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SENATE BILL NO. 893

Offered January 8, 2003

Prefiled January 7, 2003

A BILL to amend the Code of Virginia by adding sections numbered 16.1-93.2 and 16.1-253.5, relating to protective orders in cases of dating violence.

Patron—Watkins

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 16.1-93.2 and 16.1-253.5 as follows:

§ 16.1-93.2. Protective orders in cases of dating violence.

A. Any judge of a general district court or circuit court or a magistrate who has the authority and jurisdiction to issue an emergency protective order pursuant to § 16.1-253.4, or otherwise has jurisdiction over the respondent, may issue an emergency protective order, preliminary protective order, or protective order pursuant to this section in order to protect the health or safety of an individual with whom the respondent is or was in a dating relationship, and may impose one or more of the following conditions on the respondent:

- 1. Prohibiting acts of dating violence;*
- 2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons; or*
- 3. Providing any other relief necessary to prevent acts of dating violence, communication or other contact of any kind by the respondent.*

B. When a law-enforcement officer or an individual with whom the respondent is or was in a dating relationship asserts under oath to a judge or magistrate that the respondent has committed dating violence, and on that assertion or other evidence the judge or magistrate finds that reasonable grounds exist to believe that the respondent has committed dating violence and there is probable danger of further dating violence against an individual with whom the respondent is or was in a dating relationship by the respondent, the judge or magistrate shall issue an ex parte emergency protective order.

C. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to dating violence, a general district court may issue a preliminary protective order against the respondent in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge. Immediate and present danger of dating violence or evidence sufficient to establish probable cause that dating violence has recently occurred shall constitute good cause.

D. In cases of dating violence, the general district court may issue a protective order to protect the health and safety of the petitioner and family and household members of the petitioner.

E. The provisions of §§ 16.1-245.1, 16.1-253.1, 16.1-253.4, and 16.1-279.1 applying to cases of family abuse against a family or household member heard in a juvenile and domestic relations district court shall apply mutatis mutandis, except those limited by subsection A of this section, to protective orders issued by a general district court pursuant to this section in cases of dating violence against an individual with whom the respondent is or was in a dating relationship.

F. A violation of a protective order issued pursuant to this section shall be punished as is provided in § 16.1-253.2 for a violation of a protective order issued in cases of family abuse.

G. As used in this section:

"Copy" includes a facsimile copy.

"Dating relationship" means a romantic relationship between individuals that exists or has existed for a reasonably continuous period of time but shall not include a casual acquaintanceship or ordinary fraternization in a business or social context.

"Dating violence" means any act by an individual that is committed against another individual with whom that person has or has had a dating relationship and that involves violence, force, or threat, including, but not limited to, any forceful detention that results in physical injury or places one in reasonable apprehension of bodily injury.

"Law-enforcement officer" means any (i) full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof

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59 and who is responsible for the prevention and detection of crime and the enforcement of the penal,
60 traffic or highway laws of the Commonwealth and (ii) member of an auxiliary police force established
61 pursuant to subsection B of § 15.2-1731. Part-time employees are compensated officers who are not
62 full-time employees as defined by the employing police department or sheriff's office.

63 § 16.1-253.5. Protective orders in cases of dating violence.

64 A. Any judge of a circuit court, general district court, juvenile and domestic relations district court
65 or magistrate who has the authority and jurisdiction to issue an emergency order pursuant to
66 § 16.1-253.4, a preliminary protective order pursuant to § 16.1-253.1, or a protective order pursuant to
67 § 16.1-279.1 may issue a similar protective order pursuant to this section in order to protect the health
68 or safety of a minor with whom the respondent is or was in a dating relationship, and may impose one
69 or more of the following conditions on the respondent:

70 1. Prohibiting acts of dating violence;

71 2. Prohibiting such contacts by the respondent with the petitioner or family or household members of
72 the petitioner as the court deems necessary for the health or safety of such persons; or

73 3. Providing any other relief necessary to prevent further acts of dating violence, communication or
74 other contact of any kind by the respondent.

75 B. When a law-enforcement officer or an individual with whom the respondent is or was in a dating
76 relationship asserts under oath to a judge or magistrate that the respondent has committed dating
77 violence, and on that assertion or other evidence the judge or magistrate finds that reasonable grounds
78 exist to believe that the respondent has committed dating violence and there is probable danger of
79 further dating violence against an individual with whom the respondent is or was in a dating
80 relationship by the respondent, the judge or magistrate shall issue an ex parte emergency protective
81 order.

82 C. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable
83 period of time, subjected to dating violence, a juvenile and domestic relations district court may issue a
84 preliminary protective order against the respondent in order to protect the health and safety of the
85 petitioner or any family or household member of the petitioner. The order may be issued in an ex parte
86 proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony
87 before the judge or intake officer. Immediate and present danger of dating violence or evidence
88 sufficient to establish probable cause that dating violence has recently occurred shall constitute good
89 cause.

90 D. In cases of dating violence, the juvenile and domestic relations district court may issue a
91 protective order to protect the health and safety of the petitioner and family or household members of
92 the petitioner.

93 E. The provisions of §§ 16.1-241, 16.1-243, 16.1-245.1, 16.1-253.1, 16.1-260, 16.1-266.2, 16.1-279.1,
94 16.1-296, and 16.1-298 applying to family abuse against a family or household member shall apply
95 mutatis mutandis, except those limited by subsection A of this section, to protective orders issued
96 pursuant to this section regarding dating violence against an individual with whom the respondent is or
97 was in a dating relationship.

98 F. A violation of a protective order issued pursuant to this section shall be punished as is provided
99 in § 16.1-253.2 for a violation of a protective order issued in cases of family abuse.

100 G. As used in this section:

101 "Copy" includes a facsimile copy.

102 "Dating relationship" means a romantic relationship between individuals that exists or has existed
103 for a reasonably continuous period of time but shall not include a casual acquaintanceship or ordinary
104 fraternization in a business or social context.

105 "Dating violence" means any act by an individual that is committed against another individual with
106 whom that person has or has had a dating relationship and that involves violence, force, or threat,
107 including, but not limited to, any forceful detention that results in physical injury or places one in
108 reasonable apprehension of bodily injury.

109 "Law-enforcement officer" means any (i) full-time or part-time employee of a police department or
110 sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof
111 and who is responsible for the prevention and detection of crime and the enforcement of the penal,
112 traffic or highway laws of the Commonwealth and (ii) member of an auxiliary police force established
113 pursuant to subsection B of § 15.2-1731. Part-time employees are compensated officers who are not
114 full-time employees as defined by the employing police department or sheriff's office.