  
10 dealer that certifies compliance under this section shall provide a copy of its  
11 fee schedule to the ~~court~~ Department of Public Safety upon request.

12 (3) Fees permitted by this subsection shall not begin to accrue until after  
13 the court issues a final relief from abuse order pursuant to 15 V.S.A. § 1103 or  
14 a final extreme risk protection order pursuant to 13 V.S.A § 4053.

15 ~~(e)~~(f) Sale. Nothing in this section shall be construed to prohibit the lawful  
16 sale of firearms or other items.

17 ~~(f) A final relief from abuse order issued pursuant to 15 V.S.A. § 1103~~  
18 ~~requiring a person to relinquish firearms, ammunition, or other weapons shall~~  
19 ~~direct the law enforcement agency, approved federally licensed firearms~~  
20 ~~dealer, or other person in possession of the items under subsection (b) of this~~

1 ~~section to release them to the owner upon expiration of the order if all~~  
2 ~~applicable fees have been paid.~~

3 (g) Law enforcement storage of firearms with a federally licensed firearms  
4 dealer.

5 (1) Law enforcement agencies that do not have the capacity to store  
6 firearms or do not elect to store nonevidentiary firearms may store  
7 nonevidentiary firearms relinquished to them pursuant to a relief from abuse  
8 order, an extreme risk protection order, or any other provision of law  
9 consistent with 18 U.S.C. § 922(g)(8) with a federally licensed firearms dealer,  
10 provided that the agency provides timely notice to the person surrendering the  
11 firearm of the transfer. The notice shall include the following information:

12 (A) It is the defendant's responsibility to keep the federally licensed  
13 firearms dealer informed of any address changes.

14 (B) The costs of the storage fees that the defendant will be  
15 responsible for paying.

16 (C) If the defendant fails to retrieve the firearms within 90 days after  
17 being eligible for release, the defendant forfeits ownership of the firearms and  
18 the firearms may be sold and all proceeds retained by the federally licensed  
19 firearms dealer or law enforcement agency that provided storage.

20 (D) Information about how to file a request with the court to have a  
21 third party provide storage.

1           (E) The eligibility requirements that a proposed third party is  
2           required to meet to hold firearms.

3           (2) The notice required by subdivision (1) of this subsection may be  
4           provided by the federally licensed firearms dealer to the defendant directly,  
5           provided that the dealer or law enforcement agency, or both, keeps a record to  
6           document that notice was provided.

7           (3) Law enforcement agencies that store nonevidentiary firearms with a  
8           federally licensed firearms dealer shall provide the dealer with:

9                   (A) the name of the owner of the firearms;

10                   (B) contact information for the owner to include name, date of birth,  
11                   phone number, and current address;

12                   (C) docket information about the court order requiring firearms  
13                   surrender; and

14                   (D) if requested by the dealer, information about any changes to the  
15                   court order.

16           (4) Federally licensed firearms dealers shall not be used to store firearms  
17           relinquished pursuant to a temporary relief from abuse order issued pursuant to  
18           15 V.S.A. § 1104 or a temporary extreme risk protection order issued pursuant  
19           to 13 V.S.A § 4054 unless the defendant chooses to have the dealer hold the  
20           firearms and agrees to pay storage fees that accrue while the temporary order is  
21           in effect.

1        (h) Victim notification of release of firearms. Prior to releasing firearms  
2        under this section, law enforcement agencies shall make reasonable efforts to  
3        provide notice to the plaintiff at least 24 hours in advance before the firearms  
4        are released unless the plaintiff is present in court when the court order  
5        requiring relinquishment is dismissed and is orally informed on the record that  
6        firearms will be released.

7        (i) Release of firearms.

8        (1) A law enforcement agency, an approved federally licensed firearms  
9        dealer, or any other person that takes possession of firearms, ~~ammunition,~~ or  
10       weapons for storage purposes pursuant to this section shall not release the  
11       items to the owner without a court order unless the items are to be sold  
12       pursuant to subdivision (2)(A) of this subsection. If a court orders the release  
13       of firearms, ~~ammunition,~~ or weapons stored under this section, the law  
14       enforcement agency or firearms dealer in possession of the items shall make  
15       them available to the owner within ~~three business days of receipt of the order~~  
16       and in a manner consistent with federal law 72 hours after completion of a  
17       background check through the National Instant Criminal Background Check  
18       System (NICS). The Supreme Court may promulgate rules under 12 V.S.A. §  
19       1 for judicial proceedings under this subsection.

20       (2)(A)(i) If the owner fails to retrieve the firearm, ~~ammunition,~~ or  
21       weapon and pay the applicable storage fee within 90 days of following the

1 court order releasing the items, the firearm,~~ammunition,~~ or weapon may be  
2 sold for fair market value. Title to the items shall pass to the law enforcement  
3 agency or firearms dealer for the purpose of transferring ownership, except that  
4 the Vermont State Police shall follow the procedure described in section 2305  
5 of this title.

6 (ii) The law enforcement agency or approved firearms dealer shall  
7 make a reasonable effort to notify the owner of the sale before it occurs. In no  
8 event shall the sale occur until after the court issues a final relief from abuse  
9 order pursuant to 15 V.S.A. § 1103 or a final extreme risk protection order  
10 pursuant to 13 V.S.A. § 4053.

11 (iii) As used in this subdivision (2)(A), “reasonable effort” shall  
12 mean notice shall be served as provided for by Rule 4 of the Vermont Rules of  
13 Civil Procedure.

14 (B) ~~Proceeds from the sale of a firearm, ammunition, or weapon~~  
15 ~~pursuant to subdivision (A) of this subdivision (2) shall be apportioned as~~  
16 ~~follows:~~

17 ~~(i) unpaid storage fees and associated costs, including the costs of~~  
18 ~~sale and of locating and serving the owner, shall be paid to the law~~  
19 ~~enforcement agency or firearms dealer that incurred the cost; and~~

20 ~~(ii) any proceeds remaining after payment is made to the law~~  
21 ~~enforcement agency or firearms dealer pursuant to subdivision (i) of this~~

1 ~~subdivision (2)(B) shall be paid to the original owner~~ If firearms eligible for  
2 release are not claimed by the owner, the federally licensed firearms dealer or  
3 law enforcement agency storing the firearms shall provide a certified letter to  
4 the owner's last known address. If the firearms are not claimed within 90 days  
5 after notice by certified letter, the firearms may be sold by the dealer or law  
6 enforcement agency and the dealer or law enforcement agency may retain all  
7 proceeds from the sale.

8 ~~(h)~~(j) Immunity.

9 (1) A federally licensed firearms dealer or law enforcement agency that  
10 stores firearms in accordance with this section shall be immune from:

11 (A) civil or criminal liability for the sale of firearms, provided that  
12 notice is provided as required by subsection (g) of this section; and

13 (B) civil or criminal liability for any damage or deterioration of  
14 firearms, ~~ammunition,~~ or weapons stored or transported pursuant to subsection  
15 (c) of this section.

16 (2) This subsection shall not apply if the damage or deterioration  
17 occurred as a result of recklessness, gross negligence, or intentional  
18 misconduct by the law enforcement agency or federally licensed firearms  
19 dealer.

20 ~~(i)~~(k) Department of Public Safety. The Department of Public Safety shall  
21 be responsible for the implementation and establishment of standards and

1 guidelines to carry out this section. To carry out this responsibility, the  
2 Department shall:

3 (1) Establish minimum standards to be a qualified storage location and  
4 maintain a list of qualified storage locations, including:

5 (A) federally licensed firearms dealers that annually certify  
6 compliance with the Department's standards to receive firearms, ~~ammunition,~~  
7 or other weapons pursuant to subdivision (b)(2) of this section; and

8 (B) cooperating law enforcement agencies.

9 (2) Adopt a policy that encourages and supports federally licensed  
10 firearms dealers to provide storage for prohibited persons.

11 (3) Establish a fee schedule consistent with the fees established in this  
12 section for the storage of firearms and other weapons by law enforcement  
13 agencies pursuant to this section.

14 ~~(3)~~(4) Establish standards and guidelines to provide for the storage of  
15 firearms, ~~ammunition,~~ and other weapons pursuant to this section by law  
16 enforcement agencies. Such guidelines shall provide that:

17 (A) with the consent of the law enforcement agency taking  
18 possession of a firearm, ~~ammunition,~~ or weapon under this section, an owner  
19 may provide a storage container for the storage of such relinquished items;

1 (B) the law enforcement agency that takes possession of the firearm;  
2 ~~ammunition~~, or weapon may provide a storage container for the relinquished  
3 item or items at an additional fee; and

4 (C) the law enforcement agency that takes possession of the firearm;  
5 ~~ammunition~~, or weapon shall present the owner with a receipt at the time of  
6 relinquishment that includes the serial number and identifying characteristics  
7 of the firearm, ~~ammunition~~, or weapon and record the receipt of the item or  
8 items in a log to be established by the Department.

9 ~~(4)~~(5) Report on January 15, 2015, and annually thereafter to the House  
10 and Senate Committees on Judiciary on the status of the program. The  
11 provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply  
12 to the report to be made under this subdivision.

13 Sec. 7. 20 V.S.A. § 2308 is added to read:

14 § 2308. STATEWIDE MODEL POLICY PROHIBITING FIREARMS

15 ACCESS BY PROHIBITED PERSONS

16 (a) On or before December 30, 2026, the Department of Public Safety shall  
17 direct the Law Enforcement Advisory Board (LEAB) to adopt a statewide  
18 model law enforcement policy addressing firearms access by persons who are  
19 prohibited from possessing firearms pursuant to relief from abuse orders,  
20 extreme risk protection orders, or other legal prohibitions. The policy shall  
21 create a legal, safe, and fair process, including necessary forms and delineated

1 roles and responsibilities, for law enforcement agencies interacting with  
2 federally licensed firearms dealers that are storing firearms for prohibited  
3 persons. The policy shall address the following:

4 (1) legal removal of firearms from the scene of a domestic violence  
5 incident;

6 (2) steps for inquiry and lawful removal of firearms by law enforcement  
7 when serving protective orders;

8 (3) a process for notifying the plaintiff about service and relinquishment,  
9 appropriate handling and storage of firearms; and

10 (4) methods of data collection about the number and type of firearms  
11 surrendered, including descriptions of the firearms.

12 (b) On or before June 30, 2027, every state, county, and municipal law  
13 enforcement agency shall adopt a model firearms surrender policy that  
14 includes each component of the LEAB model. If an agency has not adopted a  
15 policy on or before June 30, 2027, the agency shall be deemed to have adopted,  
16 and shall follow and enforce, the LEAB model.

17 Sec. 8. 13 V.S.A. § 4059 is amended to read:

18 § 4059. RELINQUISHMENT, STORAGE, AND RETURN OF  
19 DANGEROUS WEAPONS

20 (a) A person who is required to relinquish a dangerous weapon other than a  
21 firearm in the person's possession, custody, or control by an extreme risk

1 protection order issued under section 4053, 4054, or 4055 of this title shall  
2 upon service of the order immediately relinquish the dangerous weapon to a  
3 cooperating law enforcement agency. The law enforcement agency shall  
4 transfer the weapon to the Bureau of Alcohol, Tobacco, Firearms and  
5 Explosives for proper disposition.

6 (b)(1) A person who is required to relinquish a firearm in the person's  
7 possession, custody, or control by an extreme risk protection order issued  
8 under section 4053, 4054, or 4055 of this title shall, ~~unless the court orders an~~  
9 ~~alternative relinquishment pursuant to subdivision (2) of this subsection, upon~~  
10 ~~service of the order immediately relinquish the firearm to a cooperating law~~  
11 ~~enforcement agency or an approved federally licensed firearms dealer~~  
12 relinquish the firearm pursuant to the procedures required by 20 V.S.A.  
13 § 2307.

14 (2)(A) ~~The court may order that the person relinquish a firearm to a~~  
15 ~~person other than a cooperating law enforcement agency or an approved~~  
16 ~~federally licensed firearms dealer unless the court finds that relinquishment to~~  
17 ~~the other person will not adequately protect the safety of any person.~~

18 (B) ~~A person to whom a firearm is relinquished pursuant to~~  
19 ~~subdivision (A) of this subdivision (2) shall execute an affidavit on a form~~  
20 ~~approved by the Court Administrator stating that the person:~~

21 (i) acknowledges receipt of the firearm;

1           (ii) ~~assumes responsibility for storage of the firearm until further~~  
2           ~~order of the court and specifies the manner in which he or she will provide~~  
3           ~~secure storage;~~

4           (iii) ~~is not prohibited from owning or possessing firearms under~~  
5           ~~State or federal law; and~~

6           (iv) ~~understands the obligations and requirements of the court~~  
7           ~~order, including the potential for the person to be subject to civil contempt~~  
8           ~~proceedings pursuant to subdivision (C) of this subdivision (2) if the person~~  
9           ~~permits the firearm to be possessed, accessed, or used by the person who~~  
10           ~~relinquished the item or by any other person not authorized by law to do so.~~

11           (C) ~~A person to whom a firearm is relinquished pursuant to~~  
12           ~~subdivision (A) of this subdivision (2) shall be subject to civil contempt~~  
13           ~~proceedings under 12 V.S.A. chapter 5 if the person permits the firearm to be~~  
14           ~~possessed, accessed, or used by the person who relinquished the item or by any~~  
15           ~~other person not authorized by law to do so. In the event that the person~~  
16           ~~required to relinquish the firearm or any other person not authorized by law to~~  
17           ~~possess the relinquished item obtains access to, possession of, or use of a~~  
18           ~~relinquished item, all relinquished items shall be immediately transferred to the~~  
19           ~~possession of a law enforcement agency or approved federally licensed~~  
20           ~~firearms dealer pursuant to subdivision (b)(1) of this section.~~

1       (c) ~~A law enforcement agency or an approved federally licensed firearms~~  
2 ~~dealer that takes possession of a firearm pursuant to subdivision (b)(1) of this~~  
3 ~~section shall photograph, catalogue, and store the item in accordance with~~  
4 ~~standards and guidelines established by the Department of Public Safety~~  
5 ~~pursuant to 20 V.S.A. § 2307(i)(3). [Repealed.]~~

6       (d) ~~Nothing in this section shall be construed to prohibit the lawful sale of~~  
7 ~~firearms or other items. [Repealed.]~~

8       (e) ~~An extreme risk protection order issued pursuant to section 4053 of this~~  
9 ~~title or renewed pursuant to section 4055 of this title shall direct the law~~  
10 ~~enforcement agency, approved federally licensed firearms dealer, or other~~  
11 ~~person in possession of a firearm under subsection (b) of this section to release~~  
12 ~~it to the owner upon expiration of the order. [Repealed.]~~

13       (f)(1) ~~A law enforcement agency, an approved federally licensed firearms~~  
14 ~~dealer, or any other person who takes possession of a firearm for storage~~  
15 ~~purposes pursuant to this section shall not release it to the owner without a~~  
16 ~~court order unless the firearm is to be sold pursuant to subdivision (2)(A) of~~  
17 ~~this subsection. If a court orders the release of a firearm stored under this~~  
18 ~~section, the law enforcement agency or firearms dealer in possession of the~~  
19 ~~firearm shall make it available to the owner within three business days after~~  
20 ~~receipt of the order and in a manner consistent with federal law.~~

1           ~~(2)(A)(i) If the owner fails to retrieve the firearm within 90 days after the~~  
2           ~~court order releasing it, the firearm may be sold for fair market value. Title to~~  
3           ~~the firearm shall pass to the law enforcement agency or firearms dealer for the~~  
4           ~~purpose of transferring ownership, except that the Vermont State Police shall~~  
5           ~~follow the procedure described in 20 V.S.A. § 2305.~~

6                     ~~(ii) The law enforcement agency or firearms dealer shall make a~~  
7           ~~reasonable effort to notify the owner of the sale before it occurs. In no event~~  
8           ~~shall the sale occur until after the court issues a final extreme risk protection~~  
9           ~~order pursuant to section 4053 of this title.~~

10                    ~~(iii) As used in this subdivision (2)(A), “reasonable effort” shall~~  
11           ~~mean notice shall be served as provided for by Rule 4 of the Vermont Rules of~~  
12           ~~Civil Procedure.~~

13                    ~~(B) Proceeds from the sale of a firearm pursuant to subdivision (A) of~~  
14           ~~this subdivision (2) shall be apportioned as follows:~~

15                    ~~(i) associated costs, including the costs of sale and of locating and~~  
16           ~~servicing the owner, shall be paid to the law enforcement agency or firearms~~  
17           ~~dealer that incurred the cost; and~~

18                    ~~(ii) any proceeds remaining after payment is made to the law~~  
19           ~~enforcement agency or firearms dealer pursuant to subdivision (i) of this~~  
20           ~~subdivision (2)(B) shall be paid to the original owner. [Repealed.]~~

1       ~~(g) A law enforcement agency shall be immune from civil or criminal~~  
2       ~~liability for any damage or deterioration of a firearm stored or transported~~  
3       ~~pursuant to this section. This subsection shall not apply if the damage or~~  
4       ~~deterioration occurred as a result of recklessness, gross negligence, or~~  
5       ~~intentional misconduct by the law enforcement agency. [Repealed.]~~

6       ~~(h) This section shall be implemented consistent with the standards and~~  
7       ~~guidelines established by the Department of Public Safety under 20 V.S.A. §~~  
8       ~~2307(i). [Repealed.]~~

9       (i) Notwithstanding any other provision of this chapter:

10       (1) A dangerous weapon shall not be returned to the respondent if the  
11       respondent's possession of the weapon would be prohibited by state or federal  
12       law.

13       (2) A dangerous weapon shall not be taken into possession pursuant to this  
14       section if it is being or may be used as evidence in a pending criminal matter.

15       and by renumbering the remaining section to be numerically correct.

16