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HOUSE BILL NO. 4009

Offered July 9, 2019

Prefiled July 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; penalty.

Patrons—Toscano, Convirs-Fowler, Jones, J.C., Murphy, Ayala, Bell, John J., Bourne, Carr, Carroll Foy, Filler-Corn, Hayes, Herring, Hope, Kory, Krizek, Levine, Lindsey, Lopez, McQuinn, Mullin, Plum, Price, Rasoul, Reid, Rodman, Samirah, Sickles, Simon, Sullivan, Tran, Turpin, Tyler, Ward and Watts

Referred to Committee on Militia, Police and Public Safety

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 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. In addition to the prohibitions set forth in subsections A and B, any person subject to a protective order entered pursuant to § 16.1-279.1 or 19.2-152.10, or to 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, shall certify in writing that any firearm possessed by such person has been sold or transferred and file such certification with the clerk of the court that entered the protective order within 48 hours after being served with the protective order. A violation of this subsection is a Class 1 misdemeanor.

2. That there is hereby appropriated from the balance of the general fund in fiscal year 2020 the amount of \$50,000. The Director of the Department of Planning and Budget shall allocate such appropriation among the agencies and programs impacted by this act.

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

INTRODUCED

HB4009