

2016 Family Abuse Final Protective Order Firearm Prohibition Statute: *Fairfax County Coordination*

On July 1, 2016, a new provision of the law **prohibits a person who is subject to a family abuse final protective order (respondent) from possessing a firearm** (Va. Code § 16.1-279.1). Previously, respondents of a family abuse final protective order could not *purchase* or *transport* firearms; this provision expands the prohibition to include *possession*.

The law provides that **after being served** with a final protective order, the respondent has a **24-hour period** to lawfully possess the firearm solely for purpose of **transferring or selling** the firearm to another person who is legally allowed to possess it.

A violation of this law is a Class 6 Felony, punishable up to five years in prison, as well as the loss of certain civil rights, including the right to possess a firearm.

The new law does **not** apply to:

- Emergency or Preliminary Family Abuse Protective Orders
- Emergency, Preliminary or Final Acts of Violence Protective Orders issued by the General District Court. *(The GDC Acts of Violence protective orders are not intended to address domestic violence. They apply to situations where the individuals are not current family or household members, or are not former family and household members with a child in common.)*

Why is this legislation important?

The presence of a firearm makes it 5 times more likely domestic violence will turn into murder.* Removing firearms from dangerous domestic violence situations, such as when a judge has ordered a family abuse final protective order, can help keep our community safer.

In Fairfax County's first 10 months of administering the Lethality Assessment Program, **29% of victims report that their high-danger offenders either have a gun or can access one easily.**

In the five years of data analyzed by the Fairfax County Domestic Violence Fatality Review Team (2009 – 2013), there were 25 intimate partner violence (IPV) related homicides in our community. **17 of those IPV homicides (68%) involved a firearm as the fatal agent.** This is a slightly higher rate than the statewide data from that same time period. Across Virginia, **65% of IPV homicides involved a firearm.****

*J. C. Campbell, D; Webster, J; Koziol-McLain, C. R; et al. 2003. Risk Factors For Femicide in Abusive Relationships: Results From A Multi-Site Case Control Study. *American Journal of Public Health*. 93(7). Accessed from: http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Guns.pdf

** Virginia Family and Intimate Partner Homicide Surveillance Project, Office of the Chief Medical Examiner, Virginia Department of Health. <http://www.vdh.virginia.gov/medExam/familyintimatepartnerviolencehomicidesurveillance.htm>.

Frequently Asked Questions

Leaders from Fairfax County's Domestic Violence Prevention, Policy, and Coordinating Council (DVPPCC)—specifically the Juvenile and Domestic Relations District Court, the Fairfax County Office of the Commonwealth's Attorney, the Fairfax County Police Department (including the Victim Services Section), the Domestic Violence Action Center (DVAC), the Fairfax County Office for Women & Domestic and Sexual Violence Services, and the Fairfax County Sheriff's Office—are working hard to implement the new provision with policies and procedures that will promote both protective order petitioner safety and protective order respondent compliance.

The following are *draft/provisional* answers to frequently asked questions to help the DV Community better understand what those agencies are assessing as they develop their individual protocols.

More information will continue to be shared with the DV Community as these answers are finalized by the agencies involved. In the meantime, it may be helpful to visit the [Department of Criminal Justice's website](#), which includes a basic brochure on the law.

1. How will the courts identify respondents who possess a firearm?

- Petitioners may be asked if the respondent owns a firearm as a part of their petition for a preliminary protective order.
- Judges may ask respondents during the protective order hearing whether or not they possess firearms.

2. How will respondents be informed that they are prohibited from possessing a firearm?

- Judges may read aloud the conditions of the final protective order, including the firearm prohibition, in open court, utilizing an interpreter if necessary.
- Respondents will be notified in writing of the prohibition on the protective order:

VIRGINIA FIREARMS PROHIBITIONS:

Pursuant to Code of Virginia § 18.2-308.1:4, Respondent shall not purchase, transport or possess any firearm while this order is in effect. For a period of 24 hours after being served with this order, Respondent may, however, continue to possess and transport a firearm possessed by Respondent at the time of service for the purposes of selling or transferring that firearm to any person who is not prohibited by law from possessing that firearm.

If Respondent has a concealed handgun permit, Respondent must immediately surrender that permit to the court issuing this order.

The Sheriff serving the order will also read aloud the condition to the respondent.

- *Coming Soon:* A fact sheet will be distributed to the respondents at the time of service (either in court or by the Sheriff) explaining the prohibition in detail and including options for storage of their firearm. The fact sheet will be translated into several of the top languages spoken in our community.
- The DVAC Protective Order Compliance Monitor will also inquire as to firearm possession for cases ordered to his supervision.

3. Will law enforcement inquire about firearms at service and offer to store the respondent's firearms at the time of service?

- The Fairfax County Sheriff's Office will inquire about firearms upon service of the final protective order.
- The Sheriff will also offer to store the respondent's firearm at that time. *More details coming soon on how respondents can turn over their firearms (within the 24-hour period) even after the point of service.*
- The respondent can also choose to transfer the firearm to family member or friend. However, that person must be legally allowed to possess it.

4. How can we best explain this new provision of the law to petitioners, particularly those who are in high-danger?

- DVAC partners, including the FCPD Victim Services Section, are creating a victim safety tip sheet to help advocates and petitioner attorneys easily describe this new provision to their clients. The tip sheet will also include safety planning ideas for the 24-hour period following service of the final protective order.