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SENATE BILL NO. 38

Senate Amendments in [] - February 6, 2026

A BILL to amend and reenact §§ 18.2-308.1:4 and 18.2-308.1:8 of the Code of Virginia, relating to firearm transfers to another person from a prohibited person.

Patron Prior to Engrossment—Senator Favola

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-308.1:4 and 18.2-308.1:8 of the Code of Virginia are amended and reenacted as follows:

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

13 A. It is unlawful for any person who is subject to (i) a protective order entered pursuant to § 16.1-253.1,
14 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
15 subsection B of § 20-103; (iii) an order entered pursuant to subsection D of § 18.2-60.3; (iv) a preliminary
16 protective order entered pursuant to subsection F of § 16.1-253 where a petition alleging abuse or neglect has
17 been filed; or (v) an order issued by a tribunal of another state, the United States or any of its territories,
18 possessions, or commonwealths, or the District of Columbia pursuant to a statute that is substantially similar
19 to those cited in ~~clauses~~ clause (i), (ii), (iii), or (iv) to purchase or transport any firearm while the order is in
20 effect. Any person with a concealed handgun permit shall be prohibited from carrying any concealed firearm,
21 and shall surrender his permit to the court entering the order, for the duration of any protective order referred
22 to herein. A violation of this subsection is a Class 1 misdemeanor.

23 to know, a violation of this subsection is a Class 1 misdemeanor.

24 B. In addition to the prohibition set forth in subsection A, it is unlawful for any person who is subject to a
25 protective order entered pursuant to § 16.1-279.1 or 19.2-152.10 or an order issued by a tribunal of another
26 state, the United States or any of its territories, possessions, or commonwealths, or the District of Columbia
27 pursuant to a statute that is substantially similar to § 16.1-279.1 or 19.2-152.10 to knowingly possess any
28 firearm while the order is in effect, provided that for a period of 24 hours after being served with a protective
29 order in accordance with subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10 such person may
30 continue to possess and, notwithstanding the provisions of subsection A, transport any firearm possessed by
31 such person at the time of service for the purposes of surrendering any such firearm to a law-enforcement
32 agency in accordance with subsection C or selling or transferring any such firearm to a dealer as defined in
33 § 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.

34 C. Upon issuance of a protective order pursuant to § 16.1-279.1 or 19.2-152.10, the court shall advise
35 such person who is subject to the protective order that a law-enforcement officer may obtain a search
36 warrant to search for any firearms from such person if such law-enforcement officer has [~~reason to believe~~
37 probable cause] that such person has not relinquished all firearms in his possession.

38 Additionally, the court shall order the person who is subject to the protective order to (i) within 24 hours
39 after being served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection D of
40 § 19.2-152.10 (a) surrender any firearm possessed by such person to a designated local law-enforcement
41 agency, (b) sell or transfer any firearm possessed by such person to a dealer as defined in § 18.2-308.2:2, or
42 (c) sell or transfer any firearm possessed by such person to any person who is not otherwise prohibited by law
43 from possessing such firearm, *provided that such person who is not otherwise prohibited by law from*
44 *possessing such firearm is 21 years of age or older and does not reside with the person who is subject to the*
45 *protective order*, and (ii) within 48 hours after being served with a protective order in accordance with
46 subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10, certify in writing, on a form provided by the
47 Office of the Executive Secretary of the Supreme Court, that such person does not possess any firearms or
48 that all firearms possessed by such person have been surrendered, sold, or transferred and file such
49 certification with the clerk of the court that entered the protective order.

50 *In the event of a surrender, sale, or transfer of a firearm, the person who is subject to the protective order*
51 *shall provide, on such form, the name, address, and signature of the transferee, federally licensed firearms*
52 *dealer, or law-enforcement agency in possession of the firearm. The person who is subject to the protective*
53 *order shall provide a copy of such form to the transferee at the time of such firearm transfer.*

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.

57 D. The person who is subject to a protective order pursuant to § 16.1-279.1 or 19.2-152.10 shall be
58 provided with the address and hours of operation of a designated local law-enforcement agency and the

59 certification forms when such person is served with a protective order in accordance with subsection C of
60 § 16.1-279.1 or subsection D of § 19.2-152.10.

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

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

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

88 **§ 18.2-308.1:8. Purchase, possession, or transportation of firearm following an assault and battery
89 of a family or household member; penalty.**

90 A. Any person who knowingly and intentionally purchases, possesses, or transports any firearm following
91 a misdemeanor conviction for an offense that occurred on or after July 1, 2021, for (i) the offense of assault
92 and battery of a family or household member or (ii) an offense substantially similar to clause (i) under the
93 laws of any other state or of the United States is guilty of a Class 1 misdemeanor.

94 B. For the purposes of this section, "family or household member" means (i) the person's spouse, whether
95 or not he resides in the same home with the person; (ii) the person's former spouse, whether or not he resides
96 in the same home with the person; or (iii) any individual who has a child in common with the person, whether
97 or not the person and that individual have been married or have resided together at any time.

98 C. Any person prohibited from purchasing, possessing, or transporting a firearm pursuant to subsection A
99 shall be prohibited from purchasing, possessing, or transporting a firearm for three years following the date of
100 the conviction at which point the person convicted of such offense shall no longer be prohibited from
101 purchasing, possessing, or transporting a firearm pursuant to subsection A. Such person shall have his
102 firearms rights restored, unless such person receives another disqualifying conviction, is subject to a
103 protective order that would restrict his rights to carry a firearm, or is otherwise prohibited by law from
104 purchasing, possessing, or transporting a firearm.

105 *D. At such person's sentencing hearing, the court shall advise any person prohibited from purchasing,
106 possessing, or transporting a firearm pursuant to clause (i) of subsection A that a law-enforcement officer
107 may obtain a search warrant to search for any firearms from such person if such law-enforcement officer has
108 [reason to believe probable cause] that such person has not relinquished all firearms in his possession.*

109 Any person prohibited from purchasing, possessing, or transporting a firearm pursuant to clause (i) of
110 subsection A shall (i) within 24 hours after such person's sentencing hearing or release from custody, if such
111 person is taken into custody at the conclusion of the sentencing hearing, (a) surrender any firearm possessed
112 by such person to a designated local law-enforcement agency, (b) sell or transfer any firearm possessed by
113 such person to a dealer as defined in § 18.2-308.2:2, or (c) sell or transfer any firearm possessed by such
114 person to any person who is not otherwise prohibited by law from possessing such firearm, provided that
115 such person who is not otherwise prohibited by law from possessing such firearm is 21 years of age or older
116 and does not reside with such person who is prohibited from purchasing, possessing, or transporting a
117 firearm pursuant to clause (i) of subsection A, and (ii) within 48 hours after such person's sentencing hearing
118 or release from custody, if such person is taken into custody at the conclusion of the sentencing hearing,
119 certify in writing, on a form provided by the Office of the Executive Secretary of the Supreme Court, that such
120 person does not possess any firearms or that all firearms possessed by such person have been surrendered,

121 sold, or transferred and file such certification with the clerk of the court where the conviction order was
122 entered.

123 In the event of a surrender, sale, or transfer of a firearm, the person who is prohibited from purchasing,
124 possessing, or transporting a firearm pursuant to clause (i) of subsection A shall provide, on such form, the
125 name, address, and signature of the transferee, the federally licensed firearms dealer, or the law-enforcement
126 agency in possession of the firearm. The person who is prohibited from purchasing, possessing, or
127 transporting a firearm pursuant to clause (i) of subsection A shall provide a copy of such form to the
128 transferee at the time of such firearm transfer.

129 The willful failure of any person to certify in writing in accordance with this section that all firearms
130 possessed by such person have been surrendered, sold, or transferred or that such person does not possess
131 any firearms shall constitute contempt of court.

132 E. Any person convicted of an offense under clause (i) of subsection A shall be provided with the address
133 and hours of operation of a designated local law-enforcement agency. A law-enforcement agency that takes
134 into custody a firearm surrendered to such agency pursuant to subsection D by a person who is prohibited
135 from purchasing, possessing, or transporting a firearm pursuant to clause (i) of subsection A shall prepare a
136 written receipt containing the name of the person who surrendered the firearm and the manufacturer, model,
137 and serial number of the firearm and provide a copy to such person and to the court that issued the order.
138 Any firearm surrendered to and held by a law-enforcement agency pursuant to subsection D shall be
139 returned by such agency to the person who surrendered the firearm upon the expiration of the prohibition
140 period as provided in subsection C. Such agency shall return the firearm within five days of receiving a
141 written request for the return of the firearm by the person who surrendered the firearm and a copy of the
142 receipt provided to such person by the agency. Prior to returning the firearm to such person, the law-
143 enforcement agency holding the firearm shall confirm that such person is no longer prohibited by law from
144 possessing a firearm. A firearm surrendered to a law-enforcement agency pursuant to subsection D may be
145 disposed of in accordance with the provisions of § 15.2-1721 if (i) the person from whom the firearm was
146 seized provides written authorization for such disposal to the agency or (ii) the firearm remains in the
147 possession of the agency more than 120 days after such person is no longer prohibited from possessing a
148 firearm and such person has not submitted a request in writing for the return of the firearm.

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

152 G. The law-enforcement agencies of the counties, cities, and towns within each judicial circuit shall
153 designate, in coordination with each other, and provide to the chief judges of all circuit and district courts
154 within the judicial circuit, one or more local law-enforcement agencies to receive and store firearms
155 pursuant to this section. The law-enforcement agencies shall provide the chief judges with a list that includes
156 the addresses and hours of operation of any law-enforcement agencies so designated so that such addresses
157 and hours of operation may be provided to a person who is prohibited from purchasing, possessing, or
158 transporting a firearm pursuant to clause (i) of subsection A.

ENGROSSED

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