

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: S.31 Name of Bill: An act relating to possession and transfer of firearms

Agency/Dept: DPS/VCIC Author of Bill Jeffrey Wallin
Review: _____

Date of Bill Review: 1/28/15 Related Bills and Key Players: _____

Status of Bill: (check one)

☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both bodies

Recommended Position:

☐ Support ☐ Oppose ☐ Remain Neutral ☒ Support with modifications identified in # 8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

This bill proposes to undertake the following actions in relation to the purchase/transfer of firearms within Vermont:

1 – Prohibit a person convicted of a violent crime from possessing a firearm

2 – require that a criminal background check be conducted on the proposed purchased before a firearm may be sold unless the sale is between immediate family members, by/to a law enforcement agency or member of the military acting within the course of his/her official duties

3 – Require the court to report to the National Instant Criminal Background Check System (NICS) when someone is provided with a hospitalization order (mental health) by the court or found not guilty by reason of insanity

2. Is there a need for this bill? *Please explain why or why not.*

Currently firearms purchases within Vermont are governed by the Brady Act, which disqualifies individuals from purchasing firearms who fall into a number of categories, including convictions for select offenses (felonies, Misdemeanors relating to Domestic Violence, etc.) and mental health issues. However, at this time checks of this nature are only conducted for commercial transactions taking place at a registered Federal Firearms License (FFL) location/dealer. Consequently firearms sold/transferred between individuals are not subject to review. Additionally there is currently no mechanism for information concerning individuals hospitalized (in a civil capacity) for mental health issues to be reported to the NICS program.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

As currently written the impact on the Department is somewhat unclear as it appears the bulk of the responsibility for conducting a sale (including determining if any prior convictions disqualify the purchaser) would fall upon FFL dealers across the state. As FFLs within Vermont currently use the FBI – NICS process it is anticipated that little additional work would fall upon the Department.

However, should the responsibility for reporting mental health issues be redirected to the Department there could be a significant investment required as the Vermont Crime Information Center (VCIC) does not have the capability to store non-criminal data (civil vs. criminal determinations of mental health status).

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

As currently drafted the language within the bill would require the courts to develop a process for submitting data to NICS and the investment required to develop this process is unknown. In conversations with the FBI / NICS

section there are several ways for the court to report (and remove when appropriate) this information from the NICS index including LEO/LEEP and via the state information switch.

Additionally, the Department of Mental Health has historically opposed sharing mental health data in this nature and outreach would be required to gauge their level of support or opposition.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

FFL dealers would be impacted by this legislation should they choose to participate in the program and would potentially take significant liability for determining a qualification/disqualification (proposed 13 V.S.A. § 4018(b)(1)(B)).

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

Gun-control advocates – As this bill attempts to close a ‘loophole’ within the firearm distribution paradigm it is expected that it would be supported.

6.2 Who else is likely to oppose the proposal and why?

Gun-rights advocates – Generally any attempt to restrict or provide oversight to firearms is strongly opposed.

Additionally, it would be expected that certain groups would have mixed reactions depending on their individual perspective. Law Enforcement agencies may / may not support the bill depending on the location of the agency and local support (or lack thereof). Similarly Mental Health advocates may support the bill for safety reasons but oppose for privacy reasons.

7. Rationale for recommendation: *Justify recommendation stated above.*

As currently written the bill creates a number of uncertainties that would hamper the effectiveness of the bill, given its perceived goal. Specifically with apparent liability being placed on FFL dealers to make determinations of legality it is unknown how many would want to process requests of this nature.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

Adjust language in the bill to require transfer of firearms in the manner described to be conducted/analyzed as any other firearm transaction conducted by the FFL. This would remove the requirement for the FFL to determine qualification/disqualification and rely on the Federal NICS process to complete this (adjust language in proposed § 4018(b)(1)(B) to reflect this requirement).

9. Gubernatorial appointments to board or commission?

Secretary/Commissioner has reviewed this document



Date: 2/10/15