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HOUSE BILL NO. 2429

Offered January 13, 2025

Prefiled January 8, 2025

A BILL to amend and reenact §§ 18.2-60.3, 18.2-308.1:4, and 22.1-279.3:2 of the Code of Virginia, relating to stalking; penalty.

 Patron—Oates

 Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-60.3, 18.2-308.1:4, and 22.1-279.3:2 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-60.3. Stalking; penalty.**A. For purposes of this section:**

"Electronically transmitted communication" includes the use or monitoring of location services on an application or device to remotely determine or track the position and movement of another person, regardless if such person has previously given consent for the accused to use or monitor such location services.

"Family or household member" has the same meaning as provided in § 16.1-228.

B. Any person, except a law-enforcement officer, as defined in § 9.1-101, and acting in the performance of his official duties, and a registered private investigator, as defined in § 9.1-138, who is regulated in accordance with § 9.1-139 and acting in the course of his legitimate business, who on more than one occasion engages in conduct, either in person or through any other means, including by mail, telephone, or an electronically transmitted communication, directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member is guilty of a Class 1 misdemeanor. If the person contacts or follows or attempts to contact or follow the person at whom the conduct is directed after being given actual notice that the person does not want to be contacted or followed, such actions shall be prima facie evidence that the person intended to place that other person, or reasonably should have known that the other person was placed, in reasonable fear of death, criminal sexual assault, or bodily injury to himself or a family or household member.

~~B.~~ **C.** Any person who is convicted of a second offense of subsection ~~A~~ **B** occurring within five years of a prior conviction of such an offense under this section or for a substantially similar offense under the law of any other jurisdiction is guilty of a Class 6 felony.

~~C.~~ **D.** A person may be convicted under this section in any jurisdiction within the Commonwealth wherein the conduct described in subsection ~~A~~ **B** occurred, if the person engaged in that conduct on at least one occasion in the jurisdiction where the person is tried or in the jurisdiction where the person at whom the conduct is directed resided at the time of such conduct. Evidence of any such conduct that occurred outside the Commonwealth may be admissible, if relevant, in any prosecution under this section.

~~D.~~ **E.** Upon finding a person guilty under this section, the court shall, in addition to the sentence imposed, issue an order prohibiting contact between the defendant and the victim or the victim's family or household member.

~~E.~~ **F.** The Department of Corrections, sheriff or regional jail director shall give notice prior to the release from a state correctional facility or a local or regional jail of any person incarcerated upon conviction of a violation of this section, to any victim of the offense who, in writing, requests notice, or to any person designated in writing by the victim. The notice shall be given at least 15 days prior to release of a person sentenced to a term of incarceration of more than 30 days or, if the person was sentenced to a term of incarceration of at least 48 hours but no more than 30 days, 24 hours prior to release. If the person escapes, notice shall be given as soon as practicable following the escape. The victim shall keep the Department of Corrections, sheriff or regional jail director informed of the current mailing address and telephone number of the person named in the writing submitted to receive notice.

All information relating to any person who receives or may receive notice under this subsection shall remain confidential and shall not be made available to the person convicted of violating this section.

For purposes of this subsection, "release" includes a release of the offender from a state correctional facility or a local or regional jail (i) upon completion of his term of incarceration or (ii) on probation or parole.

No civil liability shall attach to the Department of Corrections nor to any sheriff or regional jail director or their deputies or employees for a failure to comply with the requirements of this subsection.

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~~F. For purposes of this section:~~

~~"Family or household member" has the same meaning as provided in § 16.1-228.~~

§ 18.2-308.1:4. Purchase or transportation of firearm by persons subject to protective orders; penalties.

A. It is unlawful for any person who is subject to (i) a protective order entered pursuant to § 16.1-253.1, 16.1-253.4, 16.1-278.2, 16.1-279.1, 19.2-152.8, 19.2-152.9, or 19.2-152.10; (ii) an order issued pursuant to subsection B of § 20-103; (iii) an order entered pursuant to subsection ~~D~~ E of § 18.2-60.3; (iv) a preliminary protective order entered pursuant to subsection F of § 16.1-253 where a petition alleging abuse or neglect has been filed; or (v) an order issued by a tribunal of another state, the United States or any of its territories, possessions, or commonwealths, or the District of Columbia pursuant to a statute that is substantially similar to those cited in clauses (i), (ii), (iii), or (iv) to purchase or transport any firearm while the order is in effect. Any person with a concealed handgun permit shall be prohibited from carrying any concealed firearm, and shall surrender his permit to the court entering the order, for the duration of any protective order referred to herein. A violation of this subsection is a Class 1 misdemeanor.

B. In addition to the prohibition set forth in subsection A, it is unlawful for any person who is subject to a protective order entered pursuant to § 16.1-279.1 or 19.2-152.10 or an order issued by a tribunal of another state, the United States or any of its territories, possessions, or commonwealths, or the District of Columbia pursuant to a statute that is substantially similar to § 16.1-279.1 or 19.2-152.10 to knowingly possess any firearm while the order is in effect, provided that for a period of 24 hours after being served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10 such person may continue to possess and, notwithstanding the provisions of subsection A, transport any firearm possessed by such person at the time of service for the purposes of surrendering any such firearm to a law-enforcement agency in accordance with subsection C or selling or transferring any such firearm to a dealer as defined in § 18.2-308.2:2 or to any person who is not otherwise prohibited by law from possessing such firearm in accordance with subsection C. A violation of this subsection is a Class 6 felony.

C. Upon issuance of a protective order pursuant to § 16.1-279.1 or 19.2-152.10, the court shall order the person who is subject to the protective order to (i) within 24 hours after being served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10 (a) surrender any firearm possessed by such person to a designated local law-enforcement agency, (b) sell or transfer any firearm possessed by such person to a dealer as defined in § 18.2-308.2:2, or (c) sell or transfer any firearm possessed by such person to any person who is not otherwise prohibited by law from possessing such firearm and (ii) within 48 hours after being served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10, certify in writing, on a form provided by the Office of the Executive Secretary of the Supreme Court, that such person does not possess any firearms or that all firearms possessed by such person have been surrendered, sold, or transferred and file such certification with the clerk of the court that entered the protective order. The willful failure of any person to certify in writing in accordance with this section that all firearms possessed by such person have been surrendered, sold, or transferred or that such person does not possess any firearms shall constitute contempt of court.

D. The person who is subject to a protective order pursuant to § 16.1-279.1 or 19.2-152.10 shall be provided with the address and hours of operation of a designated local law-enforcement agency and the certification forms when such person is served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10.

E. A law-enforcement agency that takes into custody a firearm surrendered to such agency pursuant to subsection C by a person who is subject to a protective order pursuant to § 16.1-279.1 or 19.2-152.10 shall prepare a written receipt containing the name of the person who surrendered the firearm and the manufacturer, model, and serial number of the firearm and provide a copy to such person. Any firearm surrendered to and held by a law-enforcement agency pursuant to subsection C shall be returned by such agency to the person who surrendered the firearm upon the expiration or dissolution of the protective order entered pursuant to § 16.1-279.1 or 19.2-152.10. Such agency shall return the firearm within five days of receiving a written request for the return of the firearm by the person who surrendered the firearm and a copy of the receipt provided to such person by the agency. Prior to returning the firearm to such person, the law-enforcement agency holding the firearm shall confirm that such person is no longer subject to a protective order issued pursuant to § 16.1-279.1 or 19.2-152.10 and is not otherwise prohibited by law from possessing a firearm. A firearm surrendered to a law-enforcement agency pursuant to subsection C may be disposed of in accordance with the provisions of § 15.2-1721 if (i) the person from whom the firearm was seized provides written authorization for such disposal to the agency or (ii) the firearm remains in the possession of the agency more than 120 days after such person is no longer subject to a protective order issued pursuant to § 16.1-279.1 or 19.2-152.10 and such person has not submitted a request in writing for the return of the firearm.

F. Any law-enforcement agency or law-enforcement officer that takes into custody, stores, possesses, or transports a firearm pursuant to this section shall be immune from civil or criminal liability for any damage to

or deterioration, loss, or theft of such firearm.

G. The law-enforcement agencies of the counties, cities, and towns within each judicial circuit shall designate, in coordination with each other, and provide to the chief judges of all circuit and district courts within the judicial circuit, one or more local law-enforcement agencies to receive and store firearms pursuant to this section. The law-enforcement agencies shall provide the chief judges with a list that includes the addresses and hours of operation for any law-enforcement agencies so designated that such addresses and hours of operation may be provided to a person served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10.

§ 22.1-279.3:2. Public elementary and secondary school students; protective orders; notification.

Any school principal who receives notice that a circuit court, general district court, juvenile and domestic relations district court, or magistrate has issued a protective order pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, or 16.1-279.1, subsection *E* of § 18.2-60.3, or Chapter 9.1 (§ 19.2-152.7:1 et seq.) of Title 19.2 for the protection of any child who is enrolled at a public elementary or secondary school in the Commonwealth where such principal is employed, or any other order prohibiting contact with such a child, including an order issued as a condition of pretrial or posttrial supervision, shall subsequently notify licensed instructional personnel and other school personnel who (i) provide direct educational or support services to the protected child or the child subject to the order, (ii) have a legitimate educational interest in such information, and (iii) are responsible for the direct supervision of the protected child or the child subject to the order that such order has been issued.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.