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## SENATE BILL NO. 4020

Offered July 9, 2019

Prefiled July 8, 2019

A *BILL to amend and reenact §§ 18.2-308.09 and 18.2-308.013 of the Code of Virginia, relating to concealed handgun permit; disqualifications; assault, assault and battery, sexual battery, discharging of a firearm, or brandishing of a firearm.*

Patron—Norment

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-308.09 and 18.2-308.013 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

6. (Effective until January 1, 2021) An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.

6. (Effective January 1, 2021) An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a restoration order may be obtained in accordance with subsection C of that section.

7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic cannabinoids, or any controlled substance.

9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application, or who is a habitual drunkard as determined pursuant to § 4.1-333.

10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11. An individual who has been discharged from the armed forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the

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59 specific acts, or upon a written statement made under oath before a notary public of a competent person  
60 having personal knowledge of the specific acts.

61 14. An individual who has been convicted of any assault, *or* assault and battery, *within the five-year*  
62 *period immediately preceding the application.*

63 15. *An individual who has been convicted of* sexual battery, discharging of a firearm in violation of  
64 § 18.2-280 or 18.2-286.1, or brandishing of a firearm in violation of § 18.2-282 within the ~~three-year~~  
65 *10-year period immediately preceding the application.*

66 ~~15.~~ 16. An individual who has been convicted of stalking.

67 ~~16.~~ 17. An individual whose previous convictions or adjudications of delinquency were based on an  
68 offense that would have been at the time of conviction a felony if committed by an adult under the laws  
69 of any state, the District of Columbia, the United States or its territories. For purposes of this  
70 disqualifier, only convictions occurring within 16 years following the later of the date of (i) the  
71 conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or  
72 adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall  
73 not apply to an individual with previous adjudications of delinquency who has completed a term of  
74 service of no less than two years in the Armed Forces of the United States and, if such person has been  
75 discharged from the Armed Forces of the United States, received an honorable discharge.

76 ~~17.~~ 18. An individual who has a felony charge pending or a charge pending for an offense listed in  
77 subdivision 14 ~~or~~, 15, *or* 16.

78 ~~18.~~ 19. An individual who has received mental health treatment or substance abuse treatment in a  
79 residential setting within five years prior to the date of his application for a concealed handgun permit.

80 ~~19.~~ 20. An individual not otherwise ineligible pursuant to this article, who, within the three-year  
81 period immediately preceding the application for the permit, was found guilty of any criminal offense  
82 set forth in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or of a criminal offense of illegal  
83 possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the  
84 laws of any state, the District of Columbia, or the United States or its territories.

85 ~~20.~~ 21. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within  
86 the three-year period immediately preceding the application, upon a charge of any criminal offense set  
87 forth in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or upon a charge of illegal possession or  
88 distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any  
89 state, the District of Columbia, or the United States or its territories, the trial court found that the facts  
90 of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the  
91 substantially similar law of any other state, the District of Columbia, or the United States or its  
92 territories.

93 **§ 18.2-308.013. Suspension or revocation of permit.**

94 A. Any person convicted of an offense that would disqualify that person from obtaining a permit  
95 under § 18.2-308.09 or who violates subsection C of § 18.2-308.02 shall forfeit his permit for a  
96 concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records  
97 Exchange of a record of the arrest, conviction, or occurrence of any other event that would disqualify a  
98 person from obtaining a concealed handgun permit under § 18.2-308.09, the Central Criminal Records  
99 Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction, or  
100 other event. Upon receipt of such notice of a conviction, the court shall revoke the permit of a person  
101 disqualified pursuant to this subsection, and shall promptly notify the State Police and the person whose  
102 permit was revoked of the revocation.

103 B. An individual who has a felony charge pending or a charge pending for an offense listed in  
104 subdivision 14 ~~or~~, 15, *or* 16 of § 18.2-308.09, holding a permit for a concealed handgun, may have the  
105 permit suspended by the court before which such charge is pending or by the court that issued the  
106 permit.

107 C. The court shall revoke the permit of any individual for whom it would be unlawful to purchase,  
108 possess, or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify the State  
109 Police and the person whose permit was revoked of the revocation.

110 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
111 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**  
112 **necessary appropriation is cannot be determined for periods of imprisonment in state adult**  
113 **correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia**  
114 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to**  
115 **§ 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for**  
116 **periods of commitment to the custody of the Department of Juvenile Justice.**