

From: London, Sarah [Sarah.London@vermont.gov]
Sent: Tuesday, April 01, 2014 2:59 PM
To: 'Sarah Kenney'
Subject: FW: H.735 sections 19-21 language assistance - Firearms storage

From: Valerio, Matthew
Sent: Tuesday, April 01, 2014 9:03 AM
To: Puls, Sara; Deaett, Mary
Cc: London, Sarah; Sears, Sen. Richard
Subject: FW: H.735 sections 19-21 language assistance - Firearms storage

FYI.

Matt

Matthew F. Valerio, Defender General
Office of the Defender General
6 Baldwin Street, 4th Floor
Montpelier, Vermont 05622
Telephone: (802) 828-3168

From: Valerio, Matthew
Sent: Tuesday, April 01, 2014 9:01 AM
To: William Moore
Subject: Re: H.735 sections 19-21 language assistance - Firearms storage

Of course.

Matthew Valerio, Defender General

Sent from my Verizon Wireless 4G LTE DROID

William Moore <wmoore@gmavt.net> wrote:

Matt,

I do appreciate this clarity. It would be extremely helpful if I could share my letter and your response with the Senate Judiciary Committee Chair Dick Sears and Lewis Porter at the Governor's office today. Would that be alright?

Again, thank you for your time in this matter.

Bill Moore,

Vermont Traditions Coalition

On Mon, Mar 31, 2014 at 2:55 PM, Valerio, Matthew <Matthew.Valerio@state.vt.us> wrote:

Dear Mr. Moore:

This area is a little bit out of our typical area of expertise. We rarely get involved in 2nd Amendment issues, as such have not paid much attention to this bill. Further, our office is never involved in the litigation of civil relief from abuse orders. We only get involved if criminal charges arise from the violation of those orders.

That having been said, it is clear that the federal law does not require a statutory response by the states, like the one requested by the victims community that is driving this bill.

In my view, it is more than reasonable for a third party to take possession of the weapons for sale at a future date without state involvement.

Let me know if there is more that I can add.

Best,
Matt

Matthew F. Valerio, Defender General

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From: William Moore [mailto:wmoore@gmavt.net]
Sent: Tuesday, March 25, 2014 4:29 PM
To: Valerio, Matthew; Kranichfeld, Bram

Subject: H.735 sections 19-21 language assistance - Firearms storage

Matthew Valerio, Esq.

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Montpelier, Vermont 05633

William (Bill) Moore

Firearms Policy Analyst

Vermont Traditions Coalition

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[\(802\) 888-9390](tel:8028889390)

Dear Sir,

I am seeking your assistance on developing language for a section of a bill currently before the Senate Finance Committee. H. 735 is also known as the "Fee Bill" but it includes a proposal for "Disposition and fee for storage of unlawful firearms" at pages 15-20, covered by sections 19-21. The sections attempt to set up a process for those facing a relief from abuse order to have their firearms confiscated and stored for the duration of the order and appeal process. As a cooperative effort some of us have attempted to develop a bill with satisfactory language that

appeals to the domestic violence advocates and the Governor's request for a compromise. So far we do not have consensus. It creates a standard for storage that goes against the grain for many of us in the firearms rights community. We feel that because the process is not one of loss of ownership but of possession, it should respect the rights and due process of the subject of the order in two ways.

First, the order clearly does not create a felony conviction and therefore the ownership rights remain untouched. As this is the case we maintain and insist that the first option for the owner of the firearms is one of private, third party (family or friend) storage with no change in ownership. That there is no felony also means that there is no court ordered "conditions of release" if I am correctly informed. As a result, there is no vehicle to provide an affirmative statement from the defendant or third party storing the firearms to guarantee against the defendant obtaining access. We wish to provide that vehicle somehow in the bill. That vehicle would perhaps require the third party and defendant to sign an acknowledgement to the court that the defendant shall not have access until the court so notifies the third party. Although the third party cannot be compelled to act, the voluntary nature of an appearance by signature should be sufficient for the court. Currently the system allows this type of arrangement without written assurance so this should be an improvement satisfactory to both sides of the debate.

Second, that the language currently dictates that the state or an agent of the state (a "certified" FFL, subsection 2, page 17) take possession of the firearms. We would insist that the language acknowledge ownership in the first case and that the third party storage option exists before the necessity of state agent storage appears in the language. This would create adequate assurances regarding the "ownership" status and create a presumption that the option is equal to or higher as regards compliance with any restraining order forthcoming. By such assurances we also would allow that the third party could act as an agent for the defendant if he or she decides to sell the firearms at any time to secure needed finances.

This is a somewhat arcane and complex side issue to the overall goals of the proposal. However, we believe it to be a "deal breaker" if no language can be agreed to. The Governor's office has agreed to support my pursuit of this compromise and they are also anxious to see the overall proposal succeed. The domestic violence prevention community is working with us to move this forward. I am hopeful you can offer some assistance.

I have some definite ideas for language but am not a lawyer by training. The amendment would likely have to be inserted somewhere as a subsection in the paragraph below. We would like to have your support and also seek the approval of the Executive Director of the State's Attorneys

Bram Kranichfeld. A such, I will also send this email to his office. Please call or email with any question you may have. I would be glad to meet briefly with you at your convenience.

Sincerely,

Bill Moore

Vermont Traditions Coalition

Here is a link to the bill (see pages 15-20, sec.19-21): <http://www.leg.state.vt.us/docs/2014/bills/House/H-735.pdf>

Excerpted section referenced:

(b)(1) A person who is required to surrender firearms, 1 ammunition, or other
2 weapons by a court order issued under 15 V.S.A. chapter 21 (abuse prevention)
3 or any other provision of law consistent with 18 U.S.C. § 922(g)(8) shall upon
4 service of the order immediately surrender to a cooperating law enforcement
5 agency or an approved federally licensed firearms dealer any firearms,
6 ammunition, or weapons in the person's possession, custody, or control.