GOA agrees with the New Hampshire Firearms Coalition: HB 143 is too broad and should be opposed.

First, as to the proposed removal of "purposely", this amendment alone would greatly expand the scope of what is meant by endangering the welfare of a child/incompetent. In the matter of State v. Bortner, 150 N.H. 504 (2004), the New Hampshire Supreme Court discussed the meaning of both "knowingly" and "purposely." As to "knowingly," the Court stated that to prove that a person acted knowingly, "what the state must prove is that the defendant was aware her actions or failure to act would endanger the welfare of [the child.]" As to "purposely," "the state must prove that the defendant had the conscious object to violate a duty of care or protection…'Conscious object' means that the defendant had a specific intent to violate the duty of care or protection. It means the defendant desired to cause a certain result[.] **It is not enough for the State to prove that the defendant knew or was aware of what she was doing. Nor is it enough for the State to prove that the defendant created a risk of injury or harm.**

To prove that the defendant acted purposely…requires proof that the defendant specifically intended or desired to violate a duty of care or protection. What this means is that if "purposely" is removed from the statute, a prosecutor will no longer have to prove that the defendant specifically intended to endanger the welfare of the child, only that the defendant was aware of their actions. So, in the situation of Alycia Neely, who was charged with child endangerment for having a loaded firearm in the car with her children, if "purposely" was removed, she could be found guilty simply for knowing she had an unsecured loaded firearm in the vehicle with her children.

Second, proposed section IV-a is also extremely broad and vague, specifically as to what is meant by "conduct that places a child…in danger of serious bodily injury or death..." The real concern is that we are not sure what a judge would do with this language. Again, in the situation of the mother having a loaded handgun in the car with her children, a judge could say that, based on the plain language of the statute, having a loaded, unsecured firearm in the car placed her children in danger of serious bodily injury or death, and thus she is guilty of endangering their welfare. However, even if a court finds that the plain language is unclear, we are still uncertain about the outcome.

In the New Hampshire Supreme Court Case In re N.K., 169 N.H. 546 (2016), the court stated that the 639.3(I) was unclear as to when a child was "endangered." In its analysis of the statutory language, the court determined that "endangered" under the statute meant "when the risk of injury to his or her welfare is actual and significant—as opposed to speculative

or a mere possibility." Thus, the court concluded that to prove "endangerment" under 639:3(I), the prosecution must "establish that the offender engaged in behavior creating an actual and significant risk of injury to a child's welfare." The court then created a test to determine if the offender's behavior created such an actual and significant risk of injury. So, as with the Supreme Court in In re N.K. a court may be forced to come up with a test to determine when and what conduct places a child "in danger of serious bodily injury or death." It may be the same test used in In re N.K., or it may be slightly different since it is a different provision of the statute. Either way, the broadness and vagueness of the statute is dangerous for gun owners.

Further, the addition of section IV-a, could lead to a de facto safe storage law, because if someone has a loaded firearm that is not "secured" and there are children or incompetents around, you could possibly be in violation of 639.3(IV-a) and guilty of a felony. Your only recourse would be to have your firearms secured at all times, leaving you vulnerable during a self-defense situation where you would need quick access to it.