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SENATE BILL NO. 495

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact § 19.2-152.13 of the Code of Virginia, relating to emergency substantial risk order; allowable petitioners.

Patrons—Deeds and Surovell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-152.13 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-152.13. Emergency substantial risk order.

A. Upon the petition of an attorney for the Commonwealth or, a law-enforcement officer, a family or household member, as defined in § 16.1-228, a mental health service provider, as defined in § 54.1-2400.1, or an appointed evaluator from a community services board, a judge of a circuit court, general district court, or juvenile and domestic relations district court or a magistrate, upon a finding that there is probable cause to believe that a person poses a substantial risk of personal injury to himself or others in the near future by such person's possession or acquisition of a firearm, shall issue an ex parte emergency substantial risk order. Such order shall prohibit the person who is subject to the order from purchasing, possessing, or transporting a firearm for the duration of the order. In determining whether probable cause for the issuance of an order exists, the judge or magistrate shall consider any relevant evidence, including any recent act of violence, force, or threat as defined in § 19.2-152.7:1 by such person directed toward another person or toward himself. ~~No~~ However, no petition shall be filed unless an independent investigation has been conducted by law enforcement that determines that grounds for the petition exist. The order shall contain a statement (i) informing the person who is subject to the order of the requirements and penalties under § 18.2-308.1:6, including that it is unlawful for such person to purchase, possess, or transport a firearm for the duration of the order and that such person is required to surrender his concealed handgun permit if he possesses such permit, and (ii) advising such person to voluntarily relinquish any firearm within his custody to the law-enforcement agency that serves the order.

B. The petition for an emergency substantial risk order shall be made under oath and shall be supported by an affidavit.

C. Upon service of an emergency substantial risk order, the person who is subject to the order shall be given the opportunity to voluntarily relinquish any firearm in his possession. The law-enforcement agency that executed the emergency substantial risk order shall take custody of all firearms that are voluntarily relinquished by such person. The law-enforcement agency that takes into custody a firearm pursuant to the order shall prepare a written receipt containing the name of the person who is subject to the order and the manufacturer, model, condition, and serial number of the firearm and shall provide a copy thereof to such person. Nothing in this subsection precludes a law-enforcement officer from later obtaining a search warrant for any firearms if the law-enforcement officer has reason to believe that the person who is subject to an emergency substantial risk order has not relinquished all firearms in his possession.

D. An emergency substantial risk order issued pursuant to this section shall expire at 11:59 p.m. on the fourteenth day following issuance of the order. If the expiration occurs on a day that the circuit court for the jurisdiction where the order was issued is not in session, the order shall be extended until 11:59 p.m. on the next day that the circuit court is in session. The person who is subject to the order may at any time file with the circuit court a motion to dissolve the order.

E. An emergency substantial risk order issued pursuant to this section is effective upon personal service on the person who is subject to the order. The order shall be served forthwith after issuance. A copy of the order, petition, and supporting affidavit shall be given to the person who is subject to the order together with a notice informing the person that he has a right to a hearing under § 19.2-152.14 and may be represented by counsel at the hearing.

F. The court or magistrate shall forthwith, but in all cases no later than the end of the business day on which the emergency substantial risk order was issued, enter and transfer electronically to the Virginia Criminal Information Network (VCIN) established and maintained by the Department of State Police (Department) pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 the identifying information of the person who is subject to the order provided to the court or magistrate. A copy of an order issued pursuant to this section containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of the order. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary

59 to the identifying information and other appropriate information required by the Department into the VCIN,  
60 and the order shall be served forthwith upon the person who is subject to the order. However, if the order is  
61 issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order  
62 containing the identifying information of the person who is subject to the order provided to the court to the  
63 primary law-enforcement agency providing service and entry of the order. Upon receipt of the order by the  
64 primary law-enforcement agency, the agency shall enter the name of the person subject to the order and other  
65 appropriate information required by the Department into the VCIN and the order shall be served forthwith  
66 upon the person who is subject to the order. Upon service, the agency making service shall enter the date and  
67 time of service and other appropriate information required into the VCIN and make due return to the court. If  
68 the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested  
69 and forwarded forthwith to the primary law-enforcement agency responsible for service and entry of the  
70 order. Upon receipt of the dissolution or modification order by the primary law-enforcement agency, the  
71 agency shall forthwith verify and enter any modification as necessary to the identifying information and other  
72 appropriate information required by the Department into the VCIN and the order shall be served forthwith.

73 G. The law-enforcement agency that serves the emergency substantial risk order shall make due return to  
74 the circuit court, which shall be accompanied by a written inventory of all firearms relinquished.

75 H. Proceedings in which an emergency substantial risk order is sought pursuant to this section shall be  
76 commenced where the person who is subject to the order (i) has his principal residence or (ii) has engaged in  
77 any conduct upon which the petition for the emergency substantial risk order is based.

78 I. A proceeding for a substantial risk order shall be a separate civil legal proceeding subject to the same  
79 rules as civil proceedings.