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SENATE BILL NO. 372

Offered January 8, 2020

Prefiled January 6, 2020

A *BILL to amend and reenact §§ 18.2-308.1:4 and 18.2-308.2:1 of the Code of Virginia, relating to protective orders; possession of firearms; surrender or transfer of firearms; penalty.*

Patron—Saslaw

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-308.1:4 and 18.2-308.2:1 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.

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 a protective order entered pursuant to § 16.1-279.1 or 19.2-152.10 or 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 § 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. 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 and (ii) 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 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 or that all firearms possessed by such person have been surrendered, 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 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 protective order unless such person is prohibited by law from possessing a firearm. If such person is prohibited by law from possessing a firearm upon the expiration of such order, the law-enforcement agency may retain such firearm or, at the request of such person who is prohibited by law from possessing a firearm, may transfer the firearm to any person who is not otherwise prohibited by law from possessing such firearm.

E. Any law-enforcement agency or law-enforcement officer who takes into custody, stores, possesses,

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SB372

59 or transports a firearm pursuant to this section shall be immune from civil or criminal liability for any
60 damage to or deterioration, loss, or theft of such firearm.

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

65 G. For the purposes of designating a local law-enforcement agency to receive and store firearms
66 pursuant to this section, the law-enforcement agencies of the counties, cities, and towns within each
67 judicial circuit shall designate, in coordination with each other, and identify to the chief judges of all
68 circuit and district courts within the judicial circuit, one or more local law-enforcement agencies that
69 have the capacity to receive and store firearms. The law-enforcement agencies shall provide the chief
70 judges with a list that includes the addresses and hours of operation for any law-enforcement agencies
71 so designated so that such addresses and hours of operation may be provided to a person served with a
72 protective order as provided in subsection C of § 16.1-279.1 or subsection C of § 19.2-152.10.

73 **§ 18.2-308.2:1. Prohibiting the selling, etc., of firearms to certain persons.**

74 Any person who sells, barter, gives or furnishes, or has in his possession or under his control with
75 the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited
76 from possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3,
77 subsection B of § 18.2-308.1:4, § 18.2-308.2, subsection B of § 18.2-308.2:01, or § 18.2-308.7 shall be
78 guilty of a Class 4 felony. However, this prohibition shall not be applicable when the person convicted
79 of the felony, adjudicated delinquent or acquitted by reason of insanity has (i) been issued a permit
80 pursuant to subsection C of § 18.2-308.2 or been granted relief pursuant to subsection B of
81 § 18.2-308.1:1, or § 18.2-308.1:2 or 18.2-308.1:3; (ii) been pardoned or had his political disabilities
82 removed in accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit to ship, transport,
83 possess or receive firearms pursuant to the laws of the United States.

84 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
85 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
86 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
87 **correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia**
88 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to**
89 **§ 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be**
90 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**