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**HOUSE BILL NO. 493**

Offered January 9, 2008

Prefiled January 7, 2008

*A BILL to amend and reenact §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, and 19.2-152.10 of the Code of Virginia, relating to information to be included in protective order data submittals to the Virginia Criminal Information Network.*

Patron—Cosgrove

Referred to Committee on Militia, Police and Public Safety

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, and 19.2-152.10 of the Code of Virginia are amended and reenacted as follows:**

§ 16.1-253. Preliminary protective order.

A. Upon the motion of any person or upon the court's own motion, the court may issue a preliminary protective order, after a hearing, if necessary to protect a child's life, health, safety or normal development pending the final determination of any matter before the court. The order may require a child's parents, guardian, legal custodian, other person standing in loco parentis or other family or household member of the child to observe reasonable conditions of behavior for a specified length of time. These conditions shall include any one or more of the following:

1. To abstain from offensive conduct against the child, a family or household member of the child or any person to whom custody of the child is awarded;

2. To cooperate in the provision of reasonable services or programs designed to protect the child's life, health or normal development;

3. To allow persons named by the court to come into the child's home at reasonable times designated by the court to visit the child or inspect the fitness of the home and to determine the physical or emotional health of the child;

4. To allow visitation with the child by persons entitled thereto, as determined by the court;

5. To refrain from acts of commission or omission which tend to endanger the child's life, health or normal development; or

6. To refrain from such contact with the child or family or household members of the child, as the court may deem appropriate, including removal of such person from the residence of the child. However, prior to the issuance by the court of an order removing such person from the residence of the child, the petitioner must prove by a preponderance of the evidence that such person's probable future conduct would constitute a danger to the life or health of such child, and that there are no less drastic alternatives which could reasonably and adequately protect the child's life or health pending a final determination on the petition.

B. A preliminary protective order may be issued ex parte upon motion of any person or the court's own motion in any matter before the court, or upon petition. The motion or petition shall be supported by an affidavit or by sworn testimony in person before the judge or intake officer which establishes that the child would be subjected to an imminent threat to life or health to the extent that delay for the provision of an adversary hearing would be likely to result in serious or irreparable injury to the child's life or health. If an ex parte order is issued without an affidavit being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Following the issuance of an ex parte order the court shall provide an adversary hearing to the affected parties within the shortest practicable time not to exceed five business days after the issuance of the order.

C. Prior to the hearing required by this section, notice of the hearing shall be given at least twenty-four hours in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian, or other person standing in loco parentis of the child, to any other family or household member of the child to whom the protective order may be directed and to the child if he or she is twelve years of age or older. The notice provided herein shall include (i) the time, date and place for the hearing and (ii) a specific statement of the factual circumstances which allegedly necessitate the issuance of a preliminary protective order.

D. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

E. At the hearing the child, his or her parents, guardian, legal custodian or other person standing in loco parentis and any other family or household member of the child to whom notice was given shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence

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59 on their own behalf.

60 F. If a petition alleging abuse or neglect of a child has been filed, at the hearing pursuant to this  
61 section the court shall determine whether the allegations of abuse or neglect have been proven by a  
62 preponderance of the evidence. Any finding of abuse or neglect shall be stated in the court order.  
63 However, if, before such a finding is made, a person responsible for the care and custody of the child,  
64 the child's guardian ad litem or the local department of social services objects to a finding being made  
65 at the hearing, the court shall schedule an adjudicatory hearing to be held within thirty days of the date  
66 of the initial preliminary protective order hearing. The adjudicatory hearing shall be held to determine  
67 whether the allegations of abuse and neglect have been proven by a preponderance of the evidence.  
68 Parties who are present at the hearing shall be given notice of the date set for the adjudicatory hearing  
69 and parties who are not present shall be summoned as provided in § 16.1-263. The adjudicatory hearing  
70 shall be held and an order may be entered, although a party to the hearing fails to appear and is not  
71 represented by counsel, provided personal or substituted service was made on the person, or the court  
72 determines that such person cannot be found, after reasonable effort, or in the case of a person who is  
73 without the Commonwealth, the person cannot be found or his post office address cannot be ascertained  
74 after reasonable effort.

75 Any preliminary protective order issued shall remain in full force and effect pending the adjudicatory  
76 hearing.

77 G. If at the preliminary protective order hearing held pursuant to this section the court makes a  
78 finding of abuse or neglect and a preliminary protective order is issued, a dispositional hearing shall be  
79 held pursuant to § 16.1-278.2. Upon receipt of the order by a local law-enforcement agency for service,  
80 the agency shall enter the name of the person subject to the order and other appropriate information  
81 required by the Department of State Police into the Virginia Criminal Information Network established  
82 and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical,  
83 the court may transfer *complete and accurate* information as required by the Department of State Police  
84 electronically to the Virginia Criminal Information Network. A copy of the preliminary protective order  
85 shall be served as soon as possible on the allegedly abusing person in person as provided in § 16.1-264,  
86 and upon service, the agency making service shall enter the date and time of service into the Virginia  
87 Criminal Information Network. The preliminary order shall specify a date for the dispositional hearing.  
88 The dispositional hearing shall be scheduled at the time of the hearing pursuant to this section, and shall  
89 be held within seventy-five days of this hearing. If an adjudicatory hearing is requested pursuant to  
90 subsection F, the dispositional hearing shall nonetheless be scheduled at the hearing pursuant to this  
91 section. All parties present at the hearing shall be given notice of the date and time scheduled for the  
92 dispositional hearing; parties who are not present shall be summoned to appear as provided in  
93 § 16.1-263.

94 H. Nothing in this section enables the court to remove a child from the custody of his or her parents,  
95 guardian, legal custodian or other person standing in loco parentis, except as provided in § 16.1-278.2,  
96 and no order hereunder shall be entered against a person over whom the court does not have  
97 jurisdiction.

98 I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's  
99 office, nor any employee of them, may disclose, except among themselves, the residential address,  
100 telephone number, or place of employment of the person protected by the order or that of the family of  
101 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme  
102 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

103 J. Violation of any order issued pursuant to this section shall constitute contempt of court.

104 K. Upon receipt of the order by a local law-enforcement agency for service, the agency shall enter  
105 the name of the person subject to the order and other appropriate information required by the  
106 Department of State Police into the Virginia Criminal Information Network established and maintained  
107 by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where feasible and practical, the  
108 court may transfer *complete and accurate* information as required by the Department of State Police  
109 electronically to the Virginia Criminal Information Network. A copy of the preliminary protective order  
110 shall be served as soon as possible on the allegedly abusing person as provided in § 16.1-264, and upon  
111 service, the agency making service shall enter the date and time of service into the Virginia Criminal  
112 Information Network. The preliminary order shall specify a date for the full hearing.

113 Upon receipt of the return of service or other proof of service pursuant to subsection C of  
114 § 16.1-264, the clerk shall forward forthwith an attested copy of the preliminary protective order to the  
115 local police department or sheriff's office which shall, upon receipt, enter into the Virginia Criminal  
116 Information Network any other information required by the State Police that was not previously entered.  
117 If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be  
118 attested, forwarded and entered in the Virginia Criminal Information Network as described above.

119 L. No fee shall be charged for filing or serving any petition or order pursuant to this section.

120 § 16.1-253.1. Preliminary protective orders in cases of family abuse; confidentiality.

A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to family abuse, the court may issue a preliminary protective order against an allegedly abusing person 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 or intake officer. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause.

A preliminary protective order may include any one or more of the following conditions to be imposed on the allegedly abusing person:

1. Prohibiting acts of family abuse.
2. Prohibiting such other contacts between the parties as the court deems appropriate.
3. Prohibiting such other contacts with the allegedly abused family or household member as the court deems necessary to protect the safety of such persons.
4. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.
5. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of pursuant to subdivision 4 or, where appropriate, ordering the respondent to restore utility services to such premises.
6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.
7. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member and, where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided.
8. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner.

B. Upon receipt of the order by a local law-enforcement agency for service, the agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network system established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer *complete and accurate* information as required by the Department of State Police electronically to the Virginia Criminal Information Network system. A copy of a preliminary protective order shall be served as soon as possible on the allegedly abusing person in person as provided in § 16.1-264, and upon service, the agency making service shall enter the date and time of service into the Virginia Criminal Information Network system. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order. If the respondent fails to appear at this hearing because the respondent was not personally served, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served as soon as possible on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forward forthwith an attested copy of the preliminary protective order to the local police department or sheriff's office which shall, upon receipt, enter into the Virginia Criminal Information Network system any other information required by the State Police which was not previously entered. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded and entered in the Virginia Criminal Information Network system as described above.

C. The preliminary order is effective upon personal service on the allegedly abusing person. Except as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.

E. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme

182 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

183 F. As used in this section, "copy" includes a facsimile copy.

184 G. No fee shall be charged for filing or serving any petition or order pursuant to this section.

185 § 16.1-253.4. Emergency protective orders authorized in certain cases; penalty.

186 A. Any judge of a circuit court, general district court, juvenile and domestic relations district court or  
187 magistrate may issue a written or oral ex parte emergency protective order pursuant to this section in  
188 order to protect the health or safety of any person.

189 B. When a law-enforcement officer or an allegedly abused person asserts under oath to a judge or  
190 magistrate, and on that assertion or other evidence the judge or magistrate (i) finds that a warrant for a  
191 violation of § 18.2-57.2 has been issued or issues a warrant for violation of § 18.2-57.2 and finds that  
192 there is probable danger of further acts of family abuse against a family or household member by the  
193 respondent or (ii) finds that reasonable grounds exist to believe that the respondent has committed  
194 family abuse and there is probable danger of a further such offense against a family or household  
195 member by the respondent, the judge or magistrate shall issue an ex parte emergency protective order,  
196 except if the respondent is a minor, an emergency protective order shall not be required, imposing one  
197 or more of the following conditions on the respondent:

198 1. Prohibiting acts of family abuse;

199 2. Prohibiting such contacts by the respondent with family or household members of the respondent  
200 as the judge or magistrate deems necessary to protect the safety of such persons; and

201 3. Granting the family or household member possession of the premises occupied by the parties to  
202 the exclusion of the respondent; however, no such grant of possession shall affect title to any real or  
203 personal property.

204 When the judge or magistrate considers the issuance of an emergency protective order pursuant to  
205 clause (i) of this subsection, he shall presume that there is probable danger of further acts of family  
206 abuse against a family or household member by the respondent unless the presumption is rebutted by the  
207 allegedly abused person.

208 C. An emergency protective order issued pursuant to this section shall expire seventy-two hours after  
209 issuance. If the expiration of the seventy-two-hour period occurs at a time that the court is not in  
210 session, the emergency protective order shall be extended until 5 p.m. of the next business day that the  
211 juvenile and domestic relations district court is in session. When issuing an emergency protective order  
212 under this section, the judge or magistrate shall provide the protected person or the law-enforcement  
213 officer seeking the emergency protective order with the form for use in filing petitions pursuant to  
214 § 16.1-253.1 and written information regarding protective orders that shall include the telephone numbers  
215 of domestic violence agencies and legal referral sources on a form prepared by the Supreme Court. If  
216 these forms are provided to a law-enforcement officer, the officer may provide these forms to the  
217 protected person when giving the emergency protective order to the protected person. The respondent  
218 may at any time file a motion with the court requesting a hearing to dissolve or modify the order issued  
219 hereunder. The hearing on the motion shall be given precedence on the docket of the court.

220 D. A law-enforcement officer may request an emergency protective order pursuant to this section  
221 and, if the person in need of protection is physically or mentally incapable of filing a petition pursuant  
222 to § 16.1-253.1 or § 16.1-279.1, may request the extension of an emergency protective order for an  
223 additional period of time not to exceed seventy-two hours after expiration of the original order. The  
224 request for an emergency protective order or extension of an order may be made orally, in person or by  
225 electronic means, and the judge of a circuit court, general district court, or juvenile and domestic  
226 relations district court or a magistrate may issue an oral emergency protective order. An oral emergency  
227 protective order issued pursuant to this section shall be reduced to writing, by the law-enforcement  
228 officer requesting the order or the magistrate on a preprinted form approved and provided by the  
229 Supreme Court of Virginia. The completed form shall include a statement of the grounds for the order  
230 asserted by the officer or the allegedly abused person.

231 E. Upon receipt of the order by a local law-enforcement agency for service, the agency shall enter  
232 the name of the person subject to the order and other appropriate information required by the  
233 Department of State Police into the Virginia Criminal Information Network system established and  
234 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the  
235 court or magistrate may transfer *complete and accurate* information *as required by the Department of*  
236 *State Police* electronically to the Virginia Criminal Information Network system. A copy of an  
237 emergency protective order issued pursuant to this section shall be served upon the respondent as soon  
238 as possible, and upon service, the agency making service shall enter the date and time of service into  
239 the Virginia Criminal Information Network system. One copy of the order shall be given to the  
240 allegedly abused person when it is issued, and one copy shall be filed with the written report required  
241 by § 19.2-81.3 C. The judge or magistrate who issues an oral order pursuant to an electronic request by  
242 a law-enforcement officer shall verify the written order to determine whether the officer who reduced it  
243 to writing accurately transcribed the contents of the oral order. The original copy shall be filed with the

clerk of the juvenile and domestic relations district court within five business days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or modification order shall be forwarded and entered in the system as described above. Upon request, the clerk shall provide the allegedly abused person with information regarding the date and time of service.

F. The availability of an emergency protective order shall not be affected by the fact that the family or household member left the premises to avoid the danger of family abuse by the respondent.

G. The issuance of an emergency protective order shall not be considered evidence of any wrongdoing by the respondent.

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

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. As used in this section, "copy" includes a facsimile copy.

K. No fee shall be charged for filing or serving any petition or order pursuant to this section. § 16.1-279.1. Protective order in cases of family abuse.

A. In cases of family abuse, the court may issue a protective order to protect the health and safety of the petitioner and family or household members of the petitioner. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of family abuse;

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;

3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property;

4. Enjoining the respondent from terminating any necessary utility service to the residence to which the petitioner was granted possession pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to that residence;

5. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the respondent; however, no such grant of possession or use shall affect title to the vehicle;

6. Requiring that the respondent provide suitable alternative housing for the petitioner and, if appropriate, any other family or household member and where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided;

7. Ordering the respondent to participate in treatment, counseling or other programs as the court deems appropriate; and

8. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner, including a provision for temporary custody or visitation of a minor child.

A1. If a protective order is issued pursuant to subsection A of this section, the court may also issue a temporary child support order for the support of any children of the petitioner whom the respondent has a legal obligation to support. Such order shall terminate upon the determination of support pursuant to § 20-108.1.

B. The protective order may be issued for a specified period; however, unless otherwise authorized by law, a protective order may not be issued under this section for a period longer than two years. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The clerk shall, upon receipt, forward forthwith an attested copy of the order to the local police department or sheriff's office which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network system established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer *complete and accurate* information *as required by the Department of State Police* electronically to the Virginia Criminal Information Network system. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded and entered in the system as described above.

C. Except as otherwise provided in § 16.1-253.2, a violation of a protective order issued under this section shall constitute contempt of court.

305 D. The court may assess costs and attorneys' fees against either party regardless of whether an order  
306 of protection has been issued as a result of a full hearing.

307 E. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate  
308 jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths,  
309 the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing  
310 violent or threatening acts or harassment against or contact or communication with or physical proximity  
311 to another person, including any of the conditions specified in subsection A, shall be accorded full faith  
312 and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided  
313 reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person  
314 against whom the order is sought to be enforced sufficient to protect such person's due process rights  
315 and consistent with federal law. A person entitled to protection under such a foreign order may file the  
316 order in any juvenile and domestic relations district court by filing with the court an attested or  
317 exemplified copy of the order. Upon such a filing, the clerk shall forward forthwith an attested copy of  
318 the order to the local police department or sheriff's office which shall, upon receipt, enter the name of  
319 the person subject to the order and other appropriate information required by the Department of State  
320 Police into the Virginia Criminal Information Network system established and maintained by the  
321 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer  
322 *complete and accurate information as required by the Department of State Police* electronically to the  
323 Virginia Criminal Information Network system.

324 Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy  
325 available of any foreign order filed with that court. A law-enforcement officer may, in the performance  
326 of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been  
327 provided to him by any source and may also rely upon the statement of any person protected by the  
328 order that the order remains in effect.

329 F. Either party may at any time file a written motion with the court requesting a hearing to dissolve  
330 or modify the order. Proceedings to dissolve or modify a protective order shall be given precedence on  
331 the docket of the court.

332 G. As used in this section, "copy" includes a facsimile copy.

333 H. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's  
334 office, nor any employee of them, may disclose, except among themselves, the residential address,  
335 telephone number, or place of employment of the person protected by the order or that of the family of  
336 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme  
337 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

338 I. No fee shall be charged for filing or serving any petition or order pursuant to this section.

339 § 19.2-152.8. Emergency protective orders authorized in cases of stalking and acts of violence.

340 A. Any judge of a circuit court, general district court, juvenile and domestic relations district court or  
341 magistrate may issue a written or oral ex parte emergency protective order pursuant to this section in  
342 order to protect the health or safety of any person.

343 B. When a law-enforcement officer, an allegedly stalked person or an alleged victim of a criminal  
344 offense resulting in a serious bodily injury to the alleged victim asserts under oath to a judge or  
345 magistrate that such person is being or has been subjected to stalking or a criminal offense resulting in a  
346 serious bodily injury to the alleged victim and on that assertion or other evidence the judge or  
347 magistrate finds that (i) there is probable danger of a further such offense being committed by the  
348 respondent against the alleged victim and (ii) a warrant for the arrest of the respondent has been issued,  
349 the judge or magistrate shall issue an ex parte emergency protective order imposing one or more of the  
350 following conditions on the respondent:

351 1. Prohibiting acts of violence or acts of stalking in violation of § 18.2-60.3;

352 2. Prohibiting such contacts by the respondent with the alleged victim of such crime or such person's  
353 family or household members as the judge or magistrate deems necessary to protect the safety of such  
354 persons; and

355 3. Such other conditions as the judge or magistrate deems necessary to prevent acts of stalking, or  
356 criminal offenses resulting in injury to person or property, or communication or other contact of any  
357 kind by the respondent.

358 C. An emergency protective order issued pursuant to this section shall expire 72 hours after issuance.  
359 If the expiration of the 72-hour period occurs at a time that the court is not in session, the emergency  
360 protective order shall be extended until 5 p.m. of the next business day that the court which issued the  
361 order is in session. The respondent may at any time file a motion with the court requesting a hearing to  
362 dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the  
363 court.

364 D. A law-enforcement officer may request an emergency protective order pursuant to this section  
365 orally, in person or by electronic means, and the judge of a circuit court, general district court, or  
366 juvenile and domestic relations district court or a magistrate may issue an oral emergency protective

order. An oral emergency protective order issued pursuant to this section shall be reduced to writing, by the law-enforcement officer requesting the order or the magistrate, on a preprinted form approved and provided by the Supreme Court of Virginia. The completed form shall include a statement of the grounds for the order asserted by the officer or the alleged victim of such crime.

E. Upon receipt of the order by a local law-enforcement agency for service, the agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network system established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court or magistrate may transfer *complete and accurate* information *as required by the Department of State Police* electronically to the Virginia Criminal Information Network system. A copy of an emergency protective order issued pursuant to this section shall be served upon the respondent as soon as possible, and upon service, the agency making service shall enter the date and time of service into the Virginia Criminal Information Network system. One copy of the order shall be given to the alleged victim of such crime. The judge or magistrate who issues an oral order pursuant to an electronic request by a law-enforcement officer shall verify the written order to determine whether the officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy shall be filed with the clerk of the appropriate district court within five business days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or modification order shall be forwarded and entered in the system as described above. Upon request, the clerk shall provide the alleged victim of such crime with information regarding the date and time of service.

F. The issuance of an emergency protective order shall not be considered evidence of any wrongdoing by the respondent.

G. As used in this section, a "law-enforcement officer" means any (i) person who is a full-time or part-time employee of a police department or sheriff's office which is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth and (ii) member of an auxiliary police force established pursuant to subsection B of § 15.2-1731. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

H. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

I. As used in this section, "copy" includes a facsimile copy.

J. No fee shall be charged for filing or serving any petition pursuant to this section.

§ 19.2-152.9. Preliminary protective orders in cases of stalking and acts of violence.

A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of time, subjected to stalking or a criminal offense resulting in a serious bodily injury to the petitioner, and (ii) a warrant has been issued for the arrest of the alleged perpetrator of such act or acts, the court may issue a preliminary protective order against the alleged perpetrator 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 or intake officer. Immediate and present danger of stalking or another criminal offense that may result in a serious bodily injury to the petitioner or evidence sufficient to establish probable cause that stalking or a criminal offense resulting in a serious bodily injury to the petitioner has recently occurred shall constitute good cause.

A preliminary protective order may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting criminal offenses that may result in injury to person or property or acts of stalking in violation of § 18.2-60.3;

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

3. Such other conditions as the court deems necessary to prevent acts of stalking, criminal offenses that may result in injury to person or property, or communication or other contact of any kind by the respondent.

B. Upon receipt of the order by a local law-enforcement agency for service, the agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network system established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer *complete and accurate* information *as required by the Department of State Police*

electronically to the Virginia Criminal Information Network system. A copy of a preliminary protective order shall be served as soon as possible on the alleged stalker in person as provided in § 16.1-264, and upon service, the agency making service shall enter the date and time of service into the Virginia criminal information network system. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forward forthwith an attested copy of the preliminary protective order to the local police department or sheriff's office which shall, upon receipt, enter into the Virginia Criminal Information Network system any other information required by the State Police which was not previously entered. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded and entered into the Virginia Criminal Information Network system as described above.

C. The preliminary order is effective upon personal service on the alleged perpetrator. Except as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10 if the court finds that the petitioner has proven the allegation of a criminal offense resulting in a serious bodily injury to the petitioner or stalking by a preponderance of the evidence.

E. No fees shall be charged for filing or serving petitions pursuant to this section.

F. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

G. As used in this section, "copy" includes a facsimile copy.

§ 19.2-152.10. Protective order in cases of stalking and acts of violence.

A. The court may issue a protective order pursuant to this chapter to protect the health and safety of the petitioner and family or household members of a petitioner upon (i) the issuance of a warrant for a criminal offense resulting in a serious bodily injury to the petitioner, or a violation of § 18.2-60.3, (ii) a hearing held pursuant to subsection D of § 19.2-152.9, or (iii) a conviction for a criminal offense resulting in a serious bodily injury to the petitioner, or a violation of § 18.2-60.3. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting criminal offenses that may result in injury to person or property, or acts of stalking in violation of § 18.2-60.3;

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; and

3. Any other relief necessary to prevent criminal offenses that may result in injury to person or property, or acts of stalking, communication or other contact of any kind by the respondent.

B. The protective order may be issued for a specified period; however, unless otherwise authorized by law, a protective order may not be issued under this section for a period longer than two years. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The clerk shall upon receipt forward forthwith an attested copy of the order to the local police department or sheriff's office which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network system established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer *complete and accurate* information as required by the Department of State Police electronically to the Virginia Criminal Information Network system. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded and entered into the system as described above.

C. Except as otherwise provided, a violation of a protective order issued under this section shall constitute contempt of court.

D. The court may assess costs and attorneys' fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

E. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing



490 violent or threatening acts or harassment against or contact or communication with or physical proximity  
491 to another person, including any of the conditions specified in subsection A, shall be accorded full faith  
492 and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided  
493 reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person  
494 against whom the order is sought to be enforced sufficient to protect such person's due process rights  
495 and consistent with federal law. A person entitled to protection under such a foreign order may file the  
496 order in any appropriate district court by filing with the court, an attested or exemplified copy of the  
497 order. Upon such a filing, the clerk shall forward forthwith an attested copy of the order to the local  
498 police department or sheriff's office which shall, upon receipt, enter the name of the person subject to  
499 the order and other appropriate information required by the Department of State Police into the Virginia  
500 Criminal Information Network system established and maintained by the Department pursuant to Chapter  
501 2 (§ 52-12 et seq.) of Title 52.

502 Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy  
503 available of any foreign order filed with that court. A law-enforcement officer may, in the performance  
504 of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been  
505 provided to him by any source and may also rely upon the statement of any person protected by the  
506 order that the order remains in effect.

507 F. Either party may at any time file a written motion with the court requesting a hearing to dissolve  
508 or modify the order. Proceedings to modify or dissolve a protective order shall be given precedence on  
509 the docket of the court.

510 G. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's  
511 office, nor any employee of them, may disclose, except among themselves, the residential address,  
512 telephone number, or place of employment of the person protected by the order or that of the family of  
513 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme  
514 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

515 H. No fees shall be charged for filing or serving petitions pursuant to this section.

516 I. As used in this section, "copy" includes a facsimile copy.