

**CONFIDENTIAL**  
**AHS LEGISLATIVE BILL REVIEW FORM: 2015**

Bill Number:      S.141      Name of Bill:      An act relating to possession of firearms

Agency/ Dept:      AHS – Department of Mental Health  
Monahan/Frank Reed

Author of Bill Review:      Nick Nichols/Dena

Date of Bill Review:      5/1/15      Related Bills and Key Players     

Status of Bill: (check one):      Upon Introduction      As passed by 1<sup>st</sup> body       As passed by both

Recommended Position:

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

**Analysis of Bill**

**Note: This bill review only speaks to elements of the bill that relate to the Department of Mental Health and mental health policy issues.**

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

This bill proposes to prohibit a person convicted of a violent crime or committed to the custody of the Commissioner of Mental Health from possessing a firearm. Several sections have direct applicability to the Department of Mental Health: sections 3, 7 and 8, with section 9 requiring some DMH involvement.

Section 3 of the bill requires the Department of Mental Health to report to the legislature on the establishment of a Vermont version of the New Hampshire Gun Shop Project. The Department may satisfy the reporting requirement by providing testimony on the issue to the committees identified in this subsection.

Section 7 provides a mechanism whereby an individual who is prohibited from possessing a firearm by virtue of having been committed to the custody of the Commissioner of Mental Health on an order of hospitalization or an order of non-hospitalization (from both criminal and civil proceedings) may petition to have that disability removed (i.e., his or her name removed from the federal list of prohibited individuals). Section 7 provides that the individual may petition the Family Division of Superior Court for relief and sets forth the standard for determining the petition. The State's Attorney or the Attorney General would be the respondent in such proceedings.

Section 8 requires a one-time report of individuals in custody to the Court Administrator's office for forwarding to the federal registry.

Section 9 seeks DMH's collaboration with the Court Administrator in compiling a report by 2018 of certain data related to the implementation of the bill.

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

*Please return this bill review as a Microsoft Word document to [laura.gray@state.vt.us](mailto:laura.gray@state.vt.us) and [jessica.mishaan@state.vt.us](mailto:jessica.mishaan@state.vt.us)*

Federal law prohibits anyone who has been committed to the custody of the Commissioner of Mental Health from possessing a firearm, regardless of the reason for the commitment or whether the person is still in custody. The bill provides a mechanism for removing the prohibition against possessing a firearm.

The NH Gun Shop Project's goal is to reduce the number of suicides by firearm. DMH has been exploring the viability of implementing a similar Gun Shop Project and has already done some initial research on the effectiveness of the program in New Hampshire and would not require a legislative mandate to continue its exploration and possible implementation.

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

The bill would require DMH to report on the establishment of the Gun Shop Project in Vermont. This work could help to garner additional visibility and support for restricting access to firearms for individuals who are suicidal, but, without any additional allocation of resources for completing this work, DMH would need to divert staffing and resources away from other crucial departmental work. DMH estimates the cost of completing the required activities of this report would be approximately \$16,000.

DMH would be required to do a point-in-time report to the Court Administrators office on all persons under the custody of DMH who on that date are subject to an order of hospitalization or non-hospitalization. This report will require significant time from the DMH Legal Division [to comply with this requirement](#).

### **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?**

The bill would have fiscal and programmatic implications for the Court Administrators office, as they will be required to perform additional reporting and conduct the hearings on any petitions that were filed. The State's Attorney's office and the Attorney General will also be expected to incur additional expenses and staff time to process petitions for relief from the prohibition of firearms possession. At this time we are unable to estimate the specific staff time and cost, though we believe the Joint Fiscal Office has completed an analysis of the estimated cost to Vermont

### **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)**

### **6. Other Stakeholders:**

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

Law enforcement, municipalities, victims of gun violence, and suicide prevention advocates that are working to reduce gun violence may be in support of the bill.

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

Mental health advocates may challenge the bill's assumption that anyone who has been a danger to themselves or others due to a mental illness has an increased likelihood toward gun violence.

Gun right advocates who view this as an erosion of 2<sup>nd</sup> amendment rights.

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

**8. Specific modifications that would be needed to recommend support of this bill:**

Additional allocation for expenses outlined in section 4 of this bill review.

**9. Gubernatorial appointments to board or commission?**

*Secretary/Commissioner has reviewed this document:* \_\_\_\_\_ *Date:* \_\_\_\_\_