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HOUSE BILL NO. 2381

Offered January 14, 2009

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A BILL to amend and reenact §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, and 19.2-152.10 of the Code of Virginia, relating to protective orders; companion animals and livestock.

Patron—Scott, J.M.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

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

§ 16.1-253. Preliminary protective order.

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

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

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

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

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

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

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

7. To abstain from offensive conduct against a companion animal or livestock, as these terms are defined in § 3.2-6500, owned, possessed, leased, kept, or held by the child, a family or household member of the child, or any person to whom custody of the child is awarded.

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 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 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.

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

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

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

80 G. If at the preliminary protective order hearing held pursuant to this section the court makes a
81 finding of abuse or neglect and a preliminary protective order is issued, a dispositional hearing shall be
82 held pursuant to § 16.1-278.2. The court shall forthwith, but in all cases no later than the end of the
83 business day on which the order was issued, enter and transfer identifying information provided to the
84 court electronically to the Virginia Criminal Information Network. A copy of the preliminary protective
85 order and an addendum containing any such identifying information shall be forwarded forthwith to the
86 primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of
87 the order and addendum by the primary law-enforcement agency, the agency shall forthwith verify and
88 enter any modification as necessary to the identifying information and other appropriate information
89 required by the Department of State Police into the Virginia Criminal Information Network established
90 and maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52
91 and the order shall be served forthwith on the allegedly abusing person in person as provided in
92 § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the
93 clerk of the circuit court shall forthwith forward an attested copy of the order and an addendum
94 containing identifying information to the primary law-enforcement agency providing service and entry of
95 protective orders and upon receipt of the order and addendum, the primary law-enforcement agency shall
96 enter the name of the person subject to the order and other appropriate information required by the
97 Department of State Police into the Virginia Criminal Information Network established and maintained
98 by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served
99 forthwith upon the allegedly abusing person in person as provided in § 16.1-264. Upon service, the
100 agency making service shall enter the date and time of service and other appropriate information
101 required by the Department of State Police into the Virginia Criminal Information Network and make
102 due return to the court. The preliminary order shall specify a date for the dispositional hearing. The
103 dispositional hearing shall be scheduled at the time of the hearing pursuant to this section, and shall be
104 held within 75 days of this hearing. If an adjudicatory hearing is requested pursuant to subsection F, the
105 dispositional hearing shall nonetheless be scheduled at the hearing pursuant to this section. All parties
106 present at the hearing shall be given notice of the date and time scheduled for the dispositional hearing;
107 parties who are not present shall be summoned to appear as provided in § 16.1-263.

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

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

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

118 K. The court shall forthwith, but in all cases no later than the end of the business day on which the
119 order was issued, enter and transfer identifying information provided to the court electronically to the
120 Virginia Criminal Information Network. A copy of the preliminary protective order and an addendum

containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order and addendum by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information 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 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order and an addendum containing identifying information to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order and addendum, the primary law-enforcement 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 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. 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 forthwith forward an attested copy of the preliminary protective order to the primary law-enforcement agency and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

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

M. If any identifying information in the addendum is determined to be incorrect by the entering agency, the agency shall enter the corrected information into the Virginia Criminal Information Network. § 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. *Prohibiting acts or offensive conduct that would serve to injure or kill a companion animal or livestock, as these terms are defined in § 3.2-6500, owned, possessed, leased, kept, or held by the petitioner or a family or household member of the petitioner.*

89. Any other relief necessary for the protection of the petitioner and family or household members

182 of the petitioner.

183 B. The court shall forthwith, but in all cases no later than the end of the business day on which the
184 order was issued, enter and transfer identifying information provided to the court electronically to the
185 Virginia Criminal Information Network. A copy of a preliminary protective order and an addendum
186 containing any such identifying information shall be forwarded forthwith to the primary law-enforcement
187 agency responsible for service and entry of protective orders. Upon receipt of the order and addendum
188 by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as
189 necessary to the identifying information and other appropriate information required by the Department of
190 State Police into the Virginia Criminal Information Network established and maintained by the
191 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith
192 on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court.
193 However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward
194 an attested copy of the order and an addendum containing identifying information to the primary
195 law-enforcement agency providing service and entry of protective orders and upon receipt of the order
196 and addendum, the primary law-enforcement agency shall enter the name of the person subject to the
197 order and other appropriate information required by the Department of State Police into the Virginia
198 Criminal Information Network established and maintained by the Department pursuant to Chapter 2
199 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in
200 person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time
201 of service and other appropriate information required by the Department of State Police into the Virginia
202 Criminal Information Network and make due return to the court. The preliminary order shall specify a
203 date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary
204 order. If the respondent fails to appear at this hearing because the respondent was not personally served,
205 the court may extend the protective order for a period not to exceed six months. The extended protective
206 order shall be served forthwith on the respondent. However, upon motion of the respondent and for
207 good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until
208 the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of
209 the order and information regarding the date and time of service. The order shall further specify that
210 either party may at any time file a motion with the court requesting a hearing to dissolve or modify the
211 order. The hearing on the motion shall be given precedence on the docket of the court.

212 Upon receipt of the return of service or other proof of service pursuant to subsection C of
213 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the
214 primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as
215 necessary into the Virginia Criminal Information Network as described above. If the order is later
216 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded
217 forthwith to the primary law-enforcement agency responsible for service and entry of protective orders,
218 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify
219 and enter any modification as necessary to the identifying information and other appropriate information
220 required by the Department of State Police into the Virginia Criminal Information Network as described
221 above and the order shall be served forthwith and due return made to the court.

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

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

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

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

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

234 H. If any identifying information in the addendum is determined to be incorrect by the entering
235 agency, the agency shall enter the corrected information into the Virginia Criminal Information Network.

236 § 16.1-253.4. Emergency protective orders authorized in certain cases; penalty.

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

240 B. When a law-enforcement officer or an allegedly abused person asserts under oath to a judge or
241 magistrate, and on that assertion or other evidence the judge or magistrate (i) finds that a warrant for a
242 violation of § 18.2-57.2 has been issued or issues a warrant for violation of § 18.2-57.2 and finds that
243 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; and
4. *Prohibiting acts or offensive conduct that would serve to injure or kill a companion animal or livestock, as these terms are defined in § 3.2-6500, owned, possessed, leased, kept, or held by the petitioner or a family or household member of the petitioner.*

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 at the end of the third day following issuance. If the expiration occurs at a time that the court is not in session, the emergency protective order shall be extended until the end 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 three days 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. The court or magistrate shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer identifying information provided to the court or magistrate electronically to the Virginia Criminal Information Network. A copy of an emergency protective order issued pursuant to this section and an addendum containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order and addendum by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information 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 and the order shall be served forthwith upon the respondent and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order and an addendum containing identifying information to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order and addendum, the primary law-enforcement 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 Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the respondent. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. One copy of the order shall be given to the allegedly abused person

305 when it is issued, and one copy shall be filed with the written report required by § 19.2-81.3 C. The
306 judge or magistrate who issues an oral order pursuant to an electronic request by a law-enforcement
307 officer shall verify the written order to determine whether the officer who reduced it to writing
308 accurately transcribed the contents of the oral order. The original copy shall be filed with the clerk of
309 the juvenile and domestic relations district court within five business days of the issuance of the order.
310 If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be
311 attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of
312 protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall
313 forthwith verify and enter any modification as necessary to the identifying information and other
314 appropriate information required by the Department of State Police into the Virginia Criminal
315 Information Network as described above and the order shall be served forthwith and due return made to
316 the court. Upon request, the clerk shall provide the allegedly abused person with information regarding
317 the date and time of service.

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

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

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

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

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

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

336 L. If any identifying information in the addendum is determined to be incorrect by the entering
337 agency, the agency shall enter the corrected information into the Virginia Criminal Information Network.
338 § 16.1-279.1. Protective order in cases of family abuse.

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

342 1. Prohibiting acts of family abuse;

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

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

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

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

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

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

358 8. *Prohibiting acts or offensive conduct that would serve to injure or kill a companion animal or*
359 *livestock, as these terms are defined in § 3.2-6500, owned, possessed, leased, kept, or held by the*
360 *petitioner or a family or household member of the petitioner; and*

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

363 A1. If a protective order is issued pursuant to subsection A of this section, the court may also issue a
364 temporary child support order for the support of any children of the petitioner whom the respondent has
365 a legal obligation to support. Such order shall terminate upon the determination of support pursuant to
366 § 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. The protective order shall expire at the end of the last day identified for the two-year period and if no date is identified, it shall expire at the end of the two years following the date of issuance. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer identifying information provided to the court electronically to the Virginia Criminal Information Network and shall forthwith forward the attested copy of the protective order and an addendum containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order and addendum by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information 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 and the order shall be served forthwith upon the respondent and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order and an addendum containing identifying information to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order and addendum, the primary law-enforcement 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 and the order shall be served forthwith upon the respondent. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

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 forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders 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 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.

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,

428 telephone number, or place of employment of the person protected by the order or that of the family of
429 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme
430 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

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

432 J. If any identifying information in the addendum is determined to be incorrect by the entering
433 agency, the agency shall enter the corrected information into the Virginia Criminal Information Network.

434 § 19.2-152.8. Emergency protective orders authorized in cases of stalking and acts of violence.

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

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

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

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

450 3. *Prohibiting acts or offensive conduct that would serve to injure or kill a companion animal or*
451 *livestock, as these terms are defined in § 3.2-6500, owned, possessed, leased, kept, or held by the*
452 *alleged victim or a family or household member of the alleged victim; and*

453 34. Such other conditions as the judge or magistrate deems necessary to prevent acts of stalking, or
454 criminal offenses resulting in injury to person or property, or communication or other contact of any
455 kind by the respondent.

456 C. An emergency protective order issued pursuant to this section shall expire at the end of the third
457 day following issuance. If the expiration occurs at a time that the court is not in session, the emergency
458 protective order shall be extended until the end of the next business day that the court which issued the
459 order is in session. The respondent may at any time file a motion with the court requesting a hearing to
460 dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the
461 court.

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

469 E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day
470 on which the order was issued, enter and transfer identifying information provided to the court or
471 magistrate electronically to the Virginia Criminal Information Network. A copy of an emergency
472 protective order issued pursuant to this section and an addendum containing any such identifying
473 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service
474 and entry of protective orders. Upon receipt of the order and addendum by the primary law-enforcement
475 agency, the agency shall forthwith verify and enter any modification as necessary to the identifying
476 information and other appropriate information required by the Department of State Police into the
477 Virginia Criminal Information Network established and maintained by the Department pursuant to
478 Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and
479 due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit
480 court shall forthwith forward an attested copy of the order and an addendum containing identifying
481 information to the primary law-enforcement agency providing service and entry of protective orders and
482 upon receipt of the order and addendum, the primary law-enforcement agency shall enter the name of
483 the person subject to the order and other appropriate information required by the Department of State
484 Police into the Virginia Criminal Information Network established and maintained by the Department
485 pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the
486 respondent. Upon service, the agency making service shall enter the date and time of service and other
487 appropriate information required into the Virginia Criminal Information Network and make due return to
488 the court. One copy of the order shall be given to the alleged victim of such crime. The judge or
489 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 also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court. 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.

K. If any identifying information in the addendum is determined to be incorrect by the entering agency, the agency shall enter the corrected information into the Virginia Criminal Information Network. § 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. *Prohibiting acts or offensive conduct that would serve to injure or kill a companion animal or livestock, as these terms are defined in § 3.2-6500, owned, possessed, leased, kept, or held by the petitioner or a family or household member of the petitioner; and*

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

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer identifying information provided to the court electronically to the Virginia Criminal Information Network. A copy of a preliminary protective order and an addendum containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order and addendum by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information 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 and the order shall be served forthwith on the alleged stalker in person as provided in § 16.1-264, and due return made to the court. However,

551 if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an
552 attested copy of the order and an addendum containing identifying information to the primary
553 law-enforcement agency providing service and entry of protective orders and upon receipt of the order
554 and addendum, the primary law-enforcement agency shall enter the name of the person subject to the
555 order and other appropriate information required by the Department of State Police into the Virginia
556 Criminal Information Network established and maintained by the Department pursuant to Chapter 2
557 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged stalker in person as
558 provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service
559 and other appropriate information required by the Department of State Police into the Virginia Criminal
560 Information Network and make due return to the court. The preliminary order shall specify a date for
561 the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order. If the
562 respondent fails to appear at this hearing because the respondent was not personally served, the court
563 may extend the protective order for a period not to exceed six months. The extended protective order
564 shall be served as soon as possible on the respondent. However, upon motion of the respondent and for
565 good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until
566 the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of
567 the order and information regarding the date and time of service. The order shall further specify that
568 either party may at any time file a motion with the court requesting a hearing to dissolve or modify the
569 order. The hearing on the motion shall be given precedence on the docket of the court.

570 Upon receipt of the return of service or other proof of service pursuant to subsection C of
571 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to
572 primary law-enforcement agency and the agency shall forthwith verify and enter any modification as
573 necessary into the Virginia Criminal Information Network as described above. If the order is later
574 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded
575 forthwith to the primary law-enforcement agency responsible for service and entry of protective orders,
576 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify
577 and enter any modification as necessary to the identifying information and other appropriate information
578 required by the Department of State Police into the Virginia Criminal Information Network as described
579 above and the order shall be served forthwith and due return made to the court.

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

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

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

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

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

592 H. If any identifying information in the addendum is determined to be incorrect by the entering
593 agency, the agency shall enter the corrected information into the Virginia Criminal Information Network.

594 § 19.2-152.10. Protective order in cases of stalking and acts of violence.

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

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

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

606 3. *Prohibiting acts or offensive conduct that would serve to injure or kill a companion animal or*
607 *livestock, as these terms are defined in § 3.2-6500, owned, possessed, leased, kept, or held by the*
608 *petitioner or a family or household member of the petitioner; and*

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

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

protective order shall expire at the end of the last day identified for the two-year period and if no date is identified, it shall expire at the end of the two years following the date of issuance. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer identifying information provided to the court electronically to the Virginia Criminal Information Network and shall forthwith forward the attested copy of the protective order and an addendum containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order and addendum by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information 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 and the order shall be served forthwith upon the respondent and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order and an addendum containing identifying information to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order and addendum, the primary law-enforcement 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 and the order shall be served forthwith on the respondent. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

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 forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders 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 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.

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.

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

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

676 J. If any identifying information in the addendum is determined to be incorrect by the entering
677 agency, the agency shall enter the corrected information into the Virginia Criminal Information Network.

678 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
679 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
680 **be determined for periods of imprisonment in state adult correctional facilities and is \$0 for**
681 **periods of commitment to the custody of the Department of Juvenile Justice.**