

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 18.2-308.1:4 and 18.2-308.1:8 of the Code of Virginia, relating to firearm*  
3 *transfers to another person from a prohibited person.*4 [S 38]  
5 Approved6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 18.2-308.1:4 and 18.2-308.1:8 of the Code of Virginia are amended and reenacted as follows:**  
8 **§ 18.2-308.1:4. Purchase or transportation of firearm by persons subject to protective orders;**  
9 **penalties.**10 A. It is unlawful for any person who is subject to (i) a protective order entered pursuant to § 16.1-253.1,  
11 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  
12 subsection B of § 20-103; (iii) an order entered pursuant to subsection D of § 18.2-60.3; (iv) a preliminary  
13 protective order entered pursuant to subsection F of § 16.1-253 where a petition alleging abuse or neglect has  
14 been filed; or (v) an order issued by a tribunal of another state, the United States or any of its territories,  
15 possessions, or commonwealths, or the District of Columbia pursuant to a statute that is substantially similar  
16 to those cited in ~~clauses~~ clause (i), (ii), (iii), or (iv) to purchase or transport any firearm while the order is in  
17 effect. Any person with a concealed handgun permit shall be prohibited from carrying any concealed firearm,  
18 and shall surrender his permit to the court entering the order, for the duration of any protective order referred  
19 to herein. A violation of this subsection is a Class 1 misdemeanor.20 B. In addition to the prohibition set forth in subsection A, it is unlawful for any person who is subject to a  
21 protective order entered pursuant to § 16.1-279.1 or 19.2-152.10 or an order issued by a tribunal of another  
22 state, the United States or any of its territories, possessions, or commonwealths, or the District of Columbia  
23 pursuant to a statute that is substantially similar to § 16.1-279.1 or 19.2-152.10 to knowingly possess any  
24 firearm while the order is in effect, provided that for a period of 24 hours after being served with a protective  
25 order in accordance with subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10 such person may  
26 continue to possess and, notwithstanding the provisions of subsection A, transport any firearm possessed by  
27 such person at the time of service for the purposes of surrendering any such firearm to a law-enforcement  
28 agency in accordance with subsection C or selling or transferring any such firearm to a dealer as defined in  
29 § 18.2-308.2:2 or to any person who is not otherwise prohibited by law from possessing such firearm in  
30 accordance with subsection C. A violation of this subsection is a Class 6 felony.31 C. Upon issuance of a protective order pursuant to § 16.1-279.1 or 19.2-152.10, the court shall *advise*  
32 *such person who is subject to the protective order that a law-enforcement officer may obtain a search*  
33 *warrant to search for any firearms from such person if such law-enforcement officer has probable cause that*  
34 *such person has not relinquished all firearms in his possession.*35 *Additionally, the court shall* order the person who is subject to the protective order to (i) within 24 hours  
36 after being served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection D of  
37 § 19.2-152.10 (a) surrender any firearm possessed by such person to a designated local law-enforcement  
38 agency, (b) sell or transfer any firearm possessed by such person to a dealer as defined in § 18.2-308.2:2, or  
39 (c) sell or transfer any firearm possessed by such person to any person who is not otherwise prohibited by law  
40 from possessing such firearm, *provided that such person who is not otherwise prohibited by law from*  
41 *possessing such firearm is 21 years of age or older and does not reside with the person who is subject to the*  
42 *protective order*, and (ii) within 48 hours after being served with a protective order in accordance with  
43 subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10, certify in writing, on a form provided by the  
44 Office of the Executive Secretary of the Supreme Court, that such person does not possess any firearms or  
45 that all firearms possessed by such person have been surrendered, sold, or transferred and file such  
46 certification with the clerk of the court that entered the protective order.47 *In the event of a surrender, sale, or transfer of a firearm, the person who is subject to the protective order*  
48 *shall provide, on such form, the name, address, and signature of the transferee, federally licensed firearms*  
49 *dealer, or law-enforcement agency in possession of the firearm. The person who is subject to the protective*  
50 *order shall provide a copy of such form to the transferee at the time of such firearm transfer.*51 The willful failure of any person to certify in writing in accordance with this section that all firearms  
52 possessed by such person have been surrendered, sold, or transferred or that such person does not possess any  
53 firearms shall constitute contempt of court.54 D. The person who is subject to a protective order pursuant to § 16.1-279.1 or 19.2-152.10 shall be  
55 provided with the address and hours of operation of a designated local law-enforcement agency and the  
56 certification forms when such person is served with a protective order in accordance with subsection C of

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57       § 16.1-279.1 or subsection D of § 19.2-152.10.

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

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

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

85       **§ 18.2-308.1:8. Purchase, possession, or transportation of firearm following an assault and battery  
 86 of a family or household member; penalty.**

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

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

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

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

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

119     entered.

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

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

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

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

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