

VPLC SUPPORTS BILLS TO ENFORCE ABUSERS WITH TWO-YEAR PROTECTIVE ORDERS ISSUED AGAINST THEM FROM POSSESSING FIREARMS

The Problem: In 2016, Governor Terry McAuliffe and Republican and Democratic leaders entered a historic agreement to, among other things, prohibit a person subject to a Family Abuse Protective Order under Code of Virginia §16.1-279.1 from possessing a firearm (SB49/HB1391). These two-year Family Abuse Protective Orders are only issued after respondents have had their day in court. If respondents did not transfer or otherwise get rid of their firearms within 24 hours of being served with the two-year Family Abuse Protective Order, they could be convicted of a Class 6 felony.

Enforcing Firearms Prohibitions: But there was no accompanying mechanism or plan to ensure that said respondents transferred or otherwise got rid of their firearms within the 24-hour period allotted. Additionally, this prohibition on firearms possession only applied to the two-year Family Abuse Protective Order, not the two-year Non-Family Abuse Protective Order, which, in Virginia, sometimes addresses dating violence.

What Senator Janet Howell's SB 479, SB 76 and Delegate Kathleen Murphy's HB 856 Propose and Why VPLC Supports the Concepts in these Bills:

Senator Howell's SB 479 and Delegate Murphy's HB 856 are similar bills, which require respondents in two-year Family Abuse Protective Orders to surrender, transfer or sell their firearms within 24 hours of being served with the Protective Order, but also to certify in writing that they have done so within 48 hours of being served with the PO. They must file that certification with the clerk of court that entered the PO or be found guilty of a Class 1 misdemeanor. These bills provide the enforcement mechanism that was missing from the 2016 prohibition on possession of firearms in two-year Family Abuse POs.

Additionally, Senator Howell's SB 76 applies both the prohibition on possession of firearms and the surrender, transfer or sale mechanism described above to the two-year Non-Family Abuse POs that are heard in General District Court. This is important because not all intimate partner violence in Virginia falls under the definition of "family abuse." Yet, lethality increases, especially when firearms are involved, when there is intimate partner violence. General District Courts often issue two-year protective orders that address intimate partner violence.

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