

HOUSE BILL NO. 362

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety

on _____)

(Patron Prior to Substitute--Delegate McClure)

A BILL to amend and reenact § 18.2-308.1:8 of the Code of Virginia, relating to purchase, possession, or transportation of firearm following an assault and battery against a family or household member or an intimate or dating partner; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.1:8 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308.1:8. Purchase, possession, or transportation of firearm following an assault and battery of a family or household member or person in a dating relationship; penalties.

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

2. Any person who knowingly and intentionally purchases, possesses, or transports any firearm following a misdemeanor conviction for an offense that occurred on or after July 1, 2024, for (i) the offense of assault and battery against an intimate or dating partner or (ii) an offense substantially similar to clause (i) under the laws of any other state or of the United States is guilty of a Class 1 misdemeanor.

B. For the purposes of this section, ~~"family:~~

"Family or household member" means (i) the person's spouse, whether or not he resides in the same home with the person; (ii) the person's former spouse, whether or not he resides in the same home with the person; ~~or~~ (iii) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time; or (iv) any individual who cohabits or who, within the previous 12 months, cohabited with the person.

27 "Intimate or dating partner" means the either of two individuals who are or who have been in a
 28 social relationship of a romantic or intimate nature, whether or not they cohabitated, where the existence
 29 of such a relationship shall be determined based on a consideration of the following factors: the assertion
 30 by either party of the existence of an intimate or dating relationship; the length of the relationship; the
 31 type of relationship; and the frequency of interaction between the persons involved in the relationship.

32 C. Any person prohibited from purchasing, possessing, or transporting a firearm pursuant to
 33 subsection A shall be prohibited from purchasing, possessing, or transporting a firearm for ~~three~~ five years
 34 following the date of the conviction at which point the person convicted of such offense shall no longer
 35 be prohibited from purchasing, possessing, or transporting a firearm pursuant to subsection A. Such person
 36 shall have his firearms rights restored, unless such person receives another disqualifying conviction, is
 37 subject to a protective order that would restrict his rights to carry a firearm, or is otherwise prohibited by
 38 law from purchasing, possessing, or transporting a firearm.

39 D. After a finding of guilt has been made and prior to entering a final order of conviction of an
 40 assault and battery as described in clause (i) of subdivision A 1 or clause (i) of subdivision A 2, the court
 41 shall determine by a preponderance of the evidence whether the victim of the offense was a family or
 42 household member or an intimate or dating partner. When such a determination is required, the court shall
 43 advise the defendant of its determination. Failure to make such determination or so advise the defendant
 44 does not otherwise invalidate the underlying conviction.

45 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
 46 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
 47 **appropriation is _____ for periods of imprisonment in state adult correctional facilities;**
 48 **therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia**
 49 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-**
 50 **19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is _____ for**
 51 **periods of commitment to the custody of the Department of Juvenile Justice.**

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