DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–1086/P1dn
MGD:jld:pg

March 15, 2001

Mike:

1. Based on our discussion in our first meeting, I included reciprocity provisions under which a person licensed to carry a concealed weapon in another state may carry a concealed weapon here. The person is also required to carry his or her permit or license. In Vermont, however, there is no licensing or permit system. All persons in Vermont authorized to carry a weapon are authorized to carry it concealed. But from what I have seen, no other state permits Vermont residents to carry concealed weapons within its borders unless the person obtains a concealed carry permit or license under that state's law. I have followed that approach in this bill. If you would like to treat Vermont residents differently, please let me know.

2. Under *U.S. v. Buffaloe*, 449 F. 2d 779 (4th Cir., 1971), if a court finds a person not guilty by reason of mental disease or defect (NGI) and commits the person to a mental health facility, the person is ineligible to possess a firearm under federal law. 18 U.S.C. § 925 (c). But under s. 971.17 (3), the court is not required to place a person found NGI in a mental health facility. It may permit the person to receive treatment for his or her mental disease or defect in the community. Therefore, even though most individuals found NGI will be covered by the federal law prohibition, I have added a separate prohibition to the bill, in keeping with our discussion of this issue, for the people who aren't covered by federal law. *See* s. 175.50 (3) (L). As you can see, I have structured it so that it follows the same approach used for commitments for mental illness under s. 51.20. Please let me know if that is okay. I also made the NGI provision apply to NGI findings in all cases, not just felonies and misdemeanor crimes of violence. Is that okay?

3. Under s. 175.50 (11) (c) 2., the clerk of each circuit court and the clerk of a tribal or municipal court, if the tribe or municipality has the requisite drunk driving law or ordinance, is required to notify the sheriff if a licensee has committed a second drunk driving offense. The circuit court clerks should have information about a person's drunk driving record in other circuit courts, but they will not have information about cases in tribal or municipal courts, and vice versa. In addition, none of the courts will have information about out–of–state violations. In view of that, you may want to have the clerks notify the sheriff any time a court has found a person to have committed a drunk driving violation and leave it to the sheriff to determine whether the person has any prior violations. That approach, however, does not account for violations that may

have occurred before the person gets his or her license. That problem can be addressed –– at least in part –– by requiring an applicant to report any violations that occurred in the three years that precede the person's application.

4. As Don Dyke noted, 1999 AB–605 contained two separate provisions restricting access to records –– s. 175.50 (9g) (e) 1. a. and (11) (b). I have combined those provisions and placed them, along with new provisions relating to access to records created by sheriffs and court clerks, in a new sub. (18). Please review those changes to ensure that they are consistent with your intent.

5. Please note that s. 16.47 (2) provides that, before the passage of the budget bill, neither house may pass a bill that increases the cost of state government by more than $10,000 annually unless the governor, the joint committee on finance or, in some cases, the committee on organization of either house recommends passing the bill as an emergency appropriation. Of course, s. 16.47 (2), is a rule of legislative procedure; thus, the legislature determines the extent to which it is enforced.

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