



Virginia Senate Bill 49/House Bill 1391

- ❑ **Bottom Line:** Virginia Senate Bill 49/House Bill 1391 requires that people subject to final domestic violence restraining orders are legally prohibited from possessing firearms. The bills do not, however, explicitly require that those people must turn in their guns and do not provide any actual procedure for doing so—unlike the law in 15 other states.
- ❑ **Under current state law, people subject to final domestic violence restraining orders are not barred from possessing firearms—and are not required to turn in any guns once the order is issued.**
 - The current law bars these restraining order subjects from “purchas[ing] or transport[ing] any firearm while the order is in effect.”¹ There is, however, no provision prohibiting the *possession* of these firearms—or requiring that they be turned in to law enforcement or any other person.
 - Federal law does generally prohibit abusers from possessing firearms when they are under final restraining orders.² Enacting state laws in this area enables state and local law enforcement to protect victims of domestic violence by enforcing the law against abusers.
- ❑ **SB 49/HB 1391 prohibits these abusers from possessing guns, closing a gap in the law.**
 - The bills provide that “it is unlawful for any person who is subject to a [final domestic violence] protective order...to possess any firearm while the order is in effect....”³
- ❑ **SB 49/HB 1391 does not explicitly require these abusers to turn in any firearms possessed at the time the order is issued and does not lay out any process for surrender.**
 - The bills do provide a grace period for abusers who become subject to orders, allowing that possession is *not* prohibited for the first 24 hours of an order *if* the person is in the process of transferring the firearms from his possession.
 - **But there is no affirmative and explicit requirement that the person turns his guns over to law enforcement or otherwise removes the firearms from his possession. There is no process described for effecting surrender and there is no mechanism created to hold the abuser accountable for turning in his guns.**
- ❑ **All states should require that prohibited domestic abusers turn in their guns immediately—before they do any further harm.**
 - If state law does not require that abusers turn in the guns they already own, a prohibited abuser may be able to go directly home from court, and use the guns he already has at home to harm an ex-wife or ex-girlfriend.
 - Fifteen states explicitly require that domestic abusers under final restraining orders must turn in their guns and provide a clear process for doing so.⁴

¹ Va Code Ann 18.2-308.1:4

² 18 USC 922(g)(8)

³ Proposed Va Code Ann 18.2-308.1:4(B)

⁴ CA, CO, CT, HI, IA, IL, MA, MD, MN, NC, NH, NY, TN, WA, and WI