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**HOUSE BILL NO. 814**

Offered January 9, 2008

Prefiled January 8, 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, 19.2-152.10, and 20-103 of the Code of Virginia, relating to possession of firearm by protective order respondent.*

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 Patron—Ward
 

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 Referred to Committee on Militia, Police and Public Safety
 

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**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, 19.2-152.10, and 20-103 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 court shall inquire of witnesses at the hearing whether the respondent is in possession of a firearm and shall include the findings in the order.* 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~~ 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

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59 loco parentis and any other family or household member of the child to whom notice was given shall  
60 have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence  
61 on their own behalf.

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

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

79 G. If at the preliminary protective order hearing held pursuant to this section the court makes a  
80 finding of abuse or neglect and a preliminary protective order is issued, a dispositional hearing shall be  
81 held pursuant to § 16.1-278.2. Upon receipt of the order by a local law-enforcement agency for service,  
82 the agency shall enter the name of the person subject to the order and other appropriate information  
83 required by the Department of State Police into the Virginia Criminal Information Network established  
84 and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical,  
85 the court may transfer information electronically to the Virginia Criminal Information Network. A copy  
86 of the preliminary protective order shall be served as soon as possible on the allegedly abusing person in  
87 person as provided in § 16.1-264, and upon service, the agency making service shall enter the date and  
88 time of service into the Virginia Criminal Information Network. The preliminary order shall specify a  
89 date for the dispositional hearing. The dispositional hearing shall be scheduled at the time of the hearing  
90 pursuant to this section, and shall be held within ~~seventy-five~~ 75 days of this hearing. If an adjudicatory  
91 hearing is requested pursuant to subsection F, the dispositional hearing shall nonetheless be scheduled at  
92 the hearing pursuant to this section. All parties present at the hearing shall be given notice of the date  
93 and time scheduled for the dispositional hearing; parties who are not present shall be summoned to  
94 appear as provided in § 16.1-263.

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

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

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

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

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

120 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. *The petition, affidavit, or sworn testimony shall include information on whether or not the respondent possesses a firearm and the order shall include the information.*

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 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

182 office, nor any employee of them, may disclose, except among themselves, the residential address,  
183 telephone number, or place of employment of the person protected by the order or that of the family of  
184 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme  
185 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

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

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

188 § 16.1-253.4. Emergency protective orders authorized in certain cases; penalty.

189 A. Any judge of a circuit court, general district court, juvenile and domestic relations district court or  
190 magistrate may issue a written or oral ex parte emergency protective order pursuant to this section in  
191 order to protect the health or safety of any person. *The order shall include information on whether or*  
192 *not the respondent is in possession of a firearm, if such information was acquired by the*  
193 *law-enforcement officer or offered by the allegedly abused person.*

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

203 1. Prohibiting acts of family abuse;

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

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

209 When the judge or magistrate considers the issuance of an emergency protective order pursuant to  
210 clause (i) of this subsection, he shall presume that there is probable danger of further acts of family  
211 abuse against a family or household member by the respondent unless the presumption is rebutted by the  
212 allegedly abused person. *When the judge or magistrate considers the issuance of an emergency*  
213 *protective order pursuant to this subsection, he shall inquire of the person under oath as to whether the*  
214 *respondent is in possession of a firearm.*

215 C. An emergency protective order issued pursuant to this section shall expire ~~seventy-two~~ 72 hours  
216 after issuance. If the expiration of the ~~seventy-two~~ 72-hour period occurs at a time that the court is not in  
217 session, the emergency protective order shall be extended until 5 p.m. of the next business day that the  
218 juvenile and domestic relations district court is in session. When issuing an emergency protective order  
219 under this section, the judge or magistrate shall provide the protected person or the law-enforcement  
220 officer seeking the emergency protective order with the form for use in filing petitions pursuant to  
221 § 16.1-253.1 and written information regarding protective orders that shall include the telephone numbers  
222 of domestic violence agencies and legal referral sources on a form prepared by the Supreme Court. If  
223 these forms are provided to a law-enforcement officer, the officer may provide these forms to the  
224 protected person when giving the emergency protective order to the protected person. The respondent  
225 may at any time file a motion with the court requesting a hearing to dissolve or modify the order issued  
226 hereunder. The hearing on the motion shall be given precedence on the docket of the court.

227 D. A law-enforcement officer may request an emergency protective order pursuant to this section  
228 and, if the person in need of protection is physically or mentally incapable of filing a petition pursuant  
229 to § 16.1-253.1 or § 16.1-279.1, may request the extension of an emergency protective order for an  
230 additional period of time not to exceed ~~seventy-two~~ 72 hours after expiration of the original order. The  
231 request for an emergency protective order or extension of an order may be made orally, in person or by  
232 electronic means, and the judge of a circuit court, general district court, or juvenile and domestic  
233 relations district court or a magistrate may issue an oral emergency protective order. An oral emergency  
234 protective order issued pursuant to this section shall be reduced to writing, by the law-enforcement  
235 officer requesting the order or the magistrate on a preprinted form approved and provided by the  
236 Supreme Court of Virginia. The completed form shall include a statement of the grounds for the order  
237 asserted by the officer or the allegedly abused person.

238 E. Upon receipt of the order by a local law-enforcement agency for service, the agency shall enter  
239 the name of the person subject to the order and other appropriate information required by the  
240 Department of State Police into the Virginia Criminal Information Network system established and  
241 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the  
242 court or magistrate may transfer information electronically to the Virginia Criminal Information Network  
243 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.

§ 16.1-279.1. 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. *The court shall inquire of the petitioner whether the respondent is in possession of a firearm and shall include the findings in the order.* 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 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 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 juvenile and domestic relations 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. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network system.

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 dissolve or modify a protective order shall be given precedence on the docket of the court.

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

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

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

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. *When the judge or magistrate considers the issuance of an emergency protective order pursuant to this section, he shall inquire of the person under oath as to whether the respondent is in possession of a firearm. The order shall include information on whether or not the respondent is in possession of a firearm, if such information was acquired by the law-enforcement officer or offered by the allegedly stalked person.*

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

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

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

3. Such other conditions as the judge or magistrate deems necessary to prevent acts of stalking, or

367 criminal offenses resulting in injury to person or property, or communication or other contact of any  
368 kind by the respondent.

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

375 D. A law-enforcement officer may request an emergency protective order pursuant to this section  
376 orally, in person or by electronic means, and the judge of a circuit court, general district court, or  
377 juvenile and domestic relations district court or a magistrate may issue an oral emergency protective  
378 order. An oral emergency protective order issued pursuant to this section shall be reduced to writing, by  
379 the law-enforcement officer requesting the order or the magistrate, on a preprinted form approved and  
380 provided by the Supreme Court of Virginia. The completed form shall include a statement of the  
381 grounds for the order asserted by the officer or the alleged victim of such crime.

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

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

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

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

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

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

414 § 19.2-152.9. Preliminary protective orders in cases of stalking and acts of violence.

415 A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable  
416 period of time, subjected to stalking or a criminal offense resulting in a serious bodily injury to the  
417 petitioner, and (ii) a warrant has been issued for the arrest of the alleged perpetrator of such act or acts,  
418 the court may issue a preliminary protective order against the alleged perpetrator in order to protect the  
419 health and safety of the petitioner or any family or household member of the petitioner. The order may  
420 be issued in an ex parte proceeding upon good cause shown when the petition is supported by an  
421 affidavit or sworn testimony before the judge or intake officer. Immediate and present danger of stalking  
422 or another criminal offense that may result in a serious bodily injury to the petitioner or evidence  
423 sufficient to establish probable cause that stalking or a criminal offense resulting in a serious bodily  
424 injury to the petitioner has recently occurred shall constitute good cause. *Either in testimony taken by*  
425 *the court or an intake officer or in the petition or affidavit, the petitioner shall be requested to provide*  
426 *information as to whether the respondent is in possession of a firearm. When the court issues a*  
427 *protective order hereunder it shall note in the order whether the respondent is in possession of a*

428 *firearm.*

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

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

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

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

438 B. Upon receipt of the order by a local law-enforcement agency for service, the agency shall enter  
439 the name of the person subject to the order and other appropriate information required by the  
440 Department of State Police into the Virginia Criminal Information Network system established and  
441 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the  
442 court may transfer information electronically to the Virginia Criminal Information Network system. A  
443 copy of a preliminary protective order shall be served as soon as possible on the alleged stalker in  
444 person as provided in § 16.1-264, and upon service, the agency making service shall enter the date and  
445 time of service into the Virginia criminal information network system. The preliminary order shall  
446 specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the  
447 preliminary order. However, upon motion of the respondent and for good cause shown, the court may  
448 continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after  
449 the order is issued, the clerk shall provide the petitioner with a copy of the order and information  
450 regarding the date and time of service. The order shall further specify that either party may at any time  
451 file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the  
452 motion shall be given precedence on the docket of the court.

453 Upon receipt of the return of service or other proof of service pursuant to subsection C of  
454 § 16.1-264, the clerk shall forward forthwith an attested copy of the preliminary protective order to the  
455 local police department or sheriff's office which shall, upon receipt, enter into the Virginia Criminal  
456 Information Network system any other information required by the State Police which was not  
457 previously entered. If the order is later dissolved or modified, a copy of the dissolution or modification  
458 order shall also be attested, forwarded and entered into the Virginia Criminal Information Network  
459 system as described above.

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

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

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

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

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

472 § 19.2-152.10. Protective order in cases of stalking and acts of violence.

473 A. The court may issue a protective order pursuant to this chapter to protect the health and safety of  
474 the petitioner and family or household members of a petitioner upon (i) the issuance of a warrant for a  
475 criminal offense resulting in a serious bodily injury to the petitioner, or a violation of § 18.2-60.3, (ii) a  
476 hearing held pursuant to subsection D of § 19.2-152.9, or (iii) a conviction for a criminal offense  
477 resulting in a serious bodily injury to the petitioner, or a violation of § 18.2-60.3. *The order shall*  
478 *include information on whether or not the respondent is in possession of a firearm if the information*  
479 *can be made available to the court by the petitioner or otherwise.* A protective order issued under this  
480 section may include any one or more of the following conditions to be imposed on the respondent:

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

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

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

487 B. The protective order may be issued for a specified period; however, unless otherwise authorized  
488 by law, a protective order may not be issued under this section for a period longer than two years. A  
489 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.

§ 20-103. Court may make orders pending suit for divorce, custody or visitation, etc.

A. In suits for divorce, annulment and separate maintenance, and in proceedings arising under subdivision A 3 or subsection L of § 16.1-241, the court having jurisdiction of the matter may, at any time pending a suit pursuant to this chapter, in the discretion of such court, make any order that may be proper (i) to compel a spouse to pay any sums necessary for the maintenance and support of the petitioning spouse, including an order that the other spouse provide health care coverage for the petitioning spouse, unless it is shown that such coverage cannot be obtained, (ii) to enable such spouse to carry on the suit, (iii) to prevent either spouse from imposing any restraint on the personal liberty of the other spouse, (iv) to provide for the custody and maintenance of the minor children of the parties, including an order that either party provide health care coverage for the children, (v) to provide support, calculated in accordance with § 20-108.2, for any child of the parties to whom a duty of support is owed and to continue to support any child over the age of 18 who meets the requirements set forth in subsection C of § 20-124.2, (vi) for the exclusive use and possession of the family residence during the pendency of the suit, (vii) to preserve the estate of either spouse, so that it be forthcoming to meet any decree which may be made in the suit, or (viii) to compel either spouse to give security to abide such decree. 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 except that the court may require the parties to

551 attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or  
552 other program shall be a minimum of four hours in length and shall address the effects of separation or  
553 divorce on children, parenting responsibilities, options for conflict resolution and financial  
554 responsibilities. Once a party has completed one educational seminar or other like program, the required  
555 completion of additional programs shall be at the court's discretion. Parties under this section shall  
556 include natural or adoptive parents of the child, or any person with a legitimate interest as defined in  
557 § 20-124.1. The fee charged a party for participation in such program shall be based on the party's  
558 ability to pay; however, no fee in excess of \$50 may be charged. Whenever possible, before  
559 participating in mediation or alternative dispute resolution to address custody, visitation or support, each  
560 party shall have attended the educational seminar or other like program. The court may grant an  
561 exemption from attendance of such program for good cause shown or if there is no program reasonably  
562 available. Other than statements or admissions by a party admitting criminal activity or child abuse, no  
563 statement or admission by a party in such seminar or program shall be admissible into evidence in any  
564 subsequent proceeding.

565 B. In addition to the terms provided in subsection A, upon a showing by a party of reasonable  
566 apprehension of physical harm to that party by such party's family or household member as that term is  
567 defined in § 16.1-228, and consistent with rules of the Supreme Court of Virginia, the court may enter  
568 an order excluding that party's family or household member from the jointly owned or jointly rented  
569 family dwelling. In any case where an order is entered under this paragraph, pursuant to an ex parte  
570 hearing, the order shall not exclude a family or household member from the family dwelling for a  
571 period in excess of 15 days from the date the order is served, in person, upon the person so excluded.  
572 *The order shall include information on whether or not the respondent is in possession of a firearm if the*  
573 *information can be made available to the court by the petitioner or otherwise.* The order may provide  
574 for an extension of time beyond the 15 days, to become effective automatically. The person served may  
575 at any time file a written motion in the clerk's office requesting a hearing to dissolve or modify the  
576 order. Nothing in this section shall be construed to prohibit the court from extending an order entered  
577 under this subsection for such longer period of time as is deemed appropriate, after a hearing on notice  
578 to the parties. If the party subject to the order fails to appear at this hearing, the court may extend the  
579 order for a period not to exceed six months.

580 C. In cases other than those for divorce in which a custody or visitation arrangement for a minor  
581 child is sought, the court may enter an order providing for custody, visitation or maintenance pending  
582 the suit as provided in subsection A. The order shall be directed to either parent or any person with a  
583 legitimate interest who is a party to the suit.

584 D. Orders entered pursuant to this section which provide for custody or visitation arrangements  
585 pending the suit shall be made in accordance with the standards set out in Chapter 6.1 (§ 20-124.1 et  
586 seq.) of this title. Orders entered pursuant to subsection B shall be certified by the clerk and forwarded  
587 as soon as possible to the local police department or sheriff's office which shall, on the date of receipt,  
588 enter the name of the person subject to the order and other appropriate information required by the  
589 Department of State Police into the Virginia crime information network system established and  
590 maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. If the  
591 order is later dissolved or modified, a copy of the dissolution or modification shall also be certified,  
592 forwarded and entered in the system as described above.

593 E. An order entered pursuant to this section shall have no presumptive effect and shall not be  
594 determinative when adjudicating the underlying cause.