

1 S.4

2 Introduced by Senator Baruth

3 Referred to Committee on Judiciary

4 Date: January 12, 2021

5 Subject: Criminal procedures; firearms; waiting period

6 Statement of purpose of bill as introduced: This bill proposes to require a

7 48-hour waiting period for most firearms transfers.

8 ~~An act relating to a 48-hour waiting period for firearms transfers~~

An act relating to procedures involving firearms

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

10 ~~Sec. 1. 13 V.S.A. § 4019a is added to read:~~

11 § 4019a. FIREARMS TRANSFERS; WAITING PERIOD

12 (a) A person shall not transfer a firearm to another person until 48 hours
13 after the completion of the background check required by 18 U.S.C. § 922(s)
14 or section 4019 of this title.

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

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

1 ~~Sec. 2. REPEAL DATE~~

2 ~~This act shall take effect on passage.~~

Sec. 1. 13 V.S.A. § 4023 is added to read:

§ 4023. POSSESSION OF FIREARMS IN HOSPITAL BUILDINGS
PROHIBITED

(a) A person shall not knowingly possess a firearm while within a hospital building.

(b) A person who violates this section shall be fined not more than \$250.00.

(c) This section shall not apply to a firearm possessed by a federal law enforcement officer or a law enforcement officer certified as a law enforcement officer by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. § 2358, for legitimate law enforcement purposes.

(d) Notice of the provisions of this section shall be posted conspicuously at each public entrance to each hospital.

(e) As used in this section:

(1) "Firearm" has the same meaning as in subsection 4017(d) of this title.

(2) "Hospital" has the same meaning as in 18 V.S.A. § 1902.

Sec. 2. 13 V.S.A. § 4019 is amended to read:

§ 4019. FIREARMS TRANSFERS; BACKGROUND CHECKS

(a) As used in this section:

* * *

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

(5) "Proposed transferee" means an unlicensed person to whom a proposed transferor intends to transfer a firearm.

(6) "Proposed transferor" means an unlicensed person who intends to transfer a firearm to another unlicensed person.

(7) "Transfer" means to transfer ownership of a firearm by means of sale, trade, or gift.

(8) "Unlicensed person" means a person who has not been issued a license as a dealer, importer, or manufacturer in firearms pursuant to 18

U.S.C. § 923(a).

(b)(1) Except as provided in subsection (e) of this section, an unlicensed person shall not transfer a firearm to another unlicensed person unless:

(A) the proposed transferor and the proposed transferee physically appear together with the firearm before a licensed dealer and request that the licensed dealer facilitate the transfer; and

(B) the licensed dealer agrees to facilitate the transfer.

(2) A person shall not, in connection with the transfer or attempted transfer of a firearm pursuant to this section, knowingly make a false statement or exhibit a false identification intended to deceive a licensed dealer with respect to any fact material to the transfer.

** * **

(d) A person shall not transfer a firearm to another person if:

(1) the transfer requires a background check under this section or under federal law; and

(2) the licensed dealer facilitating the transfer has not been provided with a unique identification number for the transfer by the National Instant Criminal Background Check System, provided that if the identification number has not been provided within seven business days, then the transfer may proceed.

~~(d)~~(e)(1) An unlicensed person who transfers a firearm to another unlicensed person in violation of subdivision (b)(1) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

(2) A person who violates subdivision (b)(2) or subsection (d) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

~~(e)~~(f) This section shall not apply to:

(1) the transfer of a firearm by or to a law enforcement agency;

(2) the transfer of a firearm by or to a law enforcement officer or member of the U.S. Armed Forces acting within the course of ~~his or her~~ the officer's or the U.S. Armed Forces member's official duties;

(3) the transfer of a firearm from one immediate family member to another immediate family member; or

(4) a person who transfers the firearm to another person in order to prevent imminent harm to any person, provided that this subdivision shall only apply while the risk of imminent harm exists.

~~(f)(g)~~ *A licensed dealer who facilitates a firearm transfer pursuant to this section shall be immune from any civil or criminal liability for any actions taken or omissions made when facilitating the transfer in reliance on the provisions of this section. This subsection shall not apply to reckless or intentional misconduct by a licensed dealer.*

Sec. 3. 13 V.S.A. § 4057 is amended to read:

§ 4057. PROCEDURE

(a) Except as otherwise specified, proceedings commenced under this subchapter shall be in accordance with the Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

** * **

(d)(1) For purposes of a petition filed pursuant to this subchapter, a health care provider may notify a law enforcement officer when the provider believes in good faith that disclosure of the information is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.

(2) As used in this subsection:

(A) "Health care provider" has the same meaning as in 18 V.S.A. § 9402.

(B) "Necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public" includes circumstances when the health care provider reasonably believes that the patient poses an extreme risk of causing harm to themselves or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the patient's custody or control.

Sec. 4. 13 V.S.A. § 4062 is added to read:

*§ 4062. ANNUAL REPORTING; OFFICE OF COURT ADMINISTRATOR
AND AGENCY OF HUMAN SERVICES*

(a) On or before September 1, 2022 and annually thereafter, the Court Administrator, with the assistance of the Agency of Human Services, shall report data on the use of extreme risk protection orders during the previous year to the Senate and House Committees on Judiciary.

(b) The reports required by this section shall include the following data for the previous year:

(1) the number of extreme risk protection order petitions filed and the

number of orders issued;

(2) geographical data indicating the county where the petition was filed;
and

(3) follow-up information describing whether the order was renewed or terminated pursuant to section 4055 of this title and whether the subject of the order was charged with violating it under section 4058 of this title.

(c) The Agency of Human Services shall include in the reports required by this section an analysis of the impact of extreme risk prevention orders on Vermont suicide rates, including any relevant data relied on or utilized by the Agency for purposes of providing the information required by 2017 Acts and Resolves No. 34, An act relating to evaluation of suicide profiles.

Sec. 5. 13 V.S.A. § 4021 is amended to read:

§ 4021. LARGE CAPACITY AMMUNITION FEEDING DEVICES

(a) A person shall not manufacture, possess, transfer, offer for sale, purchase, or receive or import into this State a large capacity ammunition feeding device. As used in this subsection, “import” ~~shall~~ does not include the transportation back into this State of a large capacity ammunition feeding device by the same person who transported the device out of State if the person possessed the device on or before the effective date of this section.

* * *

(d)(1) This section shall not apply to any large capacity ammunition feeding device:

* * *

(F) transported by a resident of another state into this State for the exclusive purpose of use in an organized shooting competition sponsored by an entity registered with the Secretary of State if the device is lawfully possessed under the laws of another state.

* * *

Sec. 6. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has abused the plaintiff or the plaintiff’s children, or both. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision

1101(2) of this chapter, may seek relief on ~~his or her~~ the minor's own behalf. Relief under this section shall be limited as follows:

(1) Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff or ~~his or her~~ the plaintiff's children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or by a minor child residing in the household;

(B) to refrain from interfering with the plaintiff's personal liberty or the personal liberty of the plaintiff's children, or both;

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment; ~~and~~

(D) to refrain from contacting the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication; or

(E) to immediately relinquish, until the expiration of the order, all firearms that are in the defendant's possession, ownership, or control and to refrain from acquiring or possessing any firearms while the order is in effect.

(2) Upon a finding that the plaintiff, ~~his or her~~ or the plaintiff's children, or both, have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff.

(3) Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.

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Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2022.