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**HOUSE BILL NO. 573**

Offered January 9, 2008

Prefiled January 8, 2008

*A BILL to amend and reenact §§ 16.1-241, 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.2, 16.1-278.15, 16.1-279.1, 19.2-152.8, 19.2-152.9, 19.2-152.10, 20-124.1, and 20-124.2 of the Code of Virginia, relating to supervised visitation.*

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Patron—Watts

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Referred to Committee for Courts of Justice

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

**1. That §§ 16.1-241, 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.2, 16.1-278.15, 16.1-279.1, 19.2-152.8, 19.2-152.9, 19.2-152.10, 20-124.1, and 20-124.2 of the Code of Virginia are amended and reenacted as follows:**

§ 16.1-241. Jurisdiction; consent for abortion.

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244; and

6. Who is charged with a traffic infraction as defined in § 46.2-100.

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be

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HB573

59 divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

60 The authority of the juvenile court to adjudicate matters involving the custody, visitation, support,  
61 control or disposition of a child shall not be limited to the consideration of petitions filed by a mother,  
62 father or legal guardian but shall include petitions filed at any time by any party with a legitimate  
63 interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not  
64 be limited to, grandparents, stepparents, former stepparents, blood relatives and family members. A party  
65 with a legitimate interest shall not include any person (i) whose parental rights have been terminated by  
66 court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a  
67 person whose parental rights have been terminated by court order, either voluntarily or involuntarily,  
68 including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family  
69 members, if the child subsequently has been legally adopted, except where a final order of adoption is  
70 entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of  
71 § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United  
72 States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a  
73 result of such violation. The authority of the juvenile court to consider a petition involving the custody  
74 of a child shall not be proscribed or limited where the child has previously been awarded to the custody  
75 of a local board of social services. *The provisions of subsection B1 of § 20-124.2 shall apply to any*  
76 *supervised visitation arrangement ordered pursuant this subsection.*

77 B. The admission of minors for inpatient treatment in a mental health facility in accordance with the  
78 provisions of Article 16 (§ 16.1-335 et seq.) of this chapter and the involuntary admission of a person  
79 with mental illness or judicial certification of eligibility for admission to a training center for persons  
80 with mental retardation in accordance with the provisions of Chapters 1 (§ 37.2-100 et seq.) and 8  
81 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary admission and certification of adults  
82 shall be concurrent with the general district court.

83 C. Except as provided in subsections D and H hereof, judicial consent to such activities as may  
84 require parental consent may be given for a child who has been separated from his parents, guardian,  
85 legal custodian or other person standing in loco parentis and is in the custody of the court when such  
86 consent is required by law.

87 D. Judicial consent for emergency surgical or medical treatment for a child who is neither married  
88 nor has ever been married, when the consent of his parent, guardian, legal custodian or other person  
89 standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person  
90 standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown,  
91 (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such  
92 consent or provide such treatment when requested by the judge to do so.

93 E. Any person charged with deserting, abandoning or failing to provide support for any person in  
94 violation of law.

95 F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

96 1. Who has been abused or neglected;

97 2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817  
98 or is otherwise before the court pursuant to subdivision A 4 of this section; or

99 3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court  
100 finds that such person has by overt act or omission induced, caused, encouraged or contributed to the  
101 conduct of the child complained of in the petition.

102 G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other  
103 person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services  
104 that are required by law to be provided for that child or such child's parent, guardian, legal custodian or  
105 other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not  
106 exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

107 H. Judicial consent to apply for a work permit for a child when such child is separated from his  
108 parents, legal guardian or other person standing in loco parentis.

109 I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or  
110 neglect of children or with any violation of law that causes or tends to cause a child to come within the  
111 purview of this law, or with any other offense against the person of a child. In prosecution for felonies  
112 over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is  
113 probable cause.

114 J. All offenses in which one family or household member is charged with an offense in which  
115 another family or household member is the victim and all offenses under § 18.2-49.1.

116 In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to  
117 determining whether or not there is probable cause. Any objection based on jurisdiction under this  
118 subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial,  
119 before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it  
120 shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for

challenging directly or collaterally the jurisdiction of the court in which the case is tried.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or 16.1-279.1.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20.

R. Petitions for the purpose of obtaining an emergency protective order pursuant to § 16.1-253.4.

S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.2-1526.

U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

V. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independent of the wishes of any authorized person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he finds that (i) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful, and (ii) every other authorized person, if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

The minor may participate in the court proceedings on her own behalf, and the court may appoint a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall, upon her request, appoint counsel for her.

Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so that the court may reach a decision promptly and without delay in order to serve the best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

An expedited confidential appeal to the circuit court shall be available to any minor for whom the court denies an order authorizing an abortion without consent or without notice. Any such appeal shall be heard and decided no later than five days after the appeal is filed. The time periods required by this subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent or without notice shall not be subject to appeal.

No filing fees shall be required of the minor at trial or upon appeal.

If either the original court or the circuit court fails to act within the time periods required by this subsection, the court before which the proceeding is pending shall immediately authorize a physician to

182 perform the abortion without consent of or notice to an authorized person.

183 Nothing contained in this subsection shall be construed to authorize a physician to perform an  
184 abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult  
185 woman.

186 A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent  
187 has been obtained or the minor delivers to the physician a court order entered pursuant to this section  
188 and the physician or his agent provides such notice as such order may require. However, neither consent  
189 nor judicial authorization nor notice shall be required if the minor declares that she is abused or  
190 neglected and the attending physician has reason to suspect that the minor may be an abused or  
191 neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with  
192 § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the  
193 facts justifying the exception in the minor's medical record.

194 For purposes of this subsection:

195 "Authorization" means the minor has delivered to the physician a notarized, written statement signed  
196 by an authorized person that the authorized person knows of the minor's intent to have an abortion and  
197 consents to such abortion being performed on the minor.

198 "Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or  
199 (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with  
200 whom the minor regularly and customarily resides and who has care and control of the minor. Any  
201 person who knows he is not an authorized person and who knowingly and willfully signs an  
202 authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

203 "Consent" means that (i) the physician has given notice of intent to perform the abortion and has  
204 received authorization from an authorized person, or (ii) at least one authorized person is present with  
205 the minor seeking the abortion and provides written authorization to the physician, which shall be  
206 witnessed by the physician or an agent thereof. In either case, the written authorization shall be  
207 incorporated into the minor's medical record and maintained as a part thereof.

208 "Medical emergency" means any condition which, on the basis of the physician's good faith clinical  
209 judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate  
210 abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial  
211 and irreversible impairment of a major bodily function.

212 "Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual  
213 notice of his intention to perform such abortion to an authorized person, either in person or by  
214 telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his  
215 agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person  
216 by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at  
217 least 72 hours prior to the performance of the abortion.

218 "Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical  
219 procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

220 "Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid  
221 marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any  
222 of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her  
223 parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an  
224 order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

225 W. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) of this chapter relating to standby  
226 guardians for minor children.

227 X. Petitions filed pursuant to § 18.2-370.5 for an order allowing the petitioner to enter and be present  
228 on school or child day center property. In such cases jurisdiction shall be concurrent with and not  
229 exclusive of circuit courts.

230 The ages specified in this law refer to the age of the child at the time of the acts complained of in  
231 the petition.

232 Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of  
233 any process in a proceeding pursuant to subdivision 3 of subsection A, except as provided in subdivision  
234 A 6 of § 17.1-272, or subsection B, D, M or R of this section.

235 Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of  
236 subsection V shall be guilty of a Class 3 misdemeanor.

237 § 16.1-253. Preliminary protective order.

238 A. Upon the motion of any person or upon the court's own motion, the court may issue a preliminary  
239 protective order, after a hearing, if necessary to protect a child's life, health, safety or normal  
240 development pending the final determination of any matter before the court. The order may require a  
241 child's parents, guardian, legal custodian, other person standing in loco parentis or other family or  
242 household member of the child to observe reasonable conditions of behavior for a specified length of  
243 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.

*The provisions of subsection B1 of § 20-124.2 shall apply to any supervised visitation arrangement ordered pursuant to a preliminary protective order.*

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~~ 24 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~~ 12 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 on their own behalf.

F. If a petition alleging abuse or neglect of a child has been filed, at the hearing pursuant to this section the court shall determine whether the allegations of abuse or neglect have been proven by a preponderance of the evidence. Any finding of abuse or neglect shall be stated in the court order. However, if, before such a finding is made, a person responsible for the care and custody of the child, the child's guardian ad litem or the local department of social services objects to a finding being made at the hearing, the court shall schedule an adjudicatory hearing to be held within ~~thirty~~ 30 days of the date of the initial preliminary protective order hearing. The adjudicatory hearing shall be held to determine whether the allegations of abuse and neglect have been proven by a preponderance of the evidence. Parties who are present at the hearing shall be given notice of the date set for the adjudicatory hearing and parties who are not present shall be summoned as provided in § 16.1-263. The adjudicatory hearing shall be held and an order may be entered, although a party to the hearing fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort.

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

G. If at the preliminary protective order hearing held pursuant to this section the court makes a finding of abuse or neglect and a preliminary protective order is issued, a dispositional hearing shall be held pursuant to § 16.1-278.2. 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 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network. A copy of the 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. The preliminary order shall specify a date for the dispositional hearing. The dispositional hearing shall be scheduled at the time of the hearing pursuant to this section, and shall be held within ~~seventy-five~~ 75 days of this hearing. If an adjudicatory hearing is requested pursuant to subsection F, the dispositional hearing shall nonetheless be scheduled at the hearing pursuant to this section. All parties present at the hearing shall be given notice of the date and time scheduled for the dispositional hearing; parties who are not present shall be summoned to appear as provided in § 16.1-263.

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

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

K. 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 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where feasible and practical, the court may transfer information electronically to the Virginia Criminal Information Network. A copy of the preliminary protective order shall be served as soon as possible on the allegedly abusing 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. The preliminary order shall specify a date for the full hearing.

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 any other information required by the State Police that 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 as described above.

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

§ 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.

*The provisions of subsection B1 of § 20-124.2 shall apply to any supervised visitation arrangement ordered pursuant to a preliminary protective order.*

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

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

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

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

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

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

1. Prohibiting acts of family abuse;
2. Prohibiting such contacts by the respondent with family or household members of the respondent as the judge or magistrate deems necessary to protect the safety of such persons; and
3. Granting the family or household member possession of the premises 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.

*The provisions of subsection B1 of § 20-124.2 shall apply to any supervised visitation arrangement ordered pursuant to an emergency protective order.*

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

C. An emergency protective order issued pursuant to this section shall expire ~~seventy-two~~ 72 hours after issuance. If the expiration of the ~~seventy-two-hour~~ 72-hour period occurs at a time that the court is not in session, the emergency protective order shall be extended until 5 p.m. of the next business day that the juvenile and domestic relations district court is in session. When issuing an emergency protective order under this section, the judge or magistrate shall provide the protected person or the law-enforcement officer seeking the emergency protective order with the form for use in filing petitions pursuant to § 16.1-253.1 and written information regarding protective orders that shall include the telephone numbers of domestic violence agencies and legal referral sources on a form prepared by the Supreme Court. If these forms are provided to a law-enforcement officer, the officer may provide these forms to the protected person when giving the emergency protective order to the protected person. The respondent may at any time file a motion with the court requesting a hearing to dissolve or modify the order issued hereunder. The hearing on the motion shall be given precedence on the docket of the court.

D. A law-enforcement officer may request an emergency protective order pursuant to this section and, if the person in need of protection is physically or mentally incapable of filing a petition pursuant to § 16.1-253.1 or § 16.1-279.1, may request the extension of an emergency protective order for an additional period of time not to exceed ~~seventy-two~~ 72 hours after expiration of the original order. The request for an emergency protective order or extension of an order may be made orally, in person or by electronic means, and the judge of a circuit court, general district court, or 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 allegedly abused person.

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 information 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 allegedly abused person when it is issued, and one copy shall be filed with the written report required by § 19.2-81.3 C. 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 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.

§ 16.1-278.2. Abused, neglected, or abandoned children or children without parental care.

A. Within ~~seventy-five~~ 75 days of a preliminary removal order hearing held pursuant to § 16.1-252 or a hearing on a preliminary protective order held pursuant to § 16.1-253, a dispositional hearing shall be held if the court found abuse or neglect and (i) removed the child from his home or (ii) entered a preliminary protective order. Notice of the dispositional hearing shall be provided to the child's parent, guardian, legal custodian or other person standing in loco parentis in accordance with § 16.1-263. The hearing shall be held and a dispositional order may be entered, although a parent, guardian, legal custodian or person standing in loco parentis fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. Notice shall also be provided to the local department of social services, the guardian ad litem and, if appointed, the court-appointed special advocate.

If a child is found to be (a) abused or neglected; (b) at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in his care; or (c) abandoned by his parent or other custodian, or without parental care and guardianship because of his parent's absence or physical or mental incapacity, the juvenile court or the circuit court may make any of the following orders of disposition to protect the welfare of the child:

1. Enter an order pursuant to the provisions of § 16.1-278;
2. Permit the child to remain with his parent, subject to such conditions and limitations as the court may order with respect to such child and his parent or other adult occupant of the same dwelling;
3. Prohibit or limit contact as the court deems appropriate between the child and his parent or other adult occupant of the same dwelling whose presence tends to endanger the child's life, health or normal development. The prohibition may exclude any such individual from the home under such conditions as the court may prescribe for a period to be determined by the court but in no event for longer than 180 days from the date of such determination. A hearing shall be held within 150 days to determine further disposition of the matter that may include limiting or prohibiting contact for another 180 days;
4. Permit the local board of social services or a public agency designated by the community policy and management team to place the child, subject to the provisions of § 16.1-281, in suitable family homes, child-caring institutions, residential facilities, or independent living arrangements with legal custody remaining with the parents or guardians. The local board or public agency and the parents or guardians shall enter into an agreement which shall specify the responsibilities of each for the care and control of the child. The board or public agency that places the child shall have the final authority to determine the appropriate placement for the child.

Any order allowing a local board or public agency to place a child where legal custody remains with the parents or guardians as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent placement out of the home and that continued placement in the home would be contrary to the welfare of the child; and the order shall so state.

5. After a finding that there is no less drastic alternative, transfer legal custody, subject to the provisions of § 16.1-281, to any of the following:

- a. A relative or other interested individual subject to the provisions of subsection A1 of this section;
- b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law to receive and provide care for such child; however, a court shall not transfer legal custody of an abused or neglected child to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Social Services; or
- c. The local board of social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction. The local board shall accept the child for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, the local board may be required to accept a child for a period not to exceed ~~fourteen~~ 14 days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this section shall prohibit the commitment of a child to any local board of social services in the Commonwealth when the local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.

Any order authorizing removal from the home and transferring legal custody of a child to a local board of social services as provided in this section shall be entered only upon a finding by the court that

reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child; and the order shall so state.

6. Transfer legal custody pursuant to subdivision 5 of this section and order the parent to participate in such services and programs or to refrain from such conduct as the court may prescribe; or

7. Terminate the rights of the parent pursuant to § 16.1-283.

A1. Any order transferring custody of the child to a relative or other interested individual pursuant to subdivision A 5 a shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative or other interested individual is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative or other interested individual should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

B. If the child has been placed in foster care, at the dispositional hearing the court shall review the foster care plan for the child filed in accordance with § 16.1-281 by the local department of social services, a public agency designated by the community policy and management team which places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardians, or child welfare agency.

C. Any preliminary protective orders entered on behalf of the child shall be reviewed at the dispositional hearing and may be incorporated, as appropriate, in the dispositional order.

D. A dispositional order entered pursuant to this section is a final order from which an appeal may be taken in accordance with § 16.1-296.

*E. The provisions of subsection B1 of § 20-124.2 shall apply to any supervised visitation arrangement ordered pursuant to this section.*

§ 16.1-278.15. Custody or visitation, child or spousal support generally.

A. In cases involving the custody, visitation or support of a child pursuant to subdivision A 3 of § 16.1-241, the court may make any order of disposition to protect the welfare of the child and family as may be made by the circuit court. The parties to any petition where a child whose custody, visitation, or support is contested shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the court. The court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court's discretion. Parties under this section shall include natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party's ability to pay; however, no fee in excess of \$50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Other than statements or admissions by a party admitting criminal activity or child abuse or neglect, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding. If support is ordered for a child, the order shall also provide that support will continue to be paid for a child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until the child reaches the age of 19 or graduates from high school, whichever occurs first. The court may also order the continuation of support for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, (b) unable to live independently and support himself, and (c) resides in the home of the parent seeking or receiving child support.

B. In any case involving the custody or visitation of a child, the court may award custody upon petition to any party with a legitimate interest therein, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members. The term "legitimate interest" shall be broadly construed to accommodate the best interest of the child. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the custody of the child has previously been awarded to a local board of social services.

C. In any determination of support obligation under this section, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Such judgment becomes a lien against real estate only when docketed in the county or city where such real estate is located. Nothing herein shall

be construed to alter or amend the process of attachment of any lien on personal property.

D. In cases involving charges for desertion, abandonment or failure to provide support by any person in violation of law, disposition shall be made in accordance with Chapter 5 (§ 20-61 et seq.) of Title 20.

E. In cases involving a spouse who seeks spousal support after having separated from his spouse, the court may enter any appropriate order to protect the welfare of the spouse seeking support.

F. In any case or proceeding involving the custody or visitation of a child, the court shall consider the best interest of the child, including the considerations for determining custody and visitation set forth in Chapter 6.1 (§ 20-124.1 et seq.) of Title 20.

G. In any proceeding before the court for custody or visitation of a child, the court may order a custody or a psychological evaluation of any parent, guardian, legal custodian or person standing in loco parentis to the child, if the court finds such evaluation would assist it in its determination. The court may enter such orders as it deems appropriate for the payment of the costs of the evaluation by the parties.

H. When deemed appropriate by the court in any custody or visitation matter, the court may order drug testing of any parent, guardian, legal custodian or person standing in loco parentis to the child. The court may enter such orders as it deems appropriate for the payment of the costs of the testing by the parties.

*I. The provisions of subsection B1 of § 20-124.2 shall apply to any supervised visitation arrangement ordered 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.

*The provisions of subsection B1 of § 20-124.2 shall apply to any supervised visitation arrangement ordered pursuant to a protective order.*

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 information 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.

D. The court may assess costs and attorneys' fees against either party regardless of whether an order

674 of protection has been issued as a result of a full hearing.

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

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

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

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

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

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

706 § 19.2-152.8. Emergency protective orders authorized in cases of stalking and acts of violence.

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

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

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

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

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

725 *The provisions of subsection B1 of § 20-124.2 shall apply to any supervised visitation arrangement*  
726 *ordered pursuant to an emergency protective order.*

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

733 D. A law-enforcement officer may request an emergency protective order pursuant to this section  
734 orally, in person or by electronic means, and the judge of a circuit court, general district court, or  
735 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 information 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.

*The provisions of subsection B1 of § 20-124.2 shall apply to any supervised visitation arrangement ordered pursuant to a preliminary protective order.*

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 information 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.

*The provisions of subsection B1 of § 20-124.2 shall apply to any supervised visitation arrangement ordered pursuant to a protective order.*

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 information 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 violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any appropriate district court by filing with the court, an attested or exemplified copy of the order. Upon such a filing, the clerk shall 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.

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

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

G. 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.

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

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

§ 20-124.1. Definitions.

As used in this chapter:

"Joint custody" means (i) joint legal custody where both parents retain joint responsibility for the care and control of the child and joint authority to make decisions concerning the child even though the child's primary residence may be with only one parent, (ii) joint physical custody where both parents share physical and custodial care of the child, or (iii) any combination of joint legal and joint physical custody which the court deems to be in the best interest of the child.

"Person with a legitimate interest" shall be broadly construed and includes, but is not limited to grandparents, stepparents, former stepparents, blood relatives and family members provided any such party has intervened in the suit or is otherwise properly before the court. The term shall be broadly construed to accommodate the best interest of the child. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated, either voluntarily or involuntarily, including but not limited to grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation.

"Sole custody" means that one person retains responsibility for the care and control of a child and has primary authority to make decisions concerning the child.

"Supervised visitation" means contact between a parent and a child that occurs in the immediate presence of a supervising person approved by the court and under conditions that prevent any physical, emotional, or sexual abuse, threats, intimidation, abduction, or humiliation of either the child or the child's custodial parent or guardian. The supervising person shall not be any relative, friend, therapist, or associate of the parent subject to the supervised visitation order. At the request of the child's custodial parent or guardian, the court may order that the supervising person be a police officer or other competent neutral professional. In no case shall supervised visitation be for an overnight period or occur in the home of the parent subject to the supervised visitation order. This definition shall apply to any order awarding or modifying visitation entered on or after July 1, 2008.

§ 20-124.2. Court-ordered custody and visitation arrangements.

920 A. In any case in which custody or visitation of minor children is at issue, whether in a circuit or  
921 district court, the court shall provide prompt adjudication, upon due consideration of all the facts, of  
922 custody and visitation arrangements, including support and maintenance for the children, prior to other  
923 considerations arising in the matter. The court may enter an order pending the suit as provided in  
924 § 20-103. The procedures for determining custody and visitation arrangements shall insofar as practical,  
925 and consistent with the ends of justice, preserve the dignity and resources of family members. Mediation  
926 shall be used as an alternative to litigation where appropriate. When mediation is used in custody and  
927 visitation matters, the goals may include development of a proposal addressing the child's residential  
928 schedule and care arrangements, and how disputes between the parents will be handled in the future.

929 B. In determining custody, the court shall give primary consideration to the best interests of the  
930 child. The court shall assure minor children of frequent and continuing contact with both parents, when  
931 appropriate, and encourage parents to share in the responsibilities of rearing their children. As between  
932 the parents, there shall be no presumption or inference of law in favor of either. The court shall give  
933 due regard to the primacy of the parent-child relationship but may upon a showing by clear and  
934 convincing evidence that the best interest of the child would be served thereby award custody or  
935 visitation to any other person with a legitimate interest. The court may award joint custody or sole  
936 custody.

937 *B1. Whenever the court orders supervised visitation, with such restrictions and conditions necessary*  
938 *to minimize any risk of harm to the child, the parent subject to the supervised visitation order shall be*  
939 *responsible for all costs incurred in compliance with such order. This subsection shall apply to any*  
940 *order awarding or modifying visitation entered on or after July 1, 2008.*

941 C. The court may order that support be paid for any child of the parties. The court shall also order  
942 that support will continue to be paid for any child over the age of 18 who is (i) a full-time high school  
943 student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child  
944 support until such child reaches the age of 19 or graduates from high school, whichever first occurs. The  
945 court may also order the continuation of support for any child over the age of 18 who is (i) severely  
946 and permanently mentally or physically disabled, (ii) unable to live independently and support himself,  
947 and (iii) resides in the home of the parent seeking or receiving child support. In addition, the court may  
948 confirm a stipulation or agreement of the parties which extends a support obligation beyond when it  
949 would otherwise terminate as provided by law. The court shall have no authority to decree support of  
950 children payable by the estate of a deceased party. The court may make such further decree as it shall  
951 deem expedient concerning support of the minor children, including an order that any party provide  
952 health care coverage.

953 D. In any case in which custody or visitation of minor children is at issue, whether in a circuit or  
954 district court, the court may order an independent mental health or psychological evaluation to assist the  
955 court in its determination of the best interests of the child. The court may enter such order as it deems  
956 appropriate for the payment of the costs of the evaluation by the parties.

957 E. The court shall have the continuing authority and jurisdiction to make any additional orders  
958 necessary to effectuate and enforce any order entered pursuant to this section or § 20-103 including the  
959 authority to punish as contempt of court any willful failure of a party to comply with the provisions of  
960 the order. A parent or other person having legal custody of a child may petition the court to enjoin and  
961 the court may enter an order to enjoin a parent of the child from filing a petition relating to custody and  
962 visitation of that child for any period of time up to 10 years if doing so is in the best interests of the  
963 child and such parent has been convicted of an offense under the laws of the Commonwealth or a  
964 substantially similar law of another state, the United States, or any foreign jurisdiction which constitutes  
965 (i) murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such  
966 offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at  
967 the time the offense occurred, or the other parent of the child, or (ii) felony assault resulting in serious  
968 bodily injury, felony bodily wounding resulting in serious bodily injury, or felony sexual assault, if the  
969 victim of the offense was a child of the parent or a child with whom the parent resided at the time of  
970 the offense. When such a petition to enjoin the filing of a petition for custody and visitation is filed, the  
971 court shall appoint a guardian ad litem for the child pursuant to § 16.1-266.