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SENATE BILL NO. 1467

Offered January 9, 2019

Prefiled January 8, 2019

A BILL to amend and reenact § 18.2-308.1:4 of the Code of Virginia, relating to protective orders; possession of firearms; surrender or transfer of firearms; penalties.

Patrons—Saslaw and Howell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

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

§ 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 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 (i) a protective order entered on or after July 1, 2016, pursuant to § 16.1-279.1, (ii) a protective order entered on or after July 1, 2019, pursuant to § 19.2-152.10, or (iii) an order issued after those respective dates 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 C 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 selling or transferring any such firearm to any person who is not otherwise prohibited by law from possessing such firearm provided that such person will not allow the person subject to a protective order to exert any influence or control over the sold or transferred firearm. A violation of this subsection is a Class 6 felony.

C. Upon entry of a protective order pursuant to § 16.1-279.1 or 19.2-152.10, the court shall order the person 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 C 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, provided that such person will not allow the person subject to a protective order to exert any influence or control over the sold or transferred firearm, or (ii) 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 and file such certification with the clerk of the court that entered the protective order within 48 hours after being served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection C of § 19.2-152.10. Within 48 hours after surrendering or selling or transferring all firearms, such person shall certify in writing, on a form provided by the Office of the Executive Secretary of the Supreme Court, that all firearms possessed by such person have either been surrendered or sold or transferred and file such certification with the clerk of the court that entered the protective order. Any person who fails to certify in writing that all firearms possessed by such person have either been surrendered or sold or transferred or that such person does not possess any firearms in accordance with this subsection is guilty of a Class 1 misdemeanor.

D. Any firearms surrendered to a local law-enforcement agency shall be retained and stored by such law-enforcement agency while such order is in effect. Upon the expiration of such order, the law-enforcement agency shall return the surrendered firearm to the person who was subject to the

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59 *protective order unless such person is prohibited by law from possessing a firearm. If such person is*
60 *prohibited by law from possessing a firearm upon the expiration of such order, the law-enforcement*
61 *agency may retain such firearm or at the request of such person who is prohibited by law from*
62 *possessing a firearm may transfer the firearm to any person who is not otherwise prohibited by law*
63 *from possessing such firearm.*

64 *The court shall provide the address and hours of operation of a designated local law-enforcement*
65 *agency and the certification forms to the person subject to the protective order when that person is*
66 *served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection C of*
67 *§ 19.2-152.10.*

68 *E. For the purposes of designating a local law-enforcement agency to receive and store firearms*
69 *pursuant to subsection C, the chief judge of the circuit court shall coordinate with the local*
70 *law-enforcement agencies within the judicial circuit to determine which agencies have the capacity to*
71 *receive and store firearms. Based on such capacity determinations, the chief judge of the circuit court*
72 *shall designate which local law-enforcement agencies shall receive and store firearms. The chief judge*
73 *shall provide the addresses and hours of operation of all of the designated local law-enforcement*
74 *agencies to all courts within the judicial circuit so that such addresses and hours of operation may be*
75 *provided to a person served with a protective order as provided in subsection C of § 16.1-279.1 or*
76 *subsection C of § 19.2-152.10.*

77 *F. Any person who buys or has a firearm transferred to him as provided in subsection B or C and*
78 *allows the person subject to a protective order to exert any influence or control over the sold or*
79 *transferred firearm is guilty of a Class 1 misdemeanor.*

80 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
81 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
82 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
83 **correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I,**
84 **requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of**
85 **\$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
86 **appropriation cannot be determined for periods of commitment to the custody of the Department**
87 **of Juvenile Justice.**