



Virginia Citizens Defense League, Inc.

P.O. Box 513, Newington, VA 22122 • 804-639-0600 • president@vcdl.org • vcdl.org

VCDL Firearm Bill Analysis for the Special Session of the 2019 General Assembly July 9, 2019

Philip Van Cleave
President
804-639-0600
804-874-8235
president@vcdl.org

Table of Contents

Bills That VCDL Strongly Supports	3
Bills That VCDL Supports	5
Bills That VCDL Strongly Opposes	7
Bills On Which VCDL is Neutral	13

Bills That VCDL Strongly Supports

HB 4001, Delegate Cole, clarifies that the right to keep and bear arms in Virginia is an individual right that is not connected with military service and that it is the intent of the General Assembly to codify the U.S. Supreme Court ruling on District of Columbia v Heller.

HB 4002, Delegate Cole, requires that state and local government allow employees with concealed handgun permits to carry concealed in their workplace, unless there are armed security at that workplace.

SB 4015, Senator Norment, requires schools to teach firearm safety education at all grades. The curriculum will be developed by the Board of Education in consultation with the Virginia State Police. The courses will be taught by a law-enforcement officer, not using actual firearms.

SB 4016, Senator Black, allows local government employees with concealed handgun permits to carry or possess a firearm at the workplace.

Bills That VCDL Strongly Supports (Cont'd)

This page left blank intentionally.

Bills That VCDL Supports

HB 4014, Delegate Yancy, allows a person convicted of an act of larceny of a firearm or certain gang activity to get a reduced sentence if that person provides useful assistance in the investigation or prosecution of another involved person.

SB 4011, Senator Stanley, allows public and private schools to have “volunteer school security” officers (retired law-enforcement officers who are not paid by the school) who can be armed on school property.

Bills That VCDL Supports (Cont'd)

This page left blank intentionally.

Bills That VCDL Strongly Opposes

HJ 4001, Delegate Kory, is a joint resolution designating June 1 of each year as “Gun Violence Awareness Day.” As with other gun-control bills, the purpose is to demonize guns by focusing on a tool, while not addressing the actual underlying problem at all. For example, just as many people commit suicide without a gun as with a gun. In Japan, suicides are virtually never committed with a firearm, yet Japan’s suicide rate is over twice as high as the U.S. rate. The number of homicides using a firearm includes justifiable and excusable homicides, with the vast majority of the rest of the homicides being criminal on criminal. It would make far more sense to at least call the event, “Violence Awareness Day,” so as to focus on reducing all kinds of violence regardless of the tool used.

HB 4003, Delegate Sullivan, creates an Emergency Substantial Risk Order (ESRO) and a Substantial Risk Order (SRO), AKA “Red Flag” laws. The ESRO, which allows the police to confiscate the firearms from the subject of the ESRO, is issued ex-parte, so the subject will have no idea what has transpired and no way to legally defend himself against an ESRO issued upon false or misleading facts. **While the subject’s firearms are taken, the “dangerous” subject is left walking around with the rest of us, still perfectly able to harm himself or others.** The ESRO strips the subject of a constitutionally-protected civil right for up to 14 days without the subject being allowed due process to defend himself. The subject of the ESRO has committed no crime, yet is presumed to be dangerous until the subject can prove he is not, just the opposite of the presumption of innocence protections in the Constitution. SROs, which can be as long as six months, can be extended endlessly based merely on the word of an accuser, without the subject having been convicted of anything. The accused can appeal the SRO once during the six-month period, but only after a minimum of 30 days has elapsed. **The police are given a blank check to be careless, as they are not responsible for damages or even the loss of the subject’s firearms!** ESROs and SROs are about confiscation, not public safety, and have been frequently used by disgruntled persons to get legal “revenge” against another based merely upon conjecture that the subject might do something in the future. Any person with criminal designs could use this law to preemptively disarm his or her intended victim. **It is a mere misdemeanor charge for the person requesting the ESRO and SRO to do so under false pretenses.** This bill is based around how Emergency Protective Orders are handled, but it does not offer the same due process protections before a person’s guns are confiscated.

HB 4004, Delegate Ward, reinstates the old “One Handgun a Month” law, **however with no exception for concealed handgun permit holders.** There was no evidence to show that the old One Handgun a Month law did anything to reduce crime or gun trafficking. South Carolina repealed their One Handgun a Month law and a federal appeals court struck down that law in the District of Columbia.

HB 4005, Delegate Price, guts Virginia’s firearms preemption law. It not only allows localities to create a confusing patchwork of areas where possession and carrying of a firearm, ammunition, and components are prohibited, it also removes the restrictions on localities controlling the storage and transporting of those items. **This bill takes us back to the days when local gun-laws were so confusing that no one knew what all of them were, not even the police.** Current law allows only the General Assembly, with its 140 members, vs 5 to 9 members for any local government, to make a case-by-case decision on anything affecting firearms. Preemption provides for a set of uniform gun laws across the Commonwealth, that are easy for gun owners to understand and obey. HB 4005 will discourage lawful carrying, possessing, storing, and transporting of firearms due to how complicated firearm ownership will become. Finally, HB 4005 removes the requirement that localities that buy up firearms from the public by providing a thing of value, must attempt to auction the firearms to gun dealers. **Since firearms can be valuable, current law puts money into local government coffers that would not be available if the firearms are destroyed, as allowed by HB 4005.** The firearms will only be sold by the dealer winning the bid to individuals who have passed a background check, and therefore are not placed “on the street.”

Bills That VCDL Strongly Opposes (Cont'd)

HB 4006, Delegate Hayes, increases the penalty from a misdemeanor to a felony for someone who recklessly leaves a loaded, unsecured firearm in such a manner as to endanger life or limb of someone under the age of 18, which this bill increased from under the age of 14. A person under 18-years-old can be both very mature and have had training with firearms, where leaving the loaded firearm out is not dangerous or negligent. In fact there have been plenty of cases where a person under 18-years-old has used a firearm to stop a violent home-invasion. What this bill would actually do is impose a de-facto mandatory storage requirement for gun owners who have children in the home or who have houseguests with children under 18.

HB 4007, Delegate Davis, allows localities to ban guns in their government buildings if they have “reasonable” security requirements (such as metal detectors and/or increased security personnel) to prevent a person entering the building with guns and ammunition. This is a solution to a non-existent problem. Gun owners have been lawfully carrying in government buildings for many years in Virginia without incident. HB 4007 infringes on the rights of gun owners to protect themselves, not only in the building itself, but going to and from their vehicle in the parking lot.

HB 4008, Delegate Davis, removes the online training option to get a concealed handgun permit. A solution in search of a problem. Concealed handgun permit holders who have had online training have not been having safety issues when carrying their handguns. Importantly, online training allows someone who has an urgent need to get a concealed handgun permit (such as a person in immediate danger from an ex-spouse) the fastest way to do so.

HB 4009, Delegate Toscano, takes away a person’s right to possess a firearm if they are subject to a permanent protective order that does not deal with family abuse. There are two sides to every story and a protective order which prohibits possession of firearms altogether can be gotten in bad faith and used as a weapon to disarm someone with the intent of attacking them once they are disarmed. Also, this kind of protective order is handed out like candy during divorces and a restriction on merely possessing a firearm at home is overreach.

HB 4011, Delegate Bourne, requires that a person report a lost or stolen firearm within 24 hours of discovering the firearm is lost or stolen. The penalty for reporting late is \$250. A person in good faith who reports such a lost or stolen firearm is immune from any criminal or civil damage from acts using the firearm. The victim gets punished twice: once by the theft or loss and next by the government for not reporting the loss quickly enough. Who’s to say exactly when the victim “discovered” the loss or theft? The bill also is setting a precedent that the victim is somehow liable for the misuse of a stolen firearm if he doesn’t report it stolen quickly enough.

Bills That VCDL Strongly Opposes (Cont'd)

HB 4015, Delegate Plum, requires that all private sales of firearms go through a federal firearms licensed dealer (“Universal Background Check”). This bill will do nothing about crime, but will make it harder and more expensive for a citizen to sell or trade one of his firearms to another citizen. No dealer is required to make such a transfer, possibly making a private transfer all but impossible or not possible in a timely manner. The dealer may charge a fee of up to \$15, raising the price of the firearm. Finally, this bill will also lead to an inevitable “Universal Registration” scheme at some point in the future to provide for enforcement. Firearms confiscation is the end goal, as is happening right now in California and Hawaii with their universal background checks and associated gun registrations. Illinois has universal background checks, but a 2015 survey of criminals in Illinois prisons showed that only 3% got their firearms after going through a background check! The rest got their guns using straw purchases, theft, from friends, from family, and the black market. Finally, this bill strips a person from 18 to 20 years-old from being able to legally purchase a handgun. Under current law it is legal for someone in that age range to purchase a handgun from a private seller.

SB 4001, Senator Edwards, guts Virginia’s firearms preemption law, restoring Virginia to the bad old days prior to 1987, when there was a mishmash of local gun laws that made it virtually impossible for gun owners to know and obey. Richmond had an ordinance, for example, that prohibited taxi cab drivers from having a gun to protect themselves, even if they had a CHP. Some localities banned open carry, some banned guns in parks, some required a special permit to purchase a handgun. SB 4001 also allows localities to prohibit guns at local government meetings, making those meetings dangerous “gun-free zones,” where a violent attacker with a gun would have complete control of a room of defenseless people.

SB 4002, Senator Locke, reinstates the old “One Handgun a Month” law, **however with no exception for concealed handgun permit holders**. There was no evidence to show that the old One Handgun a Month law did anything to reduce crime or gun trafficking. South Carolina repealed their One Handgun a Month law and a federal appeals court struck down that law in the District of Columbia.

SB 4008, Senator Edwards, guts Virginia’s firearms preemption law. It not only allows localities to create a confusing patchwork of areas where possession and carrying of a firearm, ammunition, and components are prohibited, it also removes the restrictions on localities controlling the storage and transporting of those items. **This bill takes us back to the days when local gun-laws were so confusing that no one knew what all of them were, not even the police**. Current law allows only the General Assembly, with its 140 members, vs 5 to 9 members for any local government, to make a case-by-case decision on anything affecting firearms. Preemption provides for a set of uniform gun laws across the Commonwealth, that are easy for gun owners to understand and obey. SB 4008 will discourage lawful carrying, possessing, storing, and transporting of firearms due to how complicated firearm ownership will become. Finally, SB 4008 removes the requirement that localities that buy up firearms from the public by providing a thing of value, must attempt to auction the firearms to gun dealers. **Since firearms can be valuable, current law puts money into local government coffers that would not be available if the firearms are destroyed, as allowed by SB 4008**. The firearms will only be sold by the dealer winning the bid to individuals who have passed a background check, and therefore are not placed “on the street.”

Bills That VCDL Strongly Opposes (Cont'd)

SB 4012, Senator Barker, creates an Emergency Substantial Risk Order (ESRO) and a Substantial Risk Order (SRO), AKA “Red Flag” laws. The ESRO, which allows the police to confiscate the firearms from the subject of the ESRO, is issued ex-parte, so the subject will have no idea what has transpired and no way to legally defend himself against an ESRO issued upon false or misleading facts. **While the subject’s firearms are taken, the “dangerous” subject is left walking around with the rest of us, still perfectly able to harm himself or others.** The ESRO strips the subject of a constitutionally-protected civil right for up to 14 days without the subject being allowed due process to defend himself. The subject of the ESRO has committed no crime, yet is presumed to be dangerous until the subject can prove he is not, just the opposite of the presumption of innocence protections in the Constitution. SROs, which can be as long as six months, can be extended endlessly based merely on the word of an accuser, without the subject having been convicted of anything. The accused can appeal the SRO once during the six-month period, but only after a minimum of 30 days has elapsed. **The police are given a blank check to be careless, as they are not responsible for damages or even the loss of the subject’s firearms!** ESROs and SROs are about confiscation, not public safety, and have been frequently used by disgruntled persons to get legal “revenge” against another based merely upon conjecture that the subject might do something in the future. Any person with criminal designs could use this law to preemptively disarm his or her intended victim. **It is a mere misdemeanor charge for the person requesting the ESRO and SRO to do so under false pretenses.** This bill is based around how Emergency Protective Orders are handled, but it does not offer the same due process protections before a person’s guns are confiscated.

SB 4013, Senator Norment, treats all local government buildings like a courthouse, banning firearms for everyone but law enforcement, judges, magistrates, and several other specific individuals while in conduct of official business. The bill raises a violation from a misdemeanor to a felony. The felony applies even if someone inadvertently brings a weapon into the building and notifies law enforcement before going through the screening process (which has happened in courthouses, but the violation was a misdemeanor and not a life-changing felony). This is a solution to a non-existent problem. Gun owners have been lawfully carrying in government buildings for many years in Virginia without incident. SB 4013 infringes on the rights of gun owners to protect themselves, not only in the building itself, but going to and from their vehicle in the parking lot.

SB 4017, Senator Howell, increases the penalty from a misdemeanor to a felony for someone who recklessly leaves a loaded, unsecured firearm in such a manner as to endanger life or limb of someone under the age of 18, which this bill increased from under the age of 14. A person under 18-years-old can be both very mature and have had training with firearms, where leaving the loaded firearm out is not dangerous or negligent. In fact there have been plenty of cases where a person under 18-years-old has used a firearm to stop a violent home-invasion. What this bill would actually do is impose a de-facto mandatory storage requirement for gun owners who have children in the home or who have houseguests with children under 18.

SB 4018, Senator Howell, takes away a person’s right to possess a firearm if they are subject to a permanent protective order that does not deal with family abuse. There are two sides to every story and a protective order which prohibits possession of firearms altogether can be gotten in bad faith and used as a weapon to disarm someone with the intent of attacking them once they are disarmed. Also, this kind of protective order is handed out like candy during divorces and a restriction on merely possessing a firearm at home is overreach.

Bills That VCDL Strongly Opposes (Cont'd)

SB 4019, Senator Lucas, requires that all private sales of firearms go through a federal firearms licensed dealer (“Universal Background Check”). This bill will do nothing about crime, but will make it harder and more expensive for a citizen to sell or trade one of his firearms to another citizen. No dealer is required to make such a transfer, possibly making a private transfer all but impossible or not possible in a timely manner. The dealer may charge a fee of up to \$15, raising the price of the firearm. Finally, this bill will also lead to an inevitable “Universal Registration” scheme at some point in the future to provide for enforcement. Firearms confiscation is the end goal, as is happening right now in California and Hawaii with their universal background checks and associated gun registrations. Illinois has universal background checks, but a 2015 survey of criminals in Illinois prisons showed that only 3% got their firearms after going through a background check! The rest got their guns using straw purchases, theft, from friends, from family, and the black market. Finally, this bill strips a person from 18 to 20 years-old from being able to legally purchase a handgun. Under current law it is legal for someone in that age range to purchase a handgun from a private seller.

SB 4020, Senator Norment, sets the waiting time to qualify for a concealed handgun permit for someone convicted of an assault or assault and battery to five years. It also increases the waiting time from three years to ten years for someone convicted of sexual battery, discharging a firearm in a public place or from a vehicle, or brandishing. Ten years is an unreasonable length of time to wait and is a solution looking for a problem.

SB 4021, Senator McClellan, requires that a person report a lost or stolen firearm within 24 hours of discovering the firearm is lost or stolen. The penalty for reporting late is \$250. A person in good faith who reports such a lost or stolen firearm is immune from any criminal or civil damage from acts using the firearm. The victim gets punished twice: once by the theft or loss and next by the government for not reporting the loss quickly enough. Who’s to say exactly when the victim “discovered” the loss or theft? The bill also is setting a precedent that the victim is somehow liable for the misuse of a stolen firearm if he doesn’t report it stolen quickly enough.

Bills That VCDL Strongly Opposes (Cont'd)

This page left blank intentionally.

Bills On Which VCDL is Neutral

HB 4010, Delegate Yancy, creates new mandatory-minimum penalties on people committing certain crimes using a gun they know, or should have known, was stolen. VCDL generally does not like mandatory minimums and believes judges should do their job and decide sentencing in a fair and reasonable manner.

HB 4016, Delegate Pointdexter, creates new mandatory-minimum penalties on people committing certain felonies using firearms. VCDL generally does not like mandatory minimums and believes judges should do their job and decide sentencing in a fair and reasonable manner.

HB 4018, Delegate Miyares, creates a mandatory-minimum penalty for a person using a silencer (suppressor) during the commission of a felony. VCDL generally does not like mandatory minimums and believes judges should do their job and decide sentencing in a fair and reasonable manner.

SB 4003, Senator DeSteph, sets a new mandatory minimum sentence for a person who violates a protective order while knowingly armed. VCDL generally does not like mandatory minimums and believes judges should do their job and decide sentencing in a fair and reasonable manner.

SB 4004, Senator DeSteph, sets a new mandatory minimum sentence for a person who brandishes a weapon at a person he knows or has reason to know is a law-enforcement officer. VCDL generally does not like mandatory minimums and believes judges should do their job and decide sentencing in a fair and reasonable manner.

SB 4005, Senator DeSteph, sets a new mandatory minimum sentence for a person who possesses a concealed firearm while committing or attempting to commit certain violent felonies. VCDL generally does not like mandatory minimums and believes judges should do their job and decide sentencing in a fair and reasonable manner.

SB 4006, Senator DeSteph, creates new mandatory-minimum penalties on people committing certain crimes using a gun they know, or should have known, was stolen. VCDL generally does not like mandatory minimums and believes judges should do their job and decide sentencing in a fair and reasonable manner.

SB 4007, Senator DeSteph, creates new mandatory-minimum penalties on people committing certain felonies using firearms. VCDL generally does not like mandatory minimums and believes judges should do their job and decide sentencing in a fair and reasonable manner.

SB 4014, Senator Norment, requires the reason for a denial of a concealed handgun permit be entered into the VCIN database.

Bills On Which VCDL is Neutral (cont'd)

This page left blank intentionally.