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HOUSE BILL NO. 901

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact §§ 19.2-152.13, 19.2-152.14, and 19.2-152.16 of the Code of Virginia, relating to substantial risk orders; eligible petitioners; substantial risk factors and considerations; court jurisdiction; constructive possession of firearms; penalty.

Patron—Sullivan

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-152.13, 19.2-152.14, and 19.2-152.16 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-152.13. Emergency substantial risk order.

A. As used in this section:

"Act of violence, force, or threat" means the same as that term is defined in § 19.2-297.1.

"Certified evaluator" means an individual with an educational attainment of a master's or doctoral degree with an associated professional license who (i) is skilled in the assessment and treatment of mental illness; (ii) has completed a training and certification program approved by the Department; (iii) has received a prescreener orientation presentation developed by the Department in consultation with the Virginia Association of Community Services Boards, which shall include information on determining the least restrictive treatment available for the person being evaluated pursuant to subsection G of § 37.2-817.01.

"Department" means the Department of State Police.

"Designee of the local community services board" means the same as that term is defined in § 37.2-809.

"Immediate family or household member" means a spouse, child, parent, brother, sister, or any other person living in the same household as the respondent.

"Intimate partner" means an individual who, within the previous 12 months, was in a romantic, dating, or sexual relationship with the person as determined by the length, nature, frequency, and type of interaction between the individuals involved in the relationship.

B. Upon the petition of an attorney for the Commonwealth, ~~or~~ a law-enforcement officer, licensed professional counselor, licensed clinical social worker, licensed marriage and family therapist, licensed clinical psychologist, licensed clinical psychiatrist, licensed psychiatric nurse practitioner, psychiatric physician assistant, psychiatric clinical nurse specialist, doctor of medicine, doctor of osteopathy, certified evaluator, designee of the local community services board, immediate family or household member, intimate partner, or school administrator or a school administrator's designee of any school in which the person against whom the order is sought is currently enrolled or has been enrolled in the six months preceding the filing of such petition, a judge of a circuit court, general district court, or juvenile and domestic relations district court or a magistrate, upon a finding *at an ore tenus hearing* that there is probable cause to believe that a person poses a substantial risk of personal injury to himself or others in the near future by such person's possession or acquisition of a firearm, shall issue an ex parte emergency substantial risk order. Such order shall prohibit the person who is subject to the order from purchasing, possessing, or transporting a firearm for the duration of the order. In determining whether probable cause for the issuance of an order exists, the judge or magistrate shall consider any relevant evidence, including ~~any~~, but not limited to:

1. Any recent act of violence, force, or threat ~~as defined in § 19.2-152.7-1~~ by such person directed toward another person or toward himself. ~~No petition shall be filed unless an independent investigation has been conducted by law enforcement that determines that grounds for the petition exist, another person, a group of persons, or a location;~~

2. Any recent act of violence, force, or threat by the subject of the petition toward an animal;

3. Any recent violation of any provision of a protective order issued pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, 16.1-279.1, 19.2-152.8, or 19.2-152.10;

4. Any order entered pursuant to Chapter 8 (§ 37.2-800 et seq.) of Title 37.2;

5. Evidence of recent or ongoing abuse of controlled substances or alcohol; or

6. Evidence of recent acquisition or attempted acquisition of firearms, ammunition, or deadly weapons.

Such information may be alleged by the petitioner in his petition or may be offered through testimony at such hearing by the petitioner or any witnesses he may call to support his position. The order shall contain a statement (i) informing the person who is subject to the order of the requirements and penalties under § 18.2-308.1:6, including that it is unlawful for such person to purchase, possess, or transport a firearm for the duration of the order and that such person is required to surrender his concealed handgun permit if he

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possesses such permit, and (ii) advising such person to voluntarily relinquish any firearm within his custody to the law-enforcement agency that serves the order.

~~B.~~ C. The petition for an emergency substantial risk order shall be made under oath and shall be supported by an affidavit.

D. Upon receiving credible information that a person poses a substantial risk of personal injury to himself or others in the near future by such person's possession or acquisition of a firearm, law enforcement shall take the proper steps necessary to determine whether probable cause exists to file a substantial risk order petition pursuant to § 19.2-152.14.

~~C.~~ E. Upon service of an emergency substantial risk order, the person who is subject to the order shall be given the opportunity to voluntarily relinquish any firearm in his possession. The law-enforcement agency that executed the emergency substantial risk order shall take custody of all firearms that are voluntarily relinquished by such person. The law-enforcement agency that takes into custody a firearm pursuant to the order shall prepare a written receipt containing the name of the person who is subject to the order and the manufacturer, model, condition, and serial number of the firearm and shall provide a copy thereof to such person. Nothing in this subsection precludes a law-enforcement officer from later obtaining a search warrant for any firearms if the law-enforcement officer has reason to believe that the person who is subject to an emergency substantial risk order has not relinquished all firearms in his possession.

~~D.~~ F. An emergency substantial risk order issued pursuant to this section shall expire at 11:59 p.m. on the fourteenth day following issuance of the order. If the expiration occurs on a day that the ~~circuit~~ court for the jurisdiction where the order was issued is not in session, the order shall be extended until 11:59 p.m. on the next day that the ~~circuit~~ court is in session. The person who is subject to the order may at any time file with the ~~circuit~~ court a motion to dissolve the order.

~~E.~~ G. An emergency substantial risk order issued pursuant to this section is effective upon personal service on the person who is subject to the order. The order shall be served forthwith after issuance. A copy of the order, petition, and supporting affidavit shall be given to the person who is subject to the order together with a notice informing the person that he has a right to a hearing under § 19.2-152.14 and may be represented by counsel at the hearing.

~~F.~~ H. The court or magistrate shall forthwith, but in all cases no later than the end of the business day on which the emergency substantial risk order was issued, enter and transfer electronically to the Virginia Criminal Information Network (VCIN) established and maintained by the Department of State Police ~~(Department)~~ pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 the identifying information of the person who is subject to the order provided to the court or magistrate. A copy of an order issued pursuant to this section containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of the order. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department into the VCIN, and the order shall be served forthwith upon the person who is subject to the order. However, if the order is issued by the ~~circuit~~ court, the clerk of the ~~circuit~~ court shall forthwith forward an attested copy of the order containing the identifying information of the person who is subject to the order provided to the court to the primary law-enforcement agency providing service and entry of the order. Upon receipt of the order by the primary law-enforcement agency, the agency shall enter the name of the person subject to the order and other appropriate information required by the Department into the VCIN and the order shall be served forthwith upon the person who is subject to the order. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the VCIN and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested and forwarded forthwith to the primary law-enforcement agency responsible for service and entry of the order. Upon receipt of the dissolution or modification order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department into the VCIN and the order shall be served forthwith.

~~G.~~ I. The law-enforcement agency that serves the emergency substantial risk order shall make due return to the ~~circuit~~ court, which shall be accompanied by a written inventory of all firearms relinquished.

~~H.~~ J. Proceedings in which an emergency substantial risk order is sought pursuant to this section shall be commenced where the person who is subject to the order (i) has his principal residence or (ii) has engaged in any conduct upon which the petition for the emergency substantial risk order is based.

~~I.~~ K. A proceeding for a substantial risk order shall be a separate civil legal proceeding subject to the same rules as civil proceedings.

§ 19.2-152.14. Substantial risk order.

A. Not later than 14 days after the issuance of an emergency substantial risk order pursuant to § 19.2-152.13, the circuit court, *general district court*, or *juvenile and domestic relations district court* for the jurisdiction where the order was issued shall hold a hearing to determine whether a substantial risk order should be entered. The attorney for the Commonwealth for the jurisdiction that issued the emergency substantial risk order shall represent the interests of the Commonwealth. Notice of the hearing shall be given

to the person subject to the emergency substantial risk order and the attorney for the Commonwealth. Upon motion of the respondent and for good cause shown, the court may continue the hearing, provided that the order shall remain in effect until the hearing. The Commonwealth shall have the burden of proving all material facts by clear and convincing evidence. If the court finds by clear and convincing evidence that the person poses a substantial risk of personal injury to himself or to other individuals in the near future by such person's possession or acquisition of a firearm, the court shall issue a substantial risk order. Such order shall prohibit the person who is subject to the order from purchasing, possessing, or transporting a firearm for the duration of the order. In determining whether clear and convincing evidence for the issuance of an order exists, the judge shall consider any relevant evidence, including ~~any recent act of violence, force, or threat as defined in § 19.2-152.7-1 by such person directed toward another person or toward himself but not limited to the factors in subdivisions B 1 through 6 of § 19.2-152.13.~~ The order shall contain a statement (i) informing the person who is subject to the order of the requirements and penalties under § 18.2-308.1:6, including that it is unlawful for such person to purchase, possess, or transport a firearm for the duration of the order and that such person is required to surrender his concealed handgun permit if he possesses such permit, and (ii) advising such person to voluntarily relinquish any firearm that has not been taken into custody to the law-enforcement agency that served the emergency substantial risk order. *When a substantial risk order is issued against a minor, a copy of the order shall be served on the parent or guardian of such minor at any address where such minor resides, or the Virginia Department of Social Services in the case where such minor is the subject of a dependency or court-approved out-of-home placement.*

B. If the court issues a substantial risk order pursuant to subsection A, the court shall (i) order that any firearm that was previously relinquished pursuant to § 19.2-152.13 from the person who is subject to the substantial risk order continue to be held by the agency that has custody of the firearm for the duration of the order and (ii) advise such person that a law-enforcement officer may obtain a search warrant to search for any firearms from such person if such law-enforcement officer has reason to believe that such person has not relinquished all firearms in his possession.

If the court finds that the person does not pose a substantial risk of personal injury to himself or to other individuals in the near future, the court shall order that any firearm that was previously relinquished be returned to such person in accordance with the provisions of § 19.2-152.15.

C. The substantial risk order may be issued for a specified period of time up to a maximum of 180 days. The order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the 180-day period if no date is specified. Prior to the expiration of the order, an attorney for the Commonwealth or a law-enforcement officer may file a written motion requesting a hearing to extend the order. Proceedings to extend an order shall be given precedence on the docket of the court. The court may extend the order for a period not longer than 180 days if the court finds by clear and convincing evidence that the person continues to pose a substantial risk of personal injury to himself or to other individuals in the near future by such person's possession or acquisition of a firearm at the time the request for an extension is made. The extension of the order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the 180-day period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued. The person who is subject to the order may file a motion to dissolve the order one time during the duration of the order; however, such motion may not be filed earlier than 30 days from the date the order was issued.

D. Any person whose firearm has been voluntarily relinquished pursuant to § 19.2-152.13 or this section, or such person's legal representative, may transfer the firearm to another individual 21 years of age or older who is not otherwise prohibited by law from possessing such firearm, provided that:

1. The person subject to the order and the transferee appear at the hearing;
2. At the hearing, the attorney for the Commonwealth advises the court that a law-enforcement agency has determined that the transferee is not prohibited from possessing or transporting a firearm;
3. The transferee does not reside with the person subject to the order;
4. The court informs the transferee of the requirements and penalties under § 18.2-308.2:1; and
5. The court, after considering all relevant factors and any evidence or testimony from the person subject to the order, approves the transfer of the firearm subject to such restrictions as the court deems necessary.

The law-enforcement agency holding the firearm shall deliver the firearm to the transferee within five days of receiving a copy of the court's approval of the transfer.

E. *If a person other than the respondent claims title to any firearms surrendered pursuant to § 19.2-152.13 or this section, and that person is determined by the law-enforcement agency to be the lawful owner of the firearm, the firearm shall be returned to that person, provided that:*

1. *The firearm is removed from the respondent's custody, control, or possession and the lawful owner provides written verification to the court regarding how the lawful owner will safely store the firearm in a manner such that the respondent does not have access to, or control of, the firearm for the duration of the order;*
2. *The court advises the lawful owner of the penalty for failure to do so; and*
3. *The firearm is not otherwise unlawfully possessed by the owner.*

F. The court shall forthwith, but in all cases no later than the end of the business day on which the

substantial risk order was issued, enter and transfer electronically to the Virginia Criminal Information Network (VCIN) established and maintained by the Department of State Police (*the Department*) pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 the identifying information of the person who is subject to the order provided to the court and shall forthwith forward the attested copy of the order containing any such identifying information to the primary law-enforcement agency responsible for service and entry of the order. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department into the VCIN and the order shall be served forthwith upon the person who is subject to the order and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department into the VCIN and make due return to the court. If the person who is subject to an emergency substantial risk order fails to appear at the hearing conducted pursuant to this section because such person was not personally served with notice of the hearing pursuant to subsection A, or if personally served was incarcerated and not transported to the hearing, the court may extend the emergency substantial risk order for a period not to exceed 14 days. The extended emergency substantial risk order shall specify a date for a hearing to be conducted pursuant to this section and shall be served forthwith on such person and due return made to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested and forwarded forthwith to the primary law-enforcement agency responsible for service and entry of the order. Upon receipt of the dissolution or modification order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network, and the order shall be served forthwith and due return made to the court.

§ 19.2-152.16. False statement to law-enforcement officer, etc.; penalty.

Any person who knowingly and willfully makes any materially false statement or representation to (i) a law-enforcement officer or attorney for the Commonwealth who is in the course of conducting an investigation undertaken pursuant to this chapter or (ii) a court during the petitioning process pursuant to this chapter is guilty of a Class 1 misdemeanor.