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S.268

Introduced by Senators Clarkson, Hardy, Balint, Baruth, Hooker, McCormack
and Pollina

Referred to Committee on

Date:

Subject: Crimes and criminal procedures; firearms

Statement of purpose of bill as introduced: This bill proposes to enact several measures related to firearms. The bill proposes to: (1) require a 72-hour waiting period for all firearms sales; (2) repeal the statute that permits large capacity ammunition feeding devices to be manufactured in Vermont; (3) require that, when a firearm is not in a person's immediate possession or control, the firearm must be locked in a safe storage depository or rendered incapable of being fired; (4) permit a family or household member to file a petition for an Emergency Risk Protection Order; and (5) authorize health care providers to inform a law enforcement officer when the health care provider reasonably believes that a patient poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon.

An act relating to crimes and criminal procedures related to firearms

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

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

3 § 4019a. FIREARMS TRANSFERS; WAITING PERIOD

4 (a) A person shall not transfer a firearm to another person until 72 hours
5 after the completion of the background check required by 18 U.S.C. § 922(s)
6 or section 4019 of this title.

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

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

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

14 Sec. 2. 13 V.S.A. § 4021 is amended to read:

15 § 4021. LARGE CAPACITY AMMUNITION FEEDING DEVICES

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

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

* * *

(C) transferred to a licensee under Title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by federal law, or possessed by an employee or contractor of such a licensee on-site for these purposes, or off-site for purposes of licensee-authorized training or transportation of nuclear materials; or

(D) possessed by an individual who is retired from service with a law enforcement agency after having been transferred to the individual by the agency upon his or her retirement, provided that the individual is not otherwise prohibited from receiving ammunition;

~~(E) manufactured, imported, transferred, or possessed by a manufacturer or importer licensed under 18 U.S.C. chapter 44:~~

~~(i) for the purposes of testing or experimentation authorized by the U.S. Attorney General, or for product development;~~

~~(ii) for repair and return to the person from whom it was received;~~

~~or~~

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

2 § 4051. DEFINITIONS

3 As used in this subchapter:

4 * * *

5 (7) “Household member” has the same meaning as in 15 V.S.A. § 1101.

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

7 § 4052. JURISDICTION AND VENUE

8 * * *

9 (c) Proceedings under this chapter shall be commenced in the county where
10 the law enforcement agency is located, the county where the family or
11 household member or the respondent resides, or the county where the events
12 giving rise to the petition occur.

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

14 § 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

15 (a) A State’s Attorney ~~or~~ the Office of the Attorney General, or a family or
16 household member may file a petition requesting that the court issue an
17 extreme risk protection order prohibiting a person from purchasing, possessing,
18 or receiving a dangerous weapon or having a dangerous weapon within the
19 person’s custody or control. The petitioner shall submit an affidavit in support
20 of the petition.

21 * * *

1 Sec. 7. 13 V.S.A. § 4054 is amended to read:

2 § 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

3 (a)(1) A State's Attorney ~~or~~ the Office of the Attorney General, or a family
4 or household member may file a motion requesting that the court issue an
5 extreme risk protection order ex parte, without notice to the respondent. A law
6 enforcement officer may notify the court that an ex parte extreme risk
7 protection order is being requested pursuant to this section, but the court shall
8 not issue the order until after the motion is submitted.

9 * * *

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

11 § 4055. TERMINATION AND RENEWAL MOTIONS

12 * * *

13 (b)(1) A State's Attorney ~~or~~ the Office of the Attorney General, or a
14 family or household member may file a motion requesting that the court renew
15 an extreme risk protection order issued under this section or section 4053 of
16 this title for an additional period of up to six months. The motion shall be
17 accompanied by an affidavit and shall be filed not more than 30 days and not
18 less than 14 days before the expiration date of the order. The motion and
19 affidavit shall comply with the requirements of subsection 4053(c) of this title,
20 and the moving party shall have the burden of proof by clear and convincing
21 evidence.

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Sec. 9. 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. § 9432.

(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 himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within his or her custody or control.

- 1 Sec. 10. EFFECTIVE DATE
- 2 This act shall take effect on passage.