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HOUSE BILL NO. 2340

Offered January 12, 2011

Prefiled January 12, 2011

A *BILL to amend and reenact §§ 16.1-228, 16.1-243, 16.1-253.1, 16.1-253.2, 16.1-253.4, 16.1-260, 16.1-266.2, 16.1-279.1, 16.1-296, 16.1-298, 19.2-11.2, and 19.2-81.3 of the Code of Virginia, relating to protective orders; dating relationship.*

Patron—Morrissey

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228, 16.1-243, 16.1-253.1, 16.1-253.2, 16.1-253.4, 16.1-260, 16.1-266.2, 16.1-279.1, 16.1-296, 16.1-298, 19.2-11.2, and 19.2-81.3 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-228. Definitions.

When used in this chapter, unless the context otherwise requires:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis; or

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or rescue squad, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a delinquent act which would be a felony if committed by an adult.

"Boot camp" means a short term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile," or "minor" means a person less than 18 years of age.

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results

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59 in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14
60 whose behavior, conduct or condition presents or results in a serious threat to the well-being and
61 physical safety of another person; however, no child who in good faith is under treatment solely by
62 spiritual means through prayer in accordance with the tenets and practices of a recognized church or
63 religious denomination shall for that reason alone be considered to be a child in need of services, nor
64 shall any child who habitually remains away from or habitually deserts or abandons his family as a
65 result of what the court or the local child protective services unit determines to be incidents of physical,
66 emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

67 However, to find that a child falls within these provisions, (i) the conduct complained of must
68 present a clear and substantial danger to the child's life or health or to the life or health of another
69 person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being
70 received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or
71 services needed by the child or his family.

72 "Child in need of supervision" means:

73 1. A child who, while subject to compulsory school attendance, is habitually and without justification
74 absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of
75 any and all educational services and programs that are required to be provided by law and which meet
76 the child's particular educational needs, (ii) the school system from which the child is absent or other
77 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,
78 and (iii) the school system has provided documentation that it has complied with the provisions of
79 § 22.1-258; or

80 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or
81 placement authority, remains away from or deserts or abandons his family or lawful custodian on more
82 than one occasion or escapes or remains away without proper authority from a residential care facility in
83 which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to
84 the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not
85 presently being received, and (iii) the intervention of the court is essential to provide the treatment,
86 rehabilitation or services needed by the child or his family.

87 "Child welfare agency" means a child-placing agency, child-caring institution or independent foster
88 home as defined in § 63.2-100.

89 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile
90 and domestic relations district court of each county or city.

91 *"Dating relationship" means a relationship between two persons who are currently or were formerly
92 involved in a continuing relationship of a romantic or intimate nature. The existence of such a
93 relationship shall be determined based on the following considerations: (i) the length of the relationship,
94 (ii) the nature of the relationship, and (iii) the frequency and type of interaction between the persons
95 involved in the relationship.*

96 *"Dating relationship abuse" means any act involving violence, force, or threat including, but not
97 limited to, any forceful detention, which results in bodily injury or places one in reasonable
98 apprehension of bodily injury and which is committed by a person in a dating relationship against the
99 other person in the dating relationship.*

100 "Delinquent act" means (i) an act designated a crime under the law of this Commonwealth, or an
101 ordinance of any city, county, town or service district, or under federal law, (ii) a violation of
102 § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an
103 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if
104 committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to
105 take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city or
106 town.

107 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed
108 a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been
109 terminated under the provisions of § 16.1-269.6.

110 "Department" means the Department of Juvenile Justice and "Director" means the administrative head
111 in charge thereof or such of his assistants and subordinates as are designated by him to discharge the
112 duties imposed upon him under this law.

113 "Family abuse" means any act involving violence, force, or threat including, but not limited to, any
114 forceful detention, which results in bodily injury or places one in reasonable apprehension of bodily
115 injury and which is committed by a person against such person's family or household member.

116 "Family or household member" means (i) the person's spouse, whether or not he or she resides in the
117 same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same
118 home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters,
119 half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in
120 the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law,

daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293.

"Independent living arrangement" means placement of a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency and has been placed by the local board or licensed child-placing agency in a living arrangement in which he does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who was in foster care on his 18th birthday and has not yet reached the age of 21 years. Such services shall include counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of

§ 16.1-269.1 when committed by a juvenile 14 years of age or older.

§ 16.1-243. Venue.

A. Original venue:

1. Cases involving children, other than support or where protective order issued: Proceedings with respect to children under this law, except support proceedings as provided in subdivision 2 of this subsection or family abuse proceedings as provided in subdivision 3 of this subsection, shall:

a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts constituting the alleged delinquency occurred or they may, with the written consent of the child and the attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the child resides;

b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the city or county which, in order of priority, (i) is the home of the child at the time of the filing of the petition, or had been the home of the child within six months before the filing of the petition and the child is absent from the city or county because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as a parent continues to live in the city or county, (ii) has significant connection with the child and in which there is substantial evidence concerning the child's present or future care, protection, training and personal relationships, (iii) is where the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent or (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is an appropriate venue under the preceding provisions of this subdivision;

c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241, 63.2-1233 and 63.2-1237, be commenced (i) in the city or county where the child to be adopted was born, (ii) in the city or county where the birth parent(s) reside, or (iii) in the city or county where the prospective adoptive parent(s) reside; and

d. All other cases: In all other proceedings, be commenced in the city or county where the child resides or in the city or county where the child is present when the proceedings are commenced.

2. Support: Proceedings that involve child or spousal support or child and spousal support, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, shall be commenced in the city or county where either party resides or in the city or county where the respondent is present when the proceeding commences.

3. Family abuse: Proceedings in which an order of protection is sought as a result of family abuse or *dating relationship abuse* shall be commenced where (i) either party has his or her principal residence (ii) the abuse occurred or (iii) a protective order was issued if at the time the proceeding is commenced the order is in effect to protect the petitioner or a family or household member of the petitioner.

B. Transfer of venue:

1. Generally: Except in custody, visitation and support cases, if the child resides in a city or county of the Commonwealth and the proceeding is commenced in a court of another city or county, that court may at any time, on its own motion or a motion of a party for good cause shown, transfer the proceeding to the city or county of the child's residence for such further action or proceedings as the court receiving the transfer may deem proper. However, such transfer may occur only after adjudication in delinquency proceedings.

2. Custody and visitation: In custody and visitation cases, if venue lies in one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of venue. In the consideration of the motion, the best interests of the child shall determine the most appropriate forum.

3. Support: In support proceedings, exclusive of proceedings arising under Chapter 5 of Title 20, if the respondent resides in a city or county in the Commonwealth and the proceeding is commenced in a court of another city or county, that court may, at any time on its own motion or a motion of a party for good cause shown or by agreement of the parties, transfer the proceeding to the city or county of the respondent's residence for such further action or proceedings as the court receiving the transfer may deem proper. For the purposes of determining venue of cases involving support, the respondent's residence shall include any city or county in which the respondent has resided within the last six months prior to the commencement of the proceeding or in which the respondent is residing at the time that the motion for transfer of venue is made. If venue is transferable to one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of such venue.

When the support proceeding is a companion case to a child custody or visitation proceeding, the provisions governing venue in the proceeding involving the child's custody or visitation shall govern.

4. Subsequent transfers: Any court receiving a transferred proceeding as provided in this section may in its discretion transfer such proceeding to a court in an appropriate venue for good cause shown based

either upon changes in circumstances or mistakes of fact or upon agreement of the parties. In any transfer of venue in cases involving children, the best interests of the child shall be considered in deciding if and to which court a transfer of venue would be appropriate.

5. Enforcement of orders for support, maintenance and custody: Any juvenile and domestic relations district court to which a suit is transferred for enforcement of orders pertaining to support, maintenance, care or custody pursuant to § 20-79 (c) may transfer the case as provided in this section.

C. Records: Originals of all legal and social records pertaining to the case shall accompany the transfer of venue. Records imaged from the original documents shall be considered original documents for purposes of the transfer of venue. The transferor court may, in its discretion, retain copies as it deems appropriate.

§ 16.1-253.1. Preliminary protective orders in cases of family or dating relationship 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 *or dating relationship 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 dating relationship abuse*, or evidence sufficient to establish probable cause that family abuse *or dating relationship abuse* has recently occurred shall constitute good cause. Evidence that the petitioner has been subjected to family abuse *or dating relationship abuse* within a reasonable time and evidence of immediate and present danger of family abuse *or dating relationship abuse* may be established by a showing that (i) the allegedly abusing person is incarcerated and is to be released from incarceration within 30 days following the petition or has been released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly abusing person was convicted and incarcerated involved family abuse *or dating relationship abuse* against the petitioner, and (iii) the allegedly abusing person has made threatening contact with the petitioner while he was incarcerated, exhibiting a renewed threat to the petitioner of family abuse *or dating relationship abuse*.

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 *or dating relationship 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 *or person in a dating relationship* 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. 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 electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order 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 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 containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person

provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, 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. 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, or if personally served was incarcerated and not transported to the hearing, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served forthwith 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 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.

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 *or dating relationship abuse* by a preponderance of the evidence.

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

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

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

§ 16.1-253.2. Violation of provisions of protective orders; penalty.

In addition to any other penalty provided by law, any person who violates any provision of a protective order issued pursuant to §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, 16.1-279.1 or subsection B of § 20-103, which prohibits such person from going or remaining upon land, buildings or premises or from further acts of family abuse *or dating relationship abuse*, or which prohibits contacts between the respondent and the respondent's family or household member as the court deems appropriate is guilty of a Class 1 misdemeanor. The punishment for any person convicted of a second offense of violating a protective order, when the offense is committed within five years of the prior conviction and when either the instant or prior offense was based on an act or threat of violence, shall include a mandatory minimum term of confinement of 60 days. Any person convicted of a third or subsequent offense of violating a protective order, when the offense is committed within 20 years of the first conviction and when either the instant or one of the prior offenses was based on an act or threat of violence is guilty of a Class 6 felony and the punishment shall include a mandatory minimum term of confinement of six months.

If the respondent commits an assault and battery upon any party protected by the protective order, resulting in serious bodily injury to the party, he is guilty of a Class 6 felony. Any person who violates such a protective order by furtively entering the home of any protected party while the party is present, or by entering and remaining in the home of the protected party until the party arrives, is guilty of a Class 6 felony, in addition to any other penalty provided by law.

Upon conviction of any offense hereunder for which a mandatory minimum term of confinement is not specified, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended. Upon conviction, the court shall, in addition to the sentence imposed, enter

a protective order pursuant to § 16.1-279.1 for a specified period not exceeding two years from the date of conviction.

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

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

B. When a law-enforcement officer or an allegedly abused person asserts under oath to a judge or magistrate, and on that assertion or other evidence the judge or magistrate (i) finds that a warrant for a violation of § 18.2-57.2 has been issued or issues a warrant for violation of § 18.2-57.2 and finds that there is probable danger of further acts of family abuse against a family or household member by the respondent or (ii) finds that reasonable grounds exist to believe that the respondent has committed family abuse *or dating relationship abuse* and there is probable danger of a further such offense against a family or household member *or person in a dating relationship* 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 *or dating relationship 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.

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 11:59 p.m. on the third day following issuance. If the expiration occurs on a day that the court is not in session, the emergency protective order shall be extended until 11:59 p.m. on the next 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 electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court or magistrate. A copy of an emergency protective order issued pursuant to this section 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 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

containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, 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 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 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 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 *or person in a dating relationship* left the premises to avoid the danger of family abuse *or dating relationship 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.

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H of this section and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk, (ii) designated nonattorney employees of the Department of Social Services may complete, sign and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision or delinquent only if the juvenile (i) is not alleged to have committed a violent juvenile felony or (ii) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the complaint for 90 days and proceed informally by developing a truancy plan. The intake officer may proceed informally only if the juvenile has not previously been proceeded against informally or adjudicated in need of supervision for failure to comply with compulsory school attendance as provided in § 22.1-254. The juvenile and his parent or parents, guardian or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian or other person standing in loco parentis participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (ii) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 will result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment, rehabilitation or other services which are required by law, or (iv) family abuse or dating relationship abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The

551 intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4,
552 or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the
553 issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1.

554 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
555 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be
556 in need of supervision have utilized or attempted to utilize treatment and services available in the
557 community and have exhausted all appropriate nonjudicial remedies which are available to them. When
558 the intake officer determines that the parties have not attempted to utilize available treatment or services
559 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the
560 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility
561 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake
562 officer determines that the parties have made a reasonable effort to utilize available community
563 treatment or services may he permit the petition to be filed.

564 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
565 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in
566 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate
567 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
568 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake
569 officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate
570 finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the
571 juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake
572 officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a
573 status offense, or a misdemeanor other than Class 1, his decision is final.

574 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the
575 intake officer shall accept and file a petition founded upon the warrant.

576 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
577 which alleges facts of an offense which would be a felony if committed by an adult.

578 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter, the intake officer
579 shall file a report with the division superintendent of the school division in which any student who is
580 the subject of a petition alleging that such student who is a juvenile has committed an act, wherever
581 committed, which would be a crime if committed by an adult, or that such student who is an adult has
582 committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the
583 division superintendent of the filing of the petition and the nature of the offense, if the violation
584 involves:

585 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299
586 et seq.), or 7 (§ 18.2-308 et seq.) of Chapter 7 of Title 18.2;

587 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

588 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
589 Title 18.2;

590 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

591 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
592 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

593 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter
594 7 of Title 18.2;

595 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

596 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

597 9. Robbery pursuant to § 18.2-58;

598 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

599 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3; or

600 12. An act of violence by a mob pursuant to § 18.2-42.1.

601 The failure to provide information regarding the school in which the student who is the subject of
602 the petition may be enrolled shall not be grounds for refusing to file a petition.

603 The information provided to a division superintendent pursuant to this section may be disclosed only
604 as provided in § 16.1-305.2.

605 H. The filing of a petition shall not be necessary:

606 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and
607 other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating
608 surfing or any ordinance establishing curfew violations, animal control violations or littering violations.
609 In such cases the court may proceed on a summons issued by the officer investigating the violation in
610 the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle
611 accident may, at the scene of the accident or at any other location where a juvenile who is involved in
612 such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a violation of § 18.2-266 or 29.1-738, or the commission of any other alcohol-related offense, provided the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8 or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-266.2. Appointment of pro bono counsel by judges of the First and Second Judicial District in certain cases.

The judges of the juvenile and domestic relations district court of the First and Second Judicial District are authorized to appoint pro bono counsel for alleged victims in family abuse or *dating relationship abuse* cases in which the court is authorized to issue a preliminary protective order under § 16.1-253.1, or an emergency protective order under § 16.1-253.4. Such counsel shall have no prosecutorial authority except as granted in writing by the attorney for the Commonwealth for the jurisdiction in which the representation is to occur.

Any attorney appointed under the provisions of this section shall be a volunteer and serve without compensation and shall be subject to any rules adopted by the court and approved by the Virginia Supreme Court providing for the establishment and conduct of a project providing pro bono services to victims of family abuse or *dating relationship abuse*.

§ 16.1-279.1. Protective order in cases of family or dating relationship abuse.

A. In cases of family abuse or *dating relationship abuse*, including any case involving an incarcerated or recently incarcerated respondent against whom a preliminary protective order has been issued pursuant to § 16.1-253.1, the court may issue a protective order to protect the health and safety of the petitioner and family or household members of the petitioner. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of family abuse or *dating relationship 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.

674 B. The protective order may be issued for a specified period of time up to a maximum of two years.
675 The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day
676 of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner
677 may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective
678 order shall be given precedence on the docket of the court. If the petitioner was a member of the
679 respondent's family or household *or in a dating relationship with the respondent* at the time the initial
680 protective order was issued, the court may extend the protective order for a period not longer than two
681 years to protect the health and safety of the petitioner or persons who are family or household members
682 of the petitioner at the time the request for an extension is made. The extension of the protective order
683 shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year
684 period if no date is specified. Nothing herein shall limit the number of extensions that may be requested
685 or issued.

686 C. A copy of the protective order shall be served on the respondent and provided to the petitioner as
687 soon as possible. The court shall forthwith, but in all cases no later than the end of the business day on
688 which the order was issued, enter and transfer electronically to the Virginia Criminal Information
689 Network the respondent's identifying information and the name, date of birth, sex, and race of each
690 protected person provided to the court and shall forthwith forward the attested copy of the protective
691 order containing any such identifying information to the primary law-enforcement agency responsible for
692 service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency,
693 the agency shall forthwith verify and enter any modification as necessary to the identifying information
694 and other appropriate information required by the Department of State Police into the Virginia Criminal
695 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et
696 seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the
697 court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith
698 forward an attested copy of the order containing the respondent's identifying information and the name,
699 date of birth, sex, and race of each protected person provided to the court to the primary
700 law-enforcement agency providing service and entry of protective orders and upon receipt of the order,
701 the primary law-enforcement agency shall enter the name of the person subject to the order and other
702 appropriate information required by the Department of State Police into the Virginia Criminal
703 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et
704 seq.) of Title 52 and the order shall be served forthwith upon the respondent. Upon service, the agency
705 making service shall enter the date and time of service and other appropriate information required by the
706 Department of State Police into the Virginia Criminal Information Network and make due return to the
707 court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall
708 also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and
709 entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the
710 agency shall forthwith verify and enter any modification as necessary to the identifying information and
711 other appropriate information required by the Department of State Police into the Virginia Criminal
712 Information Network as described above and the order shall be served forthwith and due return made to
713 the court.

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

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

718 F. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate
719 jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths,
720 the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing
721 violent or threatening acts or harassment against or contact or communication with or physical proximity
722 to another person, including any of the conditions specified in subsection A, shall be accorded full faith
723 and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided
724 reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person
725 against whom the order is sought to be enforced sufficient to protect such person's due process rights
726 and consistent with federal law. A person entitled to protection under such a foreign order may file the
727 order in any juvenile and domestic relations district court by filing with the court an attested or
728 exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of
729 the order to the primary law-enforcement agency responsible for service and entry of protective orders
730 which shall, upon receipt, enter the name of the person subject to the order and other appropriate
731 information required by the Department of State Police into the Virginia Criminal Information Network
732 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where
733 practical, the court may transfer information electronically to the Virginia Criminal Information Network.

734 Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy
735 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.

G. 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.

H. As used in this section:

"Copy" includes a facsimile copy; and

"Protective order" includes an initial, modified or extended protective order.

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

§ 16.1-296. Jurisdiction of appeals; procedure.

A. From any final order or judgment of the juvenile court affecting the rights or interests of any person coming within its jurisdiction, an appeal may be taken to the circuit court within 10 days from the entry of a final judgment, order or conviction and shall be heard de novo. However, in a case arising under the Uniform Interstate Family Support Act (§ 20-88.32 et seq.), a party may take an appeal pursuant to this section within 30 days from entry of a final order or judgment. Protective orders issued pursuant to § 16.1-279.1 in cases of family abuse or *dating relationship abuse* and orders entered pursuant to § 16.1-278.2 are final orders from which an appeal may be taken.

B. Upon receipt of notice of such appeal the juvenile court shall forthwith transmit to the attorney for the Commonwealth a report incorporating the results of any investigation conducted pursuant to § 16.1-273, which shall be confidential in nature and made available only to the court and the attorney for the defendant (i) after the guilt or innocence of the accused has been determined or (ii) after the court has made its findings on the issues subject to appeal. After final determination of the case, the report and all copies thereof shall be forthwith returned to such juvenile court.

C. Where an appeal is taken by a child on a finding that he or she is delinquent and on a disposition pursuant to § 16.1-278.8, trial by jury on the issue of guilt or innocence of the alleged delinquent act may be had on motion of the child, the attorney for the Commonwealth or the circuit court judge. If the alleged delinquent act is one which, if committed by an adult, would constitute a felony, the child shall be entitled to a jury of 12 persons. In all other cases, the jury shall consist of seven persons. If the jury in such a trial finds the child guilty, disposition shall be by the judge pursuant to the provisions of § 16.1-278.8 after taking into consideration the report of any investigation made pursuant to § 16.1-237 or 16.1-273.

C1. In any hearing held upon an appeal taken by a child on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8, the provisions of § 16.1-302 shall apply mutatis mutandis, except in the case of trial by jury which shall be open. If proceedings in the circuit court are closed pursuant to this subsection, any records or portions thereof relating to such closed proceedings shall remain confidential.

C2. Where an appeal is taken by a juvenile on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8 and the juvenile is in a secure facility pending the appeal, the circuit court, when practicable, shall hold a hearing on the merits of the case within 45 days of the filing of the appeal. Upon receipt of the notice of appeal from the juvenile court, the circuit court shall provide a copy of the order and a copy of the notice of appeal to the attorney for the Commonwealth within seven days after receipt of notice of an appeal. The time limitations shall be tolled during any period in which the juvenile has escaped from custody. A juvenile held continuously in secure detention shall be released from confinement if there is no hearing on the merits of his case within 45 days of the filing of the appeal. The circuit court may extend the time limitations for a reasonable period of time based upon good cause shown, provided the basis for such extension is recorded in writing and filed among the papers of the proceedings.

D. When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within 90 days of the perfecting of the appeal. An appeal of the case to the Court of Appeals shall take precedence on the docket of the Court.

E. Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; however, where an appeal is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in

797 prosecutions under Chapter 5 (§ 20-61 et seq.) of Title 20.

798 F. In all other cases on appeal, proceedings in the circuit court shall be heard without a jury;
799 however, hearing of an issue by an advisory jury may be allowed, in the discretion of the judge, upon
800 the motion of any party. An appeal from an order of protection issued pursuant to § 16.1-279.1 shall be
801 given precedence on the docket of the court over other civil appeals taken to the circuit court from the
802 district courts, but shall otherwise be docketed and processed as other civil cases.

803 G. Costs, taxes and fees on appealed cases shall be assessed only in those cases in which a trial fee
804 could have been assessed in the juvenile and domestic relations court and shall be collected in the
805 circuit court, except that the appeal to circuit court of any case in which a fee either was or could have
806 been assessed pursuant to § 16.1-69.48:5 shall also be in accordance with § 16.1-296.2.

807 H. No appeal bond shall be required of a party appealing from an order of a juvenile and domestic
808 relations district court except for that portion of any order or judgment establishing a support arrearage
809 or suspending payment of support during pendency of an appeal. In cases involving support, no appeal
810 shall be allowed until the party applying for the same or someone for him gives bond, in an amount and
811 with sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment
812 as may be rendered on appeal if the appeal is perfected or, if not perfected, then to satisfy the judgment
813 of the court in which it was rendered. Upon appeal from a conviction for failure to support or from a
814 finding of civil or criminal contempt involving a failure to support, the juvenile and domestic relations
815 district court may require the party applying for the appeal or someone for him to give bond, with or
816 without surety, to insure his appearance and may also require bond in an amount and with sufficient
817 surety to secure the payment of prospective support accruing during the pendency of the appeal. An
818 appeal will not be perfected unless such appeal bond as may be required is filed within 30 days from
819 the entry of the final judgment or order. However, no appeal bond shall be required of the
820 Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict or
821 an insane person, or the interest of a county, city or town.

822 If bond is furnished by or on behalf of any party against whom judgment has been rendered for
823 money, the bond shall be conditioned for the performance and satisfaction of such judgment or order as
824 may be entered against the party on appeal, and for the payment of all damages which may be awarded
825 against him in the appellate court. If the appeal is by a party against whom there is no recovery, the
826 bond shall be conditioned for the payment of any damages as may be awarded against him on the
827 appeal. The provisions of § 16.1-109 shall apply to bonds required pursuant to this subsection.

828 This subsection shall not apply to release on bail pursuant to other subsections of this section or
829 § 16.1-298.

830 I. In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers
831 and authority granted by the chapter to the juvenile and domestic relations district court. Unless
832 otherwise specifically provided by this Code, the circuit court judge shall have the authority to appoint
833 counsel for the parties and compensate such counsel in accordance with the provisions of Article 6
834 (§ 16.1-266 et seq.) of this chapter.

835 J. In any case which has been referred or transferred from a circuit court to a juvenile court and an
836 appeal is taken from an order or judgment of the juvenile court, the appeal shall be taken to the circuit
837 court in the same locality as the juvenile court to which the case had been referred or transferred.

838 § 16.1-298. Effect of petition for or pendency of appeal; bail.

839 A. Except as provided herein, a petition for or the pendency of an appeal or writ of error shall not
840 suspend any judgment, order or decree of the juvenile court nor operate to discharge any child
841 concerned or involved in the case from the custody of the court or other person, institution or agency to
842 which the child has been committed unless so ordered by the judge of the juvenile court, the judge of a
843 circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court or a
844 judge or justice thereof.

845 B. The judgment, order or decree of the juvenile court shall be suspended upon a petition for or the
846 pendency of an appeal or writ of error:

847 1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision 8,
848 9, 10, 12, 14, or 15 of § 16.1-278.8.

849 2. In cases involving a child and any local ordinance.

850 3. In cases involving any person over the age of eighteen years.

851 Such suspension as is provided for in this subsection shall not apply to (i) an order for support of a
852 spouse, parent or child or to a preliminary protective order issued pursuant to § 16.1-253, (ii) an order
853 disposing of a motion to reconsider relating to participation in continuing programs pursuant to
854 § 16.1-289.1, (iii) a protective order in cases of family abuse or *dating relationship abuse* issued
855 pursuant to § 16.1-279.1 or a protective order entered in conjunction with a disposition pursuant to
856 § 16.1-278.2, 16.1-278.4, 16.1-278.5, 16.1-278.6 or 16.1-278.8, (iv) a protective order issued pursuant to
857 § 19.2-152.10, or (v) an order pertaining to the custody, visitation, or placement of a minor child, unless
858 so ordered by the judge of a circuit court or directed in a writ of supersedeas by the Court of Appeals

or the Supreme Court.

C. In cases where the order of the juvenile court is suspended pursuant to subsection B hereof or by order of the juvenile court or the circuit court, bail may be required as provided for in § 16.1-135.

D. If an appeal to the circuit court is withdrawn in accordance with § 16.1-106.1, the judgment, order, or decree rendered by the juvenile court shall have the same legal effect as if no appeal had been noted, except as to the disposition of any bond in circuit court or as modified by the circuit court pursuant to subsection F of § 16.1-106.1. If an appeal is withdrawn, any court-appointed counsel or court-appointed guardian ad litem shall, absent further order of the court, be relieved of any further obligation respecting the matter for which they were appointed.

E. Except as to matters pending on the docket of a circuit court as of July 1, 2008, all orders that were entered by a juvenile and domestic relations district court prior to July 1, 2008, and appealed to a circuit court, where the appeal was withdrawn, shall have the same effect as if no appeal had been noted.

§ 19.2-11.2. Crime victim's right to nondisclosure of certain information; exceptions; testimonial privilege.

Upon request of any witness in a criminal prosecution under § 18.2-46.2 or 18.2-46.3, or any crime victim, neither a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor the Department of Corrections, nor any employee of any of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good cause.

Except with the written consent of the victim, a law-enforcement agency may not disclose to the public information which directly or indirectly identifies the victim of a crime involving any sexual assault, sexual abuse or family abuse, *or dating relationship abuse*, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law, (iii) necessary for law-enforcement purposes, or (iv) permitted by the court for good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or sexual abuse, no appellate decision shall contain the first or last name of the victim.

Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the conduct of any criminal proceeding.

§ 19.2-81.3. Arrest without a warrant authorized in cases of assault and battery against a family or household member and stalking and for violations of protective orders; procedure, etc.

A. Any law-enforcement officer, as defined in § 19.2-81, may arrest without a warrant for an alleged violation of § 18.2-57.2, 18.2-60.4, or 16.1-253.2 regardless of whether such violation was committed in his presence, if such arrest is based on probable cause or upon personal observations or the reasonable complaint of a person who observed the alleged offense or upon personal investigation.

B. A law-enforcement officer having probable cause to believe that a violation of § 18.2-57.2 or 16.1-253.2 has occurred shall arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the predominant physical aggressor unless there are special circumstances which would dictate a course of action other than an arrest. The standards for determining who is the predominant physical aggressor shall be based on the following considerations: (i) who was the first aggressor, (ii) the protection of the health and safety of family and household members *or person in a dating relationship*, (iii) prior complaints of family abuse *or dating relationship abuse* by the allegedly abusing person involving the family or household members *or person in a dating relationship*, (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.

C. Regardless of whether an arrest is made, the officer shall file a written report with his department, which shall state whether any arrests were made, and if so, the number of arrests, specifically including any incident in which he has probable cause to believe family abuse *or dating relationship abuse* has occurred, and, where required, including a complete statement in writing that there are special circumstances that would dictate a course of action other than an arrest. The officer shall provide the allegedly abused person, both orally and in writing, information regarding the legal and community resources available to the allegedly abused person. Upon request of the allegedly abused person, the department shall make a summary of the report available to the allegedly abused person.

D. In every case in which a law-enforcement officer makes an arrest under this section, he shall petition for an emergency protective order as authorized in § 16.1-253.4 when the person arrested and taken into custody is brought before the magistrate, except if the person arrested is a minor, a petition for an emergency protective order shall not be required. Regardless of whether an arrest is made, if the

920 officer has probable cause to believe that a danger of acts of family abuse *or dating relationship abuse*
921 exists, the law-enforcement officer shall seek an emergency protective order under § 16.1-253.4, except
922 if the suspected abuser is a minor, a petition for an emergency protective order shall not be required.

923 E. A law-enforcement officer investigating any complaint of family abuse *or dating relationship*
924 *abuse*, including but not limited to assault and battery against a family or household member shall, upon
925 request, transport, or arrange for the transportation of an abused person to a hospital or safe shelter, or
926 to appear before a magistrate. Any local law-enforcement agency may adopt a policy requiring an
927 officer to transport or arrange for transportation of an abused person as provided in this subsection.

928 F. The ~~definition~~ *definitions* of "*dating relationship*," "*dating relationship abuse*," and "family or
929 household member" in § 16.1-228 ~~applies~~ *apply* to this section.

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