

HOUSE BILL NO. 1992

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on _____)

(Patron Prior to Substitute--Delegate Murphy)

A BILL to amend and reenact §§ 18.2-308.09, 18.2-308.2:1, as it is currently effective and as it shall become effective, 18.2-308.2:2, as it is currently effective and as it shall become effective, 18.2-308.2:3, as it is currently effective and as it shall become effective, and 19.2-386.28 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-308.1:8, relating to purchase, possession, or transportation of firearms following conviction for assault and battery of a family or household member; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-308.09, 18.2-308.2:1, as it is currently effective and as it shall become effective, 18.2-308.2:2, as it is currently effective and as it shall become effective, 18.2-308.2:3, as it is currently effective and as it shall become effective, and 19.2-386.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-308.1:8 as follows:

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

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

1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other state or of the United States.

1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, ~~or~~ 18.2-308.1:7, or 18.2-308.1:8 or the substantially similar law of any other state or of the United States.

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

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

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

35 5. An individual who is subject to a restraining order, or to a protective order and prohibited by §
36 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

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

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

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

46 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar
47 local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other
48 state, the District of Columbia, the United States, or its territories within the three-year period immediately
49 preceding the application.

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

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

53 12. An individual who is a fugitive from justice.

54 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts
55 by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief
56 of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating
57 that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a
58 disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a
59 weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the
60 attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy
61 sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written
62 statement made under oath before a notary public of a competent person having personal knowledge of
63 the specific acts.

64 14. An individual who has been convicted of any assault, assault and battery, sexual battery,
65 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation
66 of § 18.2-282 within the three-year period immediately preceding the application.

67 15. An individual who has been convicted of stalking.

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

77 17. An individual who has a felony charge pending or a charge pending for an offense listed in
78 subdivision 14 or 15.

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

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

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

93 **§ 18.2-308.1:8. Purchase, possession, or transportation of firearm following an assault and**
94 **battery of a family or household member; penalty.**

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

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

104 C. Any person prohibited from purchasing, possessing, or transporting a firearm pursuant to
105 subsection A shall be prohibited from purchasing, possessing, or transporting a firearm for three years

106 following the date of the conviction at which point the person convicted of such offense shall no longer
107 be prohibited from purchasing, possessing, or transporting a firearm pursuant to subsection A. Such person
108 shall have his firearms rights restored, unless such person receives another disqualifying conviction, is
109 subject to a protective order that would restrict his rights to carry a firearm, or is otherwise prohibited by
110 law from purchasing, possessing, or transporting a firearm.

111 **§ 18.2-308.2:1. (Effective until July 1, 2021) Prohibiting the selling, etc., of firearms to certain**
112 **persons.**

113 Any person who sells, barter, gives or furnishes, or has in his possession or under his control with
114 the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited from
115 possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection
116 B of § 18.2-308.1:4, § 18.2-308.1:6, 18.2-308.1:8, or 18.2-308.2, subsection B of § 18.2-308.2:01, or §
117 18.2-308.7 is guilty of a Class 4 felony. However, this prohibition shall not be applicable when the person
118 convicted of the felony or misdemeanor, adjudicated delinquent, or acquitted by reason of insanity has (i)
119 been issued a permit pursuant to subsection C of § 18.2-308.2 or been granted relief pursuant to subsection
120 B of § 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
121 removed in accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit to ship, transport,
122 possess or receive firearms pursuant to the laws of the United States.

123 **§ 18.2-308.2:1. (Effective July 1, 2021) Prohibiting the selling, etc., of firearms to certain**
124 **persons; penalties.**

125 A. Any person who sells, barter, gives, or furnishes, or has in his possession or under his control
126 with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited
127 from possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3,
128 subsection B of § 18.2-308.1:4, § 18.2-308.1:6, 18.2-308.1:8, or 18.2-308.2, subsection B of § 18.2-
129 308.2:01, or § 18.2-308.7 is guilty of a Class 4 felony. However, this prohibition shall not be applicable
130 when the person convicted of the felony or misdemeanor, adjudicated delinquent, or acquitted by reason
131 of insanity has (i) been issued a permit pursuant to subsection C of § 18.2-308.2 or been granted relief
132 pursuant to subsection B of § 18.2-308.1:1 or § 18.2-308.1:2 or 18.2-308.1:3; (ii) been pardoned or had

133 his political disabilities removed in accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit
134 to ship, transport, possess, or receive firearms pursuant to the laws of the United States.

135 B. Any person who sells, barter, gives, or furnishes, or has in his possession or under his control
136 with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited
137 from purchasing, possessing or transporting a firearm pursuant to § 18.2-308.1:7 is guilty of a Class 1
138 misdemeanor.

139 **§ 18.2-308.2:2. (Effective until July 1, 2021) Criminal history record information check**
140 **required for the transfer of certain firearms.**

141 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a
142 form to be provided by the Department of State Police, to have the dealer obtain criminal history record
143 information. Such form shall include only the written consent; the name, birth date, gender, race,
144 citizenship, and social security number and/or any other identification number; the number of firearms by
145 category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following
146 questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in §
147 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of
148 the offense of a delinquent act that if committed by an adult would be a felony ~~if committed by an adult~~
149 or a misdemeanor listed in § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the
150 applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of
151 such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by
152 reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to §
153 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally
154 incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from
155 purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction,
156 been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health
157 treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar
158 law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809
159 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject

160 to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or
161 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-
162 308.1:6 or any substantially similar law of any other jurisdiction.

163 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other
164 person who is a resident of Virginia until he has (i) obtained written consent and the other information on
165 the consent form specified in subsection A, and provided the Department of State Police with the name,
166 birth date, gender, race, citizenship, and social security and/or any other identification number and the
167 number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested
168 criminal history record information by a telephone call to or other communication authorized by the State
169 Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal
170 identification and residence in Virginia for purposes of this section, a dealer must require any prospective
171 purchaser to present one photo-identification form issued by a governmental agency of the
172 Commonwealth or by the United States Department of Defense that demonstrates that the prospective
173 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm
174 purchase, residency of a member of the armed forces shall include both the state in which the member's
175 permanent duty post is located and any nearby state in which the member resides and from which he
176 commutes to the permanent duty post. A member of the armed forces whose photo identification issued
177 by the Department of Defense does not have a Virginia address may establish his Virginia residency with
178 such photo identification and either permanent orders assigning the purchaser to a duty post, including the
179 Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification
180 presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued
181 by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer
182 shall not, except for a renewed driver's license or other photo identification issued by the Department of
183 Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the
184 date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a
185 copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue
186 of the driver's license was more than 30 days prior to the attempted purchase.

187 In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to
188 any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent
189 residence.

190 Upon receipt of the request for a criminal history record information check, the State Police shall
191 (a) review its criminal history record information to determine if the buyer or transferee is prohibited from
192 possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates
193 that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number for
194 that inquiry.

195 2. The State Police shall provide its response to the requesting dealer during the dealer's request or
196 by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the
197 State Police that a response will not be available by the end of the dealer's third business day may
198 immediately complete the sale or transfer and shall not be deemed in violation of this section with respect
199 to such sale or transfer.

200 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records
201 longer than 30 days, except for multiple handgun transactions for which records shall be maintained for
202 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer
203 or transferee who is not found to be prohibited from possessing and transporting a firearm under state or
204 federal law. However, the log on requests made may be maintained for a period of 12 months, and such
205 log shall consist of the name of the purchaser, the dealer identification number, the unique approval
206 number, and the transaction date.

207 4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail
208 or deliver the written consent form required by subsection A to the Department of State Police. The State
209 Police shall immediately initiate a search of all available criminal history record information to determine
210 if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the
211 search discloses information indicating that the buyer or transferee is so prohibited from possessing or
212 transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction
213 where the sale or transfer occurred and the dealer without delay.

214 5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by
215 persons who are citizens of the United States or persons lawfully admitted for permanent residence but
216 residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-
217 identification form issued by a governmental agency of the person's state of residence and one other form
218 of identification determined to be acceptable by the Department of Criminal Justice Services.

219 6. For the purposes of this subsection, the phrase "dealer's third business day" shall not include
220 December 25.

221 C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the
222 transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision
223 B 5, to any person who is a dual resident of Virginia and another state pursuant to applicable federal law
224 unless he has first obtained from the Department of State Police a report indicating that a search of all
225 available criminal history record information has not disclosed that the person is prohibited from
226 possessing or transporting a firearm under state or federal law.

227 To establish personal identification and dual resident eligibility for purposes of this subsection, a
228 dealer shall require any prospective purchaser to present one photo-identification form issued by a
229 governmental agency of the prospective purchaser's state of legal residence and other documentation of
230 dual residence within the Commonwealth. The other documentation of dual residence in the
231 Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a
232 current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f)
233 automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as
234 evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of
235 residence determined to be acceptable by the Department of Criminal Justice Services and that
236 corroborates that the prospective purchaser currently resides in Virginia.

237 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may
238 exercise his right of access to and review and correction of criminal history record information under §
239 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30
240 days of such denial.

241 E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history
242 record information under false pretenses, or who willfully and intentionally disseminates or seeks to
243 disseminate criminal history record information except as authorized in this section shall be guilty of a
244 Class 2 misdemeanor.

245 F. For purposes of this section:

246 "Actual buyer" means a person who executes the consent form required in subsection B or C, or
247 other such firearm transaction records as may be required by federal law.

248 "Antique firearm" means:

249 1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type
250 of ignition system) manufactured in or before 1898;

251 2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not
252 designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire
253 or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that
254 is not readily available in the ordinary channels of commercial trade;

255 3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to
256 use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of
257 this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame
258 or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon
259 that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any
260 combination thereof; or

261 4. Any curio or relic as defined in this subsection.

262 "Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or
263 multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the
264 offense with a magazine which will hold more than 20 rounds of ammunition or designed by the
265 manufacturer to accommodate a silencer or equipped with a folding stock.

266 "Curios or relics" means firearms that are of special interest to collectors by reason of some quality
267 other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To
268 be recognized as curios or relics, firearms must fall within one of the following categories:

269 1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or
270 conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is
271 not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

272 2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits
273 firearms to be curios or relics of museum interest; and

274 3. Any other firearms that derive a substantial part of their monetary value from the fact that they
275 are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof
276 of qualification of a particular firearm under this category may be established by evidence of present value
277 and evidence that like firearms are not available except as collectors' items, or that the value of like
278 firearms available in ordinary commercial channels is substantially less.

279 "Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

280 "Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be
281 converted to expel single or multiple projectiles by action of an explosion of a combustible material.

282 "Handgun" means any pistol or revolver or other firearm originally designed, made and intended
283 to fire single or multiple projectiles by means of an explosion of a combustible material from one or more
284 barrels when held in one hand.

285 "Lawfully admitted for permanent residence" means the status of having been lawfully accorded
286 the privilege of residing permanently in the United States as an immigrant in accordance with the
287 immigration laws, such status not having changed.

288 G. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity,
289 confidentiality and security of all records and data provided by the Department of State Police pursuant
290 to this section.

291 H. The provisions of this section shall not apply to (i) transactions between persons who are
292 licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.;

293 (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth
294 or any local government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of
295 Chapter 8 of Title 23.1; or (iii) antique firearms, curios or relics.

296 I. The provisions of this section shall not apply to restrict purchase, trade or transfer of firearms
297 by a resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another
298 state, in which case the laws and regulations of that state and the United States governing the purchase,
299 trade or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS)
300 check shall be performed prior to such purchase, trade or transfer of firearms.

301 J. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal
302 history record information check is required pursuant to this section, except that a fee of \$5 shall be
303 collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the
304 Department of State Police by the last day of the month following the sale for deposit in a special fund for
305 use by the State Police to offset the cost of conducting criminal history record information checks under
306 the provisions of this section.

307 K. Any person willfully and intentionally making a materially false statement on the consent form
308 required in subsection B or C or on such firearm transaction records as may be required by federal law,
309 shall be guilty of a Class 5 felony.

310 L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents,
311 trades or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

312 L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or
313 otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and
314 intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply
315 to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the
316 performance of his official duties, or other person under his direct supervision.

317 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such
318 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive
319 from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be

320 resold or otherwise provided to another person who the transferor knows is ineligible to purchase or
321 otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum
322 term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of
323 more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of
324 five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for
325 the lawful use, possession, or transport thereof, pursuant to § 18.2-308.7, by his child, grandchild, or
326 individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely
327 because of his age, to purchase a firearm.

328 N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the
329 Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of a
330 Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

331 O. Any mandatory minimum sentence imposed under this section shall be served consecutively
332 with any other sentence.

333 P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating
334 whether the driver's license is an original, duplicate or renewed driver's license.

335 Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his
336 inventory to any other person, a dealer may require such other person to consent to have the dealer obtain
337 criminal history record information to determine if such other person is prohibited from possessing or
338 transporting a firearm by state or federal law. The Department of State Police shall establish policies and
339 procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the
340 Department of State Police, and the processes established for making such determinations shall conform
341 to the provisions of this section.

342 R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a
343 licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes
344 of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for
345 a handgun purchased from such seller by the same person seeking the exchange or replacement within the

346 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection
347 is punishable as a Class 1 misdemeanor.

348 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of
349 an enhanced background check, as described in this subsection, by special application to the Department
350 of State Police listing the number and type of handguns to be purchased and transferred for lawful business
351 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar
352 purposes. Such applications shall be signed under oath by the applicant on forms provided by the
353 Department of State Police, shall state the purpose for the purchase above the limit, and shall require
354 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales
355 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The
356 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act
357 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above
358 the limit.

359 Upon being satisfied that these requirements have been met, the Department of State Police shall
360 immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from
361 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to
362 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as
363 provided in § 54.1-4201 for a period of not less than two years. Upon request of any local law-enforcement
364 agency, and pursuant to its regulations, the Department of State Police may certify such local law-
365 enforcement agency to serve as its agent to receive applications and, upon authorization by the Department
366 of State Police, issue certificates immediately pursuant to this subdivision. Applications and certificates
367 issued under this subdivision shall be maintained as records as provided in subdivision B 3. The
368 Department of State Police shall make available to local law-enforcement agencies all records concerning
369 certificates issued pursuant to this subdivision and all records provided for in subdivision B 3.

- 370 2. The provisions of this subsection shall not apply to:
- 371 a. A law-enforcement agency;
 - 372 b. An agency duly authorized to perform law-enforcement duties;

- 373 c. A state or local correctional facility;
- 374 d. A private security company licensed to do business within the Commonwealth;
- 375 e. The purchase of antique firearms;
- 376 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun
377 be replaced immediately. Such person may purchase another handgun, even if the person has previously
378 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with
379 a copy of the official police report or a summary thereof, on forms provided by the Department of State
380 Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official
381 police report or summary thereof contains the name and address of the handgun owner, a description of
382 the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was
383 reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official
384 police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun.
385 The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy
386 of the Virginia firearms transaction report completed for the transaction and retain it for the period
387 prescribed by the Department of State Police;
- 388 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part
389 of the same transaction, provided that no more than one transaction of this nature is completed per day;
- 390 h. A person who holds a valid Virginia permit to carry a concealed handgun;
- 391 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private
392 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms
393 for the enhancement of a personal collection of curios or relics or who sells all or part of such collection
394 of curios and relics; or
- 395 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means
396 any employee of a police department or sheriff's office that is part of or administered by the
397 Commonwealth or any political subdivision thereof and who is responsible for the prevention and
398 detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

399 **§ 18.2-308.2:2. (Effective July 1, 2021) Criminal history record information check required**
400 **for the transfer of certain firearms.**

401 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a
402 form to be provided by the Department of State Police, to have the dealer obtain criminal history record
403 information. Such form shall include only the written consent; the name, birth date, gender, race,
404 citizenship, and social security number and/or any other identification number; the number of firearms by
405 category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following
406 questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in §
407 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of
408 the offense of a delinquent act that if committed by an adult would be a felony ~~if committed by an adult~~
409 or a misdemeanor listed in § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the
410 applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of
411 such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by
412 reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to §
413 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally
414 incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from
415 purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction,
416 been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health
417 treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar
418 law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809
419 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject
420 to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or
421 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-
422 308.1:6 or any substantially similar law of any other jurisdiction.

423 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other
424 person who is a resident of Virginia until he has (i) obtained written consent and the other information on
425 the consent form specified in subsection A, and provided the Department of State Police with the name,

426 birth date, gender, race, citizenship, and social security and/or any other identification number and the
427 number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested
428 criminal history record information by a telephone call to or other communication authorized by the State
429 Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal
430 identification and residence in Virginia for purposes of this section, a dealer must require any prospective
431 purchaser to present one photo-identification form issued by a governmental agency of the
432 Commonwealth or by the United States Department of Defense that demonstrates that the prospective
433 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm
434 purchase, residency of a member of the armed forces shall include both the state in which the member's
435 permanent duty post is located and any nearby state in which the member resides and from which he
436 commutes to the permanent duty post. A member of the armed forces whose photo identification issued
437 by the Department of Defense does not have a Virginia address may establish his Virginia residency with
438 such photo identification and either permanent orders assigning the purchaser to a duty post, including the
439 Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification
440 presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued
441 by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer
442 shall not, except for a renewed driver's license or other photo identification issued by the Department of
443 Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the
444 date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a
445 copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue
446 of the driver's license was more than 30 days prior to the attempted purchase.

447 In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to
448 any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent
449 residence.

450 Upon receipt of the request for a criminal history record information check, the State Police shall
451 (a) review its criminal history record information to determine if the buyer or transferee is prohibited from
452 possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates

453 that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number for
454 that inquiry.

455 2. The State Police shall provide its response to the requesting dealer during the dealer's request or
456 by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the
457 State Police that a response will not be available by the end of the dealer's third business day may
458 immediately complete the sale or transfer and shall not be deemed in violation of this section with respect
459 to such sale or transfer.

460 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records
461 longer than 30 days, except for multiple handgun transactions for which records shall be maintained for
462 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer
463 or transferee who is not found to be prohibited from possessing and transporting a firearm under state or
464 federal law. However, the log on requests made may be maintained for a period of 12 months, and such
465 log shall consist of the name of the purchaser, the dealer identification number, the unique approval
466 number, and the transaction date.

467 4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail
468 or deliver the written consent form required by subsection A to the Department of State Police. The State
469 Police shall immediately initiate a search of all available criminal history record information to determine
470 if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the
471 search discloses information indicating that the buyer or transferee is so prohibited from possessing or
472 transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction
473 where the sale or transfer occurred and the dealer without delay.

474 5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by
475 persons who are citizens of the United States or persons lawfully admitted for permanent residence but
476 residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-
477 identification form issued by a governmental agency of the person's state of residence and one other form
478 of identification determined to be acceptable by the Department of Criminal Justice Services.

479 6. For the purposes of this subsection, the phrase "dealer's third business day" does not include
480 December 25.

481 C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the
482 transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision
483 B 5, to any person who is a dual resident of Virginia and another state pursuant to applicable federal law
484 unless he has first obtained from the Department of State Police a report indicating that a search of all
485 available criminal history record information has not disclosed that the person is prohibited from
486 possessing or transporting a firearm under state or federal law.

487 To establish personal identification and dual resident eligibility for purposes of this subsection, a
488 dealer shall require any prospective purchaser to present one photo-identification form issued by a
489 governmental agency of the prospective purchaser's state of legal residence and other documentation of
490 dual residence within the Commonwealth. The other documentation of dual residence in the
491 Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a
492 current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f)
493 automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as
494 evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of
495 residence determined to be acceptable by the Department of Criminal Justice Services and that
496 corroborates that the prospective purchaser currently resides in Virginia.

497 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may
498 exercise his right of access to and review and correction of criminal history record information under §
499 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30
500 days of such denial.

501 E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history
502 record information under false pretenses, or who willfully and intentionally disseminates or seeks to
503 disseminate criminal history record information except as authorized in this section, shall be guilty of a
504 Class 2 misdemeanor.

505 F. For purposes of this section:

506 "Actual buyer" means a person who executes the consent form required in subsection B or C, or
507 other such firearm transaction records as may be required by federal law.

508 "Antique firearm" means:

509 1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type
510 of ignition system) manufactured in or before 1898;

511 2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not
512 designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire
513 or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that
514 is not readily available in the ordinary channels of commercial trade;

515 3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to
516 use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of
517 this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame
518 or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon
519 that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any
520 combination thereof; or

521 4. Any curio or relic as defined in this subsection.

522 "Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or
523 multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the
524 offense with a magazine which will hold more than 20 rounds of ammunition or designed by the
525 manufacturer to accommodate a silencer or equipped with a folding stock.

526 "Curios or relics" means firearms that are of special interest to collectors by reason of some quality
527 other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To
528 be recognized as curios or relics, firearms must fall within one of the following categories:

529 1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or
530 conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is
531 not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

532 2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits
533 firearms to be curios or relics of museum interest; and

534 3. Any other firearms that derive a substantial part of their monetary value from the fact that they
535 are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof
536 of qualification of a particular firearm under this category may be established by evidence of present value
537 and evidence that like firearms are not available except as collectors' items, or that the value of like
538 firearms available in ordinary commercial channels is substantially less.

539 "Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

540 "Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be
541 converted to expel single or multiple projectiles by action of an explosion of a combustible material.

542 "Handgun" means any pistol or revolver or other firearm originally designed, made and intended
543 to fire single or multiple projectiles by means of an explosion of a combustible material from one or more
544 barrels when held in one hand.

545 "Lawfully admitted for permanent residence" means the status of having been lawfully accorded
546 the privilege of residing permanently in the United States as an immigrant in accordance with the
547 immigration laws, such status not having changed.

548 G. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity,
549 confidentiality, and security of all records and data provided by the Department of State Police pursuant
550 to this section.

551 H. The provisions of this section shall not apply to (i) transactions between persons who are
552 licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.;
553 (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth
554 or any local government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of
555 Chapter 8 of Title 23.1; or (iii) antique firearms or curios or relics.

556 I. The provisions of this section shall not apply to restrict purchase, trade, or transfer of firearms
557 by a resident of Virginia when the resident of Virginia makes such purchase, trade, or transfer in another
558 state, in which case the laws and regulations of that state and the United States governing the purchase,

559 trade, or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS)
560 check shall be performed prior to such purchase, trade, or transfer of firearms.

561 J. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal
562 history record information check is required pursuant to this section, except that a fee of \$5 shall be
563 collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the
564 Department of State Police by the last day of the month following the sale for deposit in a special fund for
565 use by the State Police to offset the cost of conducting criminal history record information checks under
566 the provisions of this section.

567 K. Any person willfully and intentionally making a materially false statement on the consent form
568 required in subsection B or C or on such firearm transaction records as may be required by federal law
569 shall be guilty of a Class 5 felony.

570 L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents,
571 trades, or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

572 L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or
573 otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and
574 intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply
575 to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the
576 performance of his official duties, or other person under his direct supervision.

577 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such
578 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive
579 from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be
580 resold or otherwise provided to another person who the transferor knows is ineligible to purchase or
581 otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum
582 term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of
583 more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of
584 five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for
585 the lawful use, possession, or transport thereof, pursuant to § 18.2-308.7, by his child, grandchild, or

586 individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely
587 because of his age, to purchase a firearm.

588 N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the
589 Commonwealth who solicits, employs, or assists any person in violating subsection M shall be guilty of a
590 Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

591 O. Any mandatory minimum sentence imposed under this section shall be served consecutively
592 with any other sentence.

593 P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating
594 whether the driver's license is an original, duplicate, or renewed driver's license.

595 Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his
596 inventory to any other person, a dealer may require such other person to consent to have the dealer obtain
597 criminal history record information to determine if such other person is prohibited from possessing or
598 transporting a firearm by state or federal law. The Department of State Police shall establish policies and
599 procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the
600 Department of State Police, and the processes established for making such determinations shall conform
601 to the provisions of this section.

602 R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a
603 licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes
604 of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for
605 a handgun purchased from such seller by the same person seeking the exchange or replacement within the
606 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection
607 is punishable as a Class 1 misdemeanor.

608 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of
609 an enhanced background check, as described in this subsection, by special application to the Department
610 of State Police listing the number and type of handguns to be purchased and transferred for lawful business
611 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar
612 purposes. Such applications shall be signed under oath by the applicant on forms provided by the

613 Department of State Police, shall state the purpose for the purchase above the limit, and shall require
614 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales
615 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The
616 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act
617 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above
618 the limit.

619 Upon being satisfied that these requirements have been met, the Department of State Police shall
620 immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from
621 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to
622 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as
623 provided in § 54.1-4201 for a period of not less than two years. Upon request of any local law-enforcement
624 agency, and pursuant to its regulations, the Department of State Police may certify such local law-
625 enforcement agency to serve as its agent to receive applications and, upon authorization by the Department
626 of State Police, issue certificates immediately pursuant to this subdivision. Applications and certificates
627 issued under this subdivision shall be maintained as records as provided in subdivision B 3. The
628 Department of State Police shall make available to local law-enforcement agencies all records concerning
629 certificates issued pursuant to this subdivision and all records provided for in subdivision B 3.

630 2. The provisions of this subsection shall not apply to:

631 a. A law-enforcement agency;

632 b. An agency duly authorized to perform law-enforcement duties;

633 c. A state or local correctional facility;

634 d. A private security company licensed to do business within the Commonwealth;

635 e. The purchase of antique firearms;

636 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun
637 be replaced immediately. Such person may purchase another handgun, even if the person has previously
638 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with
639 a copy of the official police report or a summary thereof, on forms provided by the Department of State

640 Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official
641 police report or summary thereof contains the name and address of the handgun owner, a description of
642 the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was
643 reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official
644 police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun.
645 The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy
646 of the Virginia firearms transaction report completed for the transaction and retain it for the period
647 prescribed by the Department of State Police;

648 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part
649 of the same transaction, provided that no more than one transaction of this nature is completed per day;

650 h. A person who holds a valid Virginia permit to carry a concealed handgun;

651 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private
652 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms
653 for the enhancement of a personal collection of curios or relics or who sells all or part of such collection
654 of curios and relics; or

655 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means
656 any employee of a police department or sheriff's office that is part of or administered by the
657 Commonwealth or any political subdivision thereof and who is responsible for the prevention and
658 detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

659 **§ 18.2-308.2:3. (Effective until July 1, 2021) Criminal background check required for**
660 **employees of a gun dealer to transfer firearms; exemptions; penalties.**

661 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. §
662 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary,
663 paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited
664 from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B of § 18.2-
665 308.1:4, or § 18.2-308.1:6, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01 or is an illegal alien, or is prohibited
666 from purchasing or transporting a firearm pursuant to subsection A of § 18.2-308.1:4 or § 18.2-308.1:5.

667 B. Prior to permitting an applicant to begin employment, the dealer shall obtain a written statement
668 or affirmation from the applicant that he is not disqualified from possessing a firearm and shall submit the
669 applicant's fingerprints and personal descriptive information to the Central Criminal Records Exchange to
670 be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal
671 history record information regarding the applicant.

672 C. Prior to August 1, 2000, the dealer shall obtain written statements or affirmations from persons
673 employed before July 1, 2000, to act as a seller under § 18.2-308.2:2 that they are not disqualified from
674 possessing a firearm. Within five working days of the employee's next birthday, after August 1, 2000, the
675 dealer shall submit the employee's fingerprints and personal descriptive information to the Central
676 Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose
677 of obtaining national criminal history record information regarding the request.

678 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal
679 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn
680 and notarized affidavit to the Department of State Police on a form provided by the Department, stating
681 that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by
682 the ATF. The affidavit may also contain the names of any employees that have been subjected to a record
683 check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in
684 the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number,
685 state the name of each person requesting the exemption, together with each person's identifying
686 information, including their social security number and the following statement: "I hereby swear, under
687 the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting
688 an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of
689 Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently
690 determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any
691 person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in
692 addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture
693 of my federal firearms license."

694 D. The Department of State Police, upon receipt of an individual's record or notification that no
695 record exists, shall submit an eligibility report to the requesting dealer within 30 days of the applicant
696 beginning his duties for new employees or within 30 days of the applicant's birthday for a person employed
697 prior to July 1, 2000.

698 E. If any applicant is denied employment because of information appearing on the criminal history
699 record and the applicant disputes the information upon which the denial was based, the Central Criminal
700 Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy
701 of the criminal history record from the Federal Bureau of Investigation. The information provided to the
702 dealer shall not be disseminated except as provided in this section.

703 F. The applicant shall bear the cost of obtaining the criminal history record unless the dealer, at
704 his option, decides to pay such cost.

705 G. Upon receipt of the request for a criminal history record information check, the State Police
706 shall establish a unique number for that firearm seller. Beginning September 1, 2001, the firearm seller's
707 signature, firearm seller's number and the dealer's identification number shall be on all firearm transaction
708 forms. The State Police shall void the firearm seller's number when a disqualifying record is discovered.
709 The State Police may suspend a firearm seller's identification number upon the arrest of the firearm seller
710 for a potentially disqualifying crime.

711 H. This section shall not restrict the transfer of a firearm at any place other than at a dealership or
712 at any event required to be registered as a gun show.

713 I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history
714 record information under false pretenses, or who willfully and intentionally disseminates or seeks to
715 disseminate criminal history record information except as authorized by this section and § 18.2-308.2:2,
716 shall be guilty of a Class 2 misdemeanor.

717 J. Any person willfully and intentionally making a materially false statement on the personal
718 descriptive information required in this section shall be guilty of a Class 5 felony. Any person who offers
719 for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any dealer

720 who willfully and knowingly employs or permits a person to act as a firearm seller in violation of this
721 section shall be guilty of a Class 1 misdemeanor.

722 K. There is no civil liability for any seller for the actions of any purchaser or subsequent transferee
723 of a firearm lawfully transferred pursuant to this section.

724 L. The provisions of this section requiring a seller's background check shall not apply to a licensed
725 dealer.

726 M. Any person who willfully and intentionally makes a false statement in the affidavit as set out
727 in subdivision C 1 shall be guilty of a Class 5 felony.

728 N. For purposes of this section:

729 "Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18
730 U.S.C. § 921 et seq.

731 "Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be
732 converted to expel single or multiple projectiles by action of an explosion of a combustible material.

733 "Place of business" means any place or premises where a dealer may lawfully transfer firearms.

734 "Seller" means for the purpose of any single sale of a firearm any person who is a dealer or an
735 agent of a dealer, who may lawfully transfer firearms and who actually performs the criminal background
736 check in accordance with the provisions of § 18.2-308.2:2.

737 "Transfer" means any act performed with intent to sell, rent, barter, trade or otherwise transfer
738 ownership or permanent possession of a firearm at the place of business of a dealer.

739 **§ 18.2-308.2:3. (Effective July 1, 2021) Criminal background check required for employees**
740 **of a gun dealer to transfer firearms; exemptions; penalties.**

741 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. §
742 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary,
743 paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited
744 from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B of § 18.2-
745 308.1:4, or § 18.2-308.1:6, 18.2-308.1:7, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01, or is an illegal alien,

746 or is prohibited from purchasing or transporting a firearm pursuant to subsection A of § 18.2-308.1:4 or §
747 18.2-308.1:5.

748 B. Prior to permitting an applicant to begin employment, the dealer shall obtain a written statement
749 or affirmation from the applicant that he is not disqualified from possessing a firearm and shall submit the
750 applicant's fingerprints and personal descriptive information to the Central Criminal Records Exchange to
751 be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal
752 history record information regarding the applicant.

753 C. Prior to August 1, 2000, the dealer shall obtain written statements or affirmations from persons
754 employed before July 1, 2000, to act as a seller under § 18.2-308.2:2 that they are not disqualified from
755 possessing a firearm. Within five working days of the employee's next birthday, after August 1, 2000, the
756 dealer shall submit the employee's fingerprints and personal descriptive information to the Central
757 Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose
758 of obtaining national criminal history record information regarding the request.

759 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal
760 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn
761 and notarized affidavit to the Department of State Police on a form provided by the Department, stating
762 that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by
763 the ATF. The affidavit may also contain the names of any employees that have been subjected to a record
764 check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in
765 the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number,
766 state the name of each person requesting the exemption, together with each person's identifying
767 information, including their social security number and the following statement: "I hereby swear, under
768 the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting
769 an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of
770 Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently
771 determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any
772 person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in

773 addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture
774 of my federal firearms license."

775 D. The Department of State Police, upon receipt of an individual's record or notification that no
776 record exists, shall submit an eligibility report to the requesting dealer within 30 days of the applicant
777 beginning his duties for new employees or within 30 days of the applicant's birthday for a person employed
778 prior to July 1, 2000.

779 E. If any applicant is denied employment because of information appearing on the criminal history
780 record and the applicant disputes the information upon which the denial was based, the Central Criminal
781 Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy
782 of the criminal history record from the Federal Bureau of Investigation. The information provided to the
783 dealer shall not be disseminated except as provided in this section.

784 F. The applicant shall bear the cost of obtaining the criminal history record unless the dealer, at
785 his option, decides to pay such cost.

786 G. Upon receipt of the request for a criminal history record information check, the State Police
787 shall establish a unique number for that firearm seller. Beginning September 1, 2001, the firearm seller's
788 signature, firearm seller's number and the dealer's identification number shall be on all firearm transaction
789 forms. The State Police shall void the firearm seller's number when a disqualifying record is discovered.
790 The State Police may suspend a firearm seller's identification number upon the arrest of the firearm seller
791 for a potentially disqualifying crime.

792 H. This section shall not restrict the transfer of a firearm at any place other than at a dealership or
793 at any event required to be registered as a gun show.

794 I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history
795 record information under false pretenses, or who willfully and intentionally disseminates or seeks to
796 disseminate criminal history record information except as authorized by this section and § 18.2-308.2:2,
797 shall be guilty of a Class 2 misdemeanor.

798 J. Any person willfully and intentionally making a materially false statement on the personal
799 descriptive information required in this section shall be guilty of a Class 5 felony. Any person who offers

800 for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any dealer
801 who willfully and knowingly employs or permits a person to act as a firearm seller in violation of this
802 section shall be guilty of a Class 1 misdemeanor.

803 K. There is no civil liability for any seller for the actions of any purchaser or subsequent transferee
804 of a firearm lawfully transferred pursuant to this section.

805 L. The provisions of this section requiring a seller's background check shall not apply to a licensed
806 dealer.

807 M. Any person who willfully and intentionally makes a false statement in the affidavit as set out
808 in subdivision C 1 shall be guilty of a Class 5 felony.

809 N. For purposes of this section:

810 "Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18
811 U.S.C. § 921 et seq.

812 "Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be
813 converted to expel single or multiple projectiles by action of an explosion of a combustible material.

814 "Place of business" means any place or premises where a dealer may lawfully transfer firearms.

815 "Seller" means for the purpose of any single sale of a firearm any person who is a dealer or an
816 agent of a dealer, who may lawfully transfer firearms and who actually performs the criminal background
817 check in accordance with the provisions of § 18.2-308.2:2.

818 "Transfer" means any act performed with intent to sell, rent, barter, or trade or otherwise transfer
819 ownership or permanent possession of a firearm at the place of business of a dealer.

820 **§ 19.2-386.28. Forfeiture of weapons that are concealed, possessed, transported or carried in**
821 **violation of law.**

822 Any firearm, stun weapon as defined by § 18.2-308.1, or any weapon concealed, possessed,
823 transported or carried in violation of § 18.2-283.1, 18.2-287.01, 18.2-287.4, 18.2-308.1:2, 18.2-308.1:3,
824 18.2-308.1:4, 18.2-308.1:8, 18.2-308.2, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.4, 18.2-308.5, 18.2-308.7,
825 or 18.2-308.8 shall be forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

826 2. That the provisions of this act may result in a net increase in periods of imprisonment or
827 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
828 appropriation is _____ for periods of imprisonment in state adult correctional facilities;
829 therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing
830 Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of
831 Virginia, the estimated amount of the necessary appropriation is _____ for periods of
832 commitment to the custody of the Department of Juvenile Justice.

833 #