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HOUSE BILL NO. 2422

Offered January 18, 2011

A *BILL to amend and reenact §§ 16.1-69.55, 16.1-228, 16.1-253.1, 16.1-253.2, 16.1-253.4, 16.1-279.1, 17.1-213, 18.2-57.2, 18.2-60.3, 18.2-60.4, 19.2-81.3, 19.2-120, 19.2-152.8, 19.2-152.9, 19.2-152.10, 19.2-387.1, 19.2-390, and 52-45 of the Code of Virginia, relating to protective orders; definition of family abuse; dating violence; penalty.*

Patrons—Toscano and Filler-Corn

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.55, 16.1-228, 16.1-253.1, 16.1-253.2, 16.1-253.4, 16.1-279.1, 17.1-213, 18.2-57.2, 18.2-60.3, 18.2-60.4, 19.2-81.3, 19.2-120, 19.2-152.8, 19.2-152.9, 19.2-152.10, 19.2-387.1, 19.2-390, and 52-45 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.55. Retention of case records; limitations on enforcement of judgments; extensions.

A. Criminal and traffic infraction proceedings:

1. In misdemeanor and traffic infraction cases, except misdemeanor cases under § 16.1-253.2 or 18.2-57.2, or 18.2-60.4, all documents shall be retained for 10 years, including cases sealed in expungement proceedings under § 19.2-392.2. In misdemeanor cases under § 16.1-253.2 or 18.2-57.2, or 18.2-60.4, all documents shall be retained for 20 years. In misdemeanor cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-370.1, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, all documents shall be retained for 50 years. Documents in misdemeanor and traffic infraction cases for which an appeal has been made shall be returned to and filed with the clerk of the appropriate circuit court pursuant to § 16.1-135;

2. In felony cases which are certified to the grand jury, all documents shall be certified to the clerk of the appropriate circuit court pursuant to §§ 19.2-186 and 19.2-190. All other felony case documents shall be handled as provided in subdivision A 1 of this section;

3. Dockets and indices shall be retained for 10 years.

B. Civil proceedings:

1. All documents in civil proceedings in district court which are dismissed, including dismissal under § 8.01-335, shall be retained until completion of the Commonwealth's audit of the court records. Notwithstanding § 8.01-275.1, the clerks of the district courts may destroy documents in civil proceedings in which no service of process is had 24 months after the last return date;

2. In civil actions which result in a judgment all documents in the possession of the general district court shall be retained for 10 years and, unless sooner satisfied, the judgment shall remain in force for a period of 10 years;

3. In civil cases that are appealed to the circuit court pursuant to § 16.1-112, all documents pertaining thereto shall be transferred to the circuit court in accordance with those sections;

4. The limitations on enforcement of general district court judgments provided in § 16.1-94.1 shall not apply if the plaintiff, prior to the expiration of that period for enforcement, pays the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. However, a judgment debtor wishing to discharge a judgment pursuant to the provisions of § 8.01-456, when the judgment creditor cannot be located, may, prior to the expiration of that period for enforcement, pay the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. After the expiration of the period provided in § 16.1-94.1, executions on such docketed civil judgments may issue from the general district court wherein the judgment was obtained upon the filing in the general district court of an abstract from the circuit court. In all other respects, the docketing of a general district court judgment in a circuit court confers upon such judgment the same status as if the judgment were a circuit court judgment;

5. Dockets for civil cases shall be retained for 10 years;

6. Indices in civil cases shall be retained for 10 years.

C. Juvenile and domestic relations district court proceedings:

1. In adult criminal cases, all records shall be retained as provided in subdivision A 1 of this section;

2. In juvenile cases, all documents and indices shall be governed by the provisions of § 16.1-306;

3. In all cases involving support arising under Titles 16.1, 20 or 63.2, all documents and indices shall be retained until the last juvenile involved, if any, has reached 19 years of age and 10 years have

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59 elapsed from either dismissal or termination of the case by court order or by operation of law. Financial
60 records in connection with such cases shall be subject to the provisions of § 16.1-69.56;

61 4. In all cases involving sexually violent offenses, as defined in § 37.2-900, and in all misdemeanor
62 cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370,
63 18.2-370.01, 18.2-370.1, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, all documents shall be retained
64 for 50 years;

65 5. In cases transferred to circuit court for trial as an adult or appealed to circuit court, all documents
66 pertaining thereto shall be transferred to circuit court;

67 6. All dockets in juvenile cases shall be governed by the provisions of § 16.1-306 F.
68 § 16.1-228. Definitions.

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

70 "Abused or neglected child" means any child:

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

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

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

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

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

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

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

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

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

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

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

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

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

120 However, to find that a child falls within these provisions, (i) the conduct complained of must

present a clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

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

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

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

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

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

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

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

"Family abuse" means any act involving violence, force, or threat ~~including, but not limited to, any forceful detention,~~ which results in bodily injury or places one in reasonable apprehension of *death, sexual assault, or other bodily injury* and which is committed by a person against such person's family or household member. *"Family abuse" includes, but is not limited to, assault, stalking, sexual assault, any forceful detention, and intentional damage to real or personal property with the intent to intimidate or control.*

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

228 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of
229 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

230 § 16.1-253.1. Preliminary protective orders in cases of family abuse; confidentiality.

231 A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period
232 of time, subjected to family abuse, the court may issue a preliminary protective order against an
233 ~~allegedly abusing person~~ *alleged perpetrator of family abuse* in order to protect the health and safety of
234 the petitioner or any family or household member of the petitioner. The order may be issued in an ex
235 parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn
236 testimony before the judge or intake officer. Immediate and present danger of family abuse or evidence
237 sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause.
238 Evidence that the petitioner has been subjected to family abuse within a reasonable time and evidence of
239 immediate and present danger of family abuse may be established by a showing that (i) the ~~allegedly~~
240 ~~abusing person~~ *alleged perpetrator of family abuse* is incarcerated and is to be released from
241 incarceration within 30 days following the petition or has been released from incarceration within 30
242 days prior to the petition, (ii) the crime for which the ~~allegedly abusing person~~ *alleged perpetrator of*
243 *family abuse* was convicted and incarcerated involved family abuse against the petitioner, and (iii) the

allegedly abusing person alleged perpetrator of family abuse has made threatening contact with the petitioner while he was incarcerated, exhibiting a renewed threat to the petitioner of family abuse.

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

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 alleged victim of family abuse and the alleged victim's family or household member members as the court deems necessary to protect the safety of such persons, including prohibiting the alleged perpetrator of family abuse from going or remaining upon land, buildings, or premises.

3. Any other relief necessary for the protections of the petitioner and family or household members of the petitioner, including but not limited to:

4.a. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person respondent; however, no such grant of possession shall affect title to any real or personal property.

5.b. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of pursuant to subdivision 4 3 a or, where appropriate, ordering the respondent to restore utility services to such premises.

6.c. 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 respondent; however, no such grant of possession or use shall affect title to the vehicle.

7.d. Requiring that the allegedly abusing person respondent 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. A protective order may be issued and enforced only to protect the petitioner or the petitioner's family or household members. In cases where both parties file a petition for a protective order, the judge may issue mutual orders only if the judge finds by clear and convincing evidence that each party has committed, and is likely to commit in the future, an act of family abuse against the other party.

BC. 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 respondent 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 respondent 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

305 requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given
306 precedence on the docket of the court.

307 Upon receipt of the return of service or other proof of service pursuant to subsection C of
308 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the
309 primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as
310 necessary into the Virginia Criminal Information Network as described above. If the order is later
311 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded
312 forthwith to the primary law-enforcement agency responsible for service and entry of protective orders,
313 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify
314 and enter any modification as necessary to the identifying information and other appropriate information
315 required by the Department of State Police into the Virginia Criminal Information Network as described
316 above and the order shall be served forthwith and due return made to the court.

317 *CD.* The preliminary order is effective upon personal service on the ~~allegedly abusing person~~
318 *respondent*. Except as otherwise provided in § 16.1-253.2, a violation of the order shall constitute
319 contempt of court.

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

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

328 *FG.* As used in this section, "copy" includes a facsimile copy.

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

330 § 16.1-253.2. Violation of provisions of protective orders; penalty.

331 A. In addition to any other penalty provided by law, any person who violates any provision of a
332 protective order issued pursuant to §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, *or* 16.1-279.1 or
333 subsection B of § 20-103, which prohibits such person from going or remaining upon land, buildings or
334 premises or from further acts of family abuse, or which prohibits *such person from having contacts*
335 *between the respondent and the respondent's with an alleged victim of family abuse or the alleged*
336 *victim's family or household member members* as the court deems appropriate is guilty of a Class 1
337 misdemeanor.

338 B. The punishment for any person convicted of a second offense of violating a protective order,
339 when the offense is committed within five years of the prior conviction and when either the instant or
340 prior offense was based on an act or threat of violence, shall include a mandatory minimum term of
341 confinement of 60 days. Any person convicted of a third or subsequent offense of violating a protective
342 order, when the offense is committed within 20 years of the first conviction and when either the instant
343 or one of the prior offenses was based on an act or threat of violence is guilty of a Class 6 felony and
344 the punishment shall include a mandatory minimum term of confinement of six months.

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

350 D. Upon conviction of any offense hereunder for which a mandatory minimum term of confinement
351 is not specified, the person shall be sentenced to a term of confinement and in no case shall the entire
352 term imposed be suspended. Upon conviction, the court shall, in addition to the sentence imposed *and*
353 *with the informed consent of the victim*, enter a protective order pursuant to § 16.1-279.1 for a specified
354 period not exceeding two years from the date of conviction.

355 § 16.1-253.4. Emergency protective orders authorized in certain cases; penalty.

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

359 B. When a law-enforcement officer or ~~an allegedly abused person~~ *alleged victim of family abuse*
360 asserts under oath to a judge or magistrate, and on that assertion or other evidence the judge or
361 magistrate (i) finds that a warrant for a violation of § 18.2-57.2 has been issued or issues a warrant for
362 violation of § 18.2-57.2 *or any other crime involving conduct included in the definition of family abuse*
363 and finds that there is probable danger of further acts of family abuse ~~against a family or household~~
364 ~~member~~ by the respondent or (ii) finds that reasonable grounds exist to believe that the respondent has
365 committed family abuse and there is probable danger of a further such offense against a family or
366 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 *the alleged victim of family abuse* or family or household members of the ~~respondent~~ *alleged victim* as the judge or magistrate deems necessary to protect the safety of such persons; and
3. Granting the ~~family or household member~~ *alleged victim of family abuse* 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~~ *alleged victim of family abuse*.

C. A protective order may be issued and enforced only to protect the alleged victim of family abuse who filed a petition or on whose behalf a law-enforcement officer filed a petition of the alleged victim's family or household members. In cases where both parties file a petition for a protective order, the judge may issue mutual orders only if the judge finds by clear and convincing evidence that each party has committed, and is likely to commit in the future, an act of family abuse against the other party.

CD. 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.

DE. 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.

F. 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~~ *alleged victim of family abuse*.

EG. 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~~ *alleged victim of family abuse* when it is issued, and one copy shall be filed with the written report required by *subsection D of § 19.2-81.3*. 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~~ *alleged victim of family abuse* with information regarding the date and time of service.

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

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

HJ. 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.

IK. 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.

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

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

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

A. In cases of family abuse, 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;

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, *including prohibiting the respondent from going or remaining upon land, buildings, or premises;*

3. *Granting any other relief necessary for the protection of the petitioner and family or household members of the petitioner, including but not limited to:*

a. Providing for temporary custody or visitation of a minor child;

b. Granting the petitioner possession of the residence 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;

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

5.d. 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.e. 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; and

7.f. 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.

B. A protective order may be issued and enforced only to protect the petitioner or the petitioner's family or household members. In cases where both parties file a petition for a protective order, the judge may issue mutual orders only if the judge finds by clear and convincing evidence that each party has committed, and is likely to commit in the future, an act of family abuse against the other party.

~~A1C.~~ 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.

~~BD.~~ The protective order may be issued for a specified period of time up to a maximum of two years. 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 of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. If the petitioner was a member of the respondent's family or household at the time the initial protective order was issued, the court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of 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 of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

~~CE.~~ 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 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 and shall forthwith forward the attested copy of the protective order containing any such identifying information 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 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.

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

~~EG.~~ 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.

~~FH.~~ 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.

GI. 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.

HJ. As used in this section:

"Copy" includes a facsimile copy; and

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

IK. 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.

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

§ 17.1-213. Disposition of papers in ended cases.

A. All case files for cases ended prior to January 1, 1913, shall be permanently maintained in hardcopy form, either in the locality served by the circuit court where such files originated or in The Library of Virginia in accordance with the provisions of § 42.1-86 and subsection C of § 42.1-87.

B. The following records for cases ending on or after January 1, 1913, may be destroyed in their entirety at the discretion of the clerk of each circuit court after having been retained for 10 years after conclusion:

1. Conditional sales contracts;

2. Concealed weapons permit applications;

3. Minister appointments;

4. Petitions for appointment of trustee;

5. Name changes;

6. Nolle prosequi cases;

7. Civil actions that are voluntarily dismissed, including nonsuits, cases that are dismissed as settled and agreed, cases that are dismissed with or without prejudice, cases that are discontinued or dismissed under § 8.01-335 and district court appeals dismissed under § 16.1-113 prior to 1988;

8. Misdemeanor and traffic cases, except as provided in subdivision C 3, including those which were commenced on a felony charge but concluded as a misdemeanor;

9. Suits to enforce a lien;

10. Garnishments;

11. Executions except for those covered in § 8.01-484;

12. Miscellaneous oaths and qualifications, but only if the order or oath or qualification is spread in the appropriate order book; and

13. Civil cases pertaining to declarations of habitual offender status and full restoration of driving privileges.

C. All other records or cases ending on or after January 1, 1913, may be destroyed in their entirety at the discretion of the clerk of each circuit court subject to the following guidelines:

1. All civil case files to which subsection D does not pertain may be destroyed after 20 years from the court order date.

2. All criminal cases dismissed, including those not a true bill, acquittals and not guilty verdicts, may be destroyed after 10 years from the court order date.

3. All criminal case files involving a felony conviction, or a misdemeanor conviction under § 16.1-253.2 ~~or~~, 18.2-57.2, or 18.2-60.4 may be destroyed (i) after 20 years from the sentencing date or (ii) when the sentence term ends, whichever comes later.

D. Under the provisions of subsections B and C, the entire file of any case deemed by the local clerk of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance shall be retained permanently as shall all cases in which the title to real estate is established, conveyed or

condemned by an order or decree of the court. The final order for all cases in which the title to real estate is so affected shall include an appropriate notification thereof to the clerk.

E. Except as provided in subsection A, the clerk of a circuit court may cause (i) any or all ended records, papers, or documents pertaining to civil and criminal cases which have been ended for a period of three years or longer; (ii) any unexecuted search warrants and affidavits for unexecuted search warrants, provided at least three years have passed since issued; (iii) any abstracts of judgments; and (iv) original wills, to be destroyed if such records, papers, documents, or wills no longer have administrative, fiscal, historical, or legal value to warrant continued retention, provided such records, papers, or documents have been microfilmed or converted to an electronic format. Such microfilm and microphotographic processes and equipment shall meet state archival microfilm standards pursuant to § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such records, papers, or documents so converted shall be placed in conveniently accessible files and provisions made for examining and using same. The clerk shall further provide security negative copies of any such microfilmed materials for storage in The Library of Virginia.

§ 18.2-57.2. Assault and battery against a family or household member; penalty.

A. Any person who commits an assault and battery against a family or household member is guilty of a Class 1 misdemeanor.

B. Upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, petition, information, or indictment on which a person is convicted, that such person has been previously convicted of two offenses against a family or household member of (i) assault and battery against a family or household member in violation of this section, (ii) malicious wounding in violation of § 18.2-51, (iii) aggravated malicious wounding in violation of § 18.2-51.2, (iv) malicious bodily injury by means of a substance in violation of § 18.2-52, or (v) an offense under the law of any other jurisdiction which has the same elements of any of the above offenses, in any combination, all of which occurred within a period of 20 years, and each of which occurred on a different date, such person is guilty of a Class 6 felony.

C. Whenever a warrant for a violation of this section is issued, the magistrate shall issue an emergency protective order as authorized by § 16.1-253.4, except if the defendant is a minor, an emergency protective order shall not be required.

D. *Upon conviction, the court shall, in addition to the sentence imposed and with the informed consent of the victim, enter a protective order pursuant to § 16.1-279.1 for a specified period not exceeding two years from the date of conviction.*

E. The definition of "family or household member" in § 16.1-228 applies to this section.

§ 18.2-60.3. Stalking; penalty.

A. Any person, except a law-enforcement officer, as defined in § 9.1-101, and acting in the performance of his official duties, and a registered private investigator, as defined in § 9.1-138, who is regulated in accordance with § 9.1-139 and acting in the course of his legitimate business, who on more than one occasion engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member is guilty of a Class 1 misdemeanor.

B. A third or subsequent conviction occurring within five years of a conviction for an offense under this section or for a similar offense under the law of any other jurisdiction shall be a Class 6 felony.

C. A person may be convicted under this section irrespective of the jurisdiction or jurisdictions within the Commonwealth wherein the conduct described in subsection A occurred, if the person engaged in that conduct on at least one occasion in the jurisdiction where the person is tried. Evidence of any such conduct that occurred outside the Commonwealth may be admissible, if relevant, in any prosecution under this section provided that the prosecution is based upon conduct occurring within the Commonwealth.

D. ~~Upon finding a person guilty under this section conviction,~~ the court shall, in addition to the sentence imposed; ~~issue an order prohibiting contact between the defendant and the victim or the victim's family or household member and with the informed consent of the victim, enter a protective order pursuant to § 19.2-152.10 for a specified period not exceeding two years from the date of conviction.~~

E. The Department of Corrections, sheriff or regional jail director shall give notice prior to the release from a state correctional facility or a local or regional jail of any person incarcerated upon conviction of a violation of this section, to any victim of the offense who, in writing, requests notice, or to any person designated in writing by the victim. The notice shall be given at least ~~fifteen~~ 15 days prior to release of a person sentenced to a term of incarceration of more than ~~thirty~~ 30 days or, if the person was sentenced to a term of incarceration of at least ~~forty-eight~~ 48 hours but no more than ~~thirty~~ 30 days, ~~twenty-four~~ 24 hours prior to release. If the person escapes, notice shall be given as soon as

674 practicable following the escape. The victim shall keep the Department of Corrections, sheriff or
675 regional jail director informed of the current mailing address and telephone number of the person named
676 in the writing submitted to receive notice.

677 All information relating to any person who receives or may receive notice under this subsection shall
678 remain confidential and shall not be made available to the person convicted of violating this section.

679 For purposes of this subsection, "release" includes a release of the offender from a state correctional
680 facility or a local or regional jail (i) upon completion of his term of incarceration or (ii) on probation or
681 parole.

682 No civil liability shall attach to the Department of Corrections nor to any sheriff or regional jail
683 director or their deputies or employees for a failure to comply with the requirements of this subsection.

684 F. For purposes of this section:

685 "Family or household member" has the same meaning as provided in § 16.1-228.

686 § 18.2-60.4. Violation of protective orders in cases of dating violence, sexual assault, stalking, and
687 other acts of violence; penalty.

688 A. Any person who violates any provision of a protective order issued pursuant to §§ 19.2-152.8,
689 19.2-152.9 or §—19.2-152.10 is guilty of a Class 1 misdemeanor. Conviction hereunder shall bar a
690 finding of contempt for the same act.

691 *B. The punishment for any person convicted of a second offense of violating a protective order, when*
692 *the offense is committed within five years of the prior conviction and when either the instant or prior*
693 *offense was based on an act or threat of violence, shall include a mandatory minimum term of*
694 *confinement of 60 days. Any person convicted of a third or subsequent offense of violating a protective*
695 *order, when the offense is committed within 20 years of the first conviction and when either the instant*
696 *or one of the prior offenses was based on an act or threat of violence, is guilty of a Class 6 felony and*
697 *the punishment shall include a mandatory minimum term of confinement of six months.*

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

703 *C. Upon conviction of any offense hereunder for which a mandatory minimum term of confinement is*
704 *not specified, the person shall be sentenced to a term of confinement and in no case shall the entire*
705 *term imposed be suspended.*

706 *D. Upon conviction, the court shall, in addition to the sentence imposed and with the informed*
707 *consent of the victim, enter a protective order pursuant to § 19.2-152.10 for a specified period not*
708 *exceeding two years from the date of conviction.*

709 § 19.2-81.3. Arrest without a warrant authorized in cases of assault and battery against a family or
710 household member and stalking and for violations of protective orders; procedure, etc.

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

715 B. A law-enforcement officer having probable cause to believe that a violation of § 18.2-57.2 or
716 16.1-253.2 has occurred shall arrest and take into custody the person he has probable cause to believe,
717 based on the totality of the circumstances, was the predominant physical aggressor unless there are
718 special circumstances which would dictate a course of action other than an arrest. The standards for
719 determining who is the predominant physical aggressor shall be based on the following considerations:
720 (i) who was the first aggressor, (ii) the protection of the health and safety of family and household
721 members, (iii) prior complaints of family abuse by the ~~allegedly abusing person~~ *alleged perpetrator of*
722 *family abuse* involving the family or household members, (iv) the relative severity of the injuries
723 inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi)
724 witness statements, and (vii) other observations.

725 *C. A law-enforcement officer having probable cause to believe that a violation of § 18.2-60.4 has*
726 *occurred which involves physical aggression shall arrest and take into custody the person he has*
727 *probable cause to believe, based on the totality of the circumstances, was the predominant physical*
728 *aggressor unless there are special circumstances which would dictate a course of action other than an*
729 *arrest. The standards for determining who is the predominant physical aggressor shall be based on the*
730 *following considerations: (i) who was the first aggressor, (ii) the protection of the health and safety of*
731 *the person to whom the protective order was issued and the person's family and household members,*
732 *(iii) prior acts of violence by the person against whom the protective order was issued against the*
733 *person protected by the order or the person's family or household members, (iv) the relative severity of*
734 *the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in*
735 *self-defense, (vi) witness statements, and (vii) other observations.*

CD. 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 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~~ *alleged victim of family abuse or the person protected by an order issued under § 19.2-152.8, 19.2-152.9, or 19.2-152.10*, both orally and in writing, information regarding the legal and community resources available to the ~~allegedly abused person~~ *alleged victim of family abuse or the person protected by the order*. Upon request of the ~~allegedly abused person~~ *alleged victim of family abuse or the person protected by the order*, the department shall make a summary of the report available to the ~~allegedly abused person~~ *alleged victim of family abuse or person protected by the order*.

DE. In every case in which a law-enforcement officer makes an arrest under this section for a violation of § 18.2-57.2, 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 officer has probable cause to believe that a danger of acts of family abuse exists, the law-enforcement officer shall seek an emergency protective order under § 16.1-253.4, except if the suspected abuser is a minor, a petition for an emergency protective order shall not be required.

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

EG. The definition of "family or household member" in § 16.1-228 applies to this section.

GH. As used in this section, a "law-enforcement officer" means (i) any 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 this Commonwealth and (ii) any 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.

§ 19.2-120. Admission to bail.

Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall, to the extent feasible, obtain the person's criminal history.

A. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:

1. He will not appear for trial or hearing or at such other time and place as may be directed, or
2. His liberty will constitute an unreasonable danger to himself or the public.

B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is currently charged with:

1. An act of violence as defined in § 19.2-297.1;
2. An offense for which the maximum sentence is life imprisonment or death;
3. A violation of § 18.2-248, 18.2-248.01, 18.2-255, or 18.2-255.2 involving a Schedule I or II controlled substance if (i) the maximum term of imprisonment is 10 years or more and the person was previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as defined in § 18.2-248;
4. A violation of § 18.2-308.1, 18.2-308.2, or 18.2-308.4 and which relates to a firearm and provides for a mandatory minimum sentence;
5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;
6. Any felony committed while the person is on release pending trial for a prior felony under federal or state law or on release pending imposition or execution of sentence or appeal of sentence or conviction;

7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted of an offense listed in § 18.2-67.5:2 or a substantially similar offense under the laws of any state or the United States and the judicial officer finds probable cause to believe that the person who is currently charged with one of these offenses committed the offense charged;

797 8. A violation of § 18.2-374.1 or 18.2-374.3 where the offender has reason to believe that the
798 solicited person is under 15 years of age and the offender is at least five years older than the solicited
799 person;

800 9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;

801 10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the
802 past five years of the instant offense, been convicted three times on different dates of a violation of any
803 combination of these Code sections, or any ordinance of any county, city, or town or the laws of any
804 other state or of the United States substantially similar thereto, and has been at liberty between each
805 conviction;

806 11. A second or subsequent violation of § 16.1-253.2 or 18.2-60.4 or a substantially similar offense
807 under the laws of any state or the United States; or

808 12. A violation of subsection B of § 18.2-57.2.

809 C. The judicial officer shall presume, subject to rebuttal, that no condition or combination of
810 conditions will reasonably assure the appearance of the person or the safety of the public if the person is
811 being arrested pursuant to § 19.2-81.6.

812 D. The court shall consider the following factors and such others as it deems appropriate in
813 determining, for the purpose of rebuttal of the presumption against bail described in subsection B,
814 whether there are conditions of release that will reasonably assure the appearance of the person as
815 required and the safety of the public:

816 1. The nature and circumstances of the offense charged;

817 2. The history and characteristics of the person, including his character, physical and mental
818 condition, family ties, employment, financial resources, length of residence in the community,
819 community ties, past conduct, history relating to drug or alcohol abuse, criminal history, membership in
820 a criminal street gang as defined in § 18.2-46.1, and record concerning appearance at court proceedings;
821 and

822 3. The nature and seriousness of the danger to any person or the community that would be posed by
823 the person's release.

824 E. The judicial officer shall inform the person of his right to appeal from the order denying bail or
825 fixing terms of bond or recognizance consistent with § 19.2-124.

826 F. If the judicial officer sets a secured bond and the person engages the services of a licensed bail
827 bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon
828 request, with a copy of the person's Virginia criminal history record, if readily available, to be used by
829 the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his
830 release. The bondsman shall pay a \$15 fee payable to the state treasury to be credited to the Literary
831 Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389.
832 The bondsman shall review the record on the premises and promptly return the record to the magistrate
833 after reviewing it.

834 § 19.2-152.8. Emergency protective orders authorized in cases of dating violence, stalking, sexual
835 assault, and other acts of violence.

836 A. Any judge of a circuit court, general district court, juvenile and domestic relations district court or
837 magistrate may issue a written or oral ex parte emergency protective order pursuant to this section in
838 order to protect the health or safety of any person, *including, but not limited to, a person who is a*
839 *victim of dating violence.*

840 B. ~~When a law-enforcement officer, an allegedly stalked person or an alleged victim of sexual~~
841 ~~battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3 or a criminal~~
842 ~~offense resulting in a serious bodily injury to the alleged victim asserts under oath to a judge or~~
843 ~~magistrate that such person is being or has been subjected to stalking, sexual battery in violation of~~
844 ~~§ 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, or a criminal offense resulting in a~~
845 ~~serious bodily injury to the alleged victim and on that assertion or other evidence 1. A judge or~~
846 ~~magistrate may issue such an order when a law-enforcement officer or an alleged victim asserts under~~
847 ~~oath that the alleged victim has been subjected to an act of violence. For purposes of this section, an~~
848 ~~"act of violence" shall include any act involving violence, force, or threat that results in bodily injury or~~
849 ~~places the alleged victim in reasonable apprehension of death, sexual assault, or other bodily injury. An~~
850 ~~act of violence permitting the issuance of a protective order may include, but is not limited to, assault,~~
851 ~~stalking, sexual assault, any forceful detention, or intentional damage to real or personal property with~~
852 ~~the intent to intimidate or control the alleged victim.~~

853 2. ~~Where the judge or magistrate finds, based on the assertion of the alleged victim or~~
854 ~~law-enforcement officer or on other evidence, that (i) there is probable danger of a further such offense~~
855 ~~act of violence being committed by the respondent against the alleged victim and or (ii) a warrant for~~
856 ~~the arrest of the respondent has been issued for a criminal offense involving any such conduct, the judge~~
857 ~~or magistrate shall issue an ex parte emergency protective order imposing one or more of the following~~
858 ~~conditions on the respondent:~~

1.a. Prohibiting acts of violence, acts of sexual battery, or acts of stalking in violation of § 18.2-60.3 any conduct listed in subdivision 1;

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

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

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 court which issued the order is in session. The respondent 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.

D. A protective order may be issued and enforced only to protect the alleged victim who has petitioned for the order or on whose behalf a law-enforcement officer has petitioned or the alleged victim's family or household members. In cases where both parties file a petition for a protective order, the judge may issue mutual orders only if the judge finds by clear and convincing evidence that each party has committed, and is likely to commit in the future, an act specified in subdivision B 1 against the other party.

E. A law-enforcement officer may request an emergency protective order pursuant to this section 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 alleged victim of such crime.

F. If the person in need of protection is physically or mentally incapable of filing a petition pursuant to § 19.2-152.9 or 19.2-152.10, a law-enforcement officer 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.

EG. 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 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 into the Virginia Criminal Information Network and make due return to the court. One copy of the order shall be given to the alleged victim of such crime. The judge or magistrate who issues an oral order pursuant to an electronic request by a law-enforcement officer shall verify the written order to determine whether the officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy shall be filed with the clerk of the appropriate district court within five business days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or modification order shall 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

920 above and the order shall be served forthwith and due return made to the court. Upon request, the clerk
921 shall provide the alleged victim of such crime with information regarding the date and time of service.

922 *FH.* The issuance of an emergency protective order shall not be considered evidence of any
923 wrongdoing by the respondent.

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

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

936 *IK.* As used in this section, "copy" includes a facsimile copy.

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

938 § 19.2-152.9. Preliminary protective orders in cases of dating violence, stalking, sexual assault, and
939 other acts of violence.

940 *A. 1. Any judge of a circuit court, general district court, juvenile and domestic relations district*
941 *court, or magistrate may issue a preliminary protective order pursuant to this section in order to protect*
942 *the health and safety of any person, including, but not limited to, a person who is a victim of dating*
943 *violence.*

944 *2. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable*
945 *period of time, subjected to stalking, sexual battery in violation of § 18.2-67.4, aggravated sexual battery*
946 *in violation of § 18.2-67.3, or a criminal offense resulting in a serious bodily injury to the petitioner,*
947 *and (ii) a warrant has been issued for the arrest of the alleged perpetrator of such act or acts an act of*
948 *violence as defined in subdivision B 1 of § 19.2-152.8, the court may issue a preliminary protective*
949 *order against the alleged perpetrator in order to protect the health and safety of the petitioner or any*
950 *family or household member of the petitioner. The order may be issued in an ex parte proceeding upon*
951 *good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or*
952 *intake officer. Immediate and present danger of stalking or another criminal offense that may result in a*
953 *serious bodily injury to the petitioner an act of violence or evidence sufficient to establish probable*
954 *cause that stalking, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of*
955 *§ 18.2-67.3, an act of violence or a criminal offense resulting in a serious bodily injury to the petitioner*
956 *has recently occurred shall constitute good cause.*

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

959 *1. Prohibiting criminal offenses that may result in injury to person or property, acts of sexual battery,*
960 *or acts of stalking in violation of § 18.2-60.3 any conduct listed in subsection A;*

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

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

966 *C. A protective order may be issued and enforced only to protect the petitioner or the petitioner's*
967 *family or household members. In cases where both parties file a petition for a protective order, the*
968 *judge may issue mutual orders only if the judge finds by clear and convincing evidence that each party*
969 *has committed, and is likely to commit in the future, an act specified in subsection A against the other*
970 *party.*

971 *BD.* The court shall forthwith, but in all cases no later than the end of the business day on which the
972 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the
973 respondent's identifying information and the name, date of birth, sex, and race of each protected person
974 provided to the court. A copy of a preliminary protective order containing any such identifying
975 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service
976 and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the
977 agency shall forthwith verify and enter any modification as necessary to the identifying information and
978 other appropriate information required by the Department of State Police into the Virginia Criminal
979 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et
980 seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided
981 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 alleged perpetrator 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, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served as soon as possible on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to 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.

CE. The preliminary order is effective upon personal service on the alleged perpetrator. Except as otherwise provided in § 18.2-60.4, a violation of the order shall constitute contempt of court.

DF. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10 if the court finds that the petitioner has proven the allegation of a criminal offense resulting in a serious bodily injury to the petitioner, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, or stalking that the respondent has engaged in conduct listed in subsection A by a preponderance of the evidence.

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

FH. 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.

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

§ 19.2-152.10. Protective order in cases of dating violence, stalking, sexual assault, and other acts of violence.

A. 1. Any judge of a circuit court, general district court, juvenile and domestic relations district court, or magistrate may issue a preliminary protective order pursuant to this section in order to protect the health and safety of any person, including, but not limited to, a person who is a victim of dating violence.

2. The court may issue a protective order pursuant to this chapter to protect the health and safety of the petitioner and family or household members of a petitioner upon (i) the issuance of a warrant for sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, a criminal offense resulting in a serious bodily injury to the petitioner, or a violation of § 18.2-60.3, (ii) a hearing held pursuant to subsection D F of § 19.2-152.9; or (iii) (ii) a conviction for sexual battery assault in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3 Article 1 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a criminal offense resulting in a serious bodily injury to the petitioner, or a violation of § 18.2-60.3. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1.a. Prohibiting criminal offenses that may result in injury to person or property, acts of sexual battery, or acts of stalking in violation of § 18.2-60.3 any conduct listed in subsection A of § 19.2-152.9;

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

3.c. Any other relief necessary to prevent *conduct listed in subsection A of § 19.2-152.9* and criminal offenses that may result in injury to person or property, acts of sexual ~~battery~~ assault, or acts of stalking, communication or other contact of any kind by the respondent.

B. A protective order may be issued and enforced only to protect the petitioner or the petitioner's family or household members. In cases where both parties file a petition for a protective order, the judge may issue mutual orders only if the judge finds by clear and convincing evidence that each party has committed, and is likely to commit in the future, an act specified in subsection A of § 19.2-152.9 against the other party.

BC. The protective order may be issued for a specified period of time up to a maximum of two years. 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 of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. The court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of 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 of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

CD. 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 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 and shall forthwith forward the attested copy of the protective order and containing any such identifying information 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 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.

DE. Except as otherwise provided in § 18.2-60.4, a violation of a protective order issued under this section shall constitute contempt of court.

EF. 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.

FG. 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.

GH. 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.

HI. 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.

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

JK. As used in this section:

"Copy" includes a facsimile copy; and

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

§ 19.2-387.1. Protective Order Registry; maintenance; access.

A. The Department of State Police shall keep and maintain a computerized Protective Order Registry of protective orders issued under §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, 16.1-279.1, 19.2-152.8, 19.2-152.9, and 19.2-152.10, and subsection B of § 20-103. The purpose of the Registry shall be to assist the efforts of law-enforcement agencies to protect their communities and their citizens. The Department of State Police shall make Registry information available, upon request, to criminal justice agencies, including local law-enforcement agencies, through the Virginia Criminal Information Network (VCIN). Registry information provided under this section shall be used only for the purposes of the administration of criminal justice.

B. No liability shall be imposed upon any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this section, but this provision shall not be construed to grant immunity for gross negligence or willful misconduct.

§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment or information, the arrest on *capias* or warrant for failure to appear, and the service of a warrant for another jurisdiction, on any of the following charges:

a. Treason;

b. Any felony;

c. Any offense punishable as a misdemeanor under Title 54.1; or

d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, except an arrest for a violation of ~~§ 18.2-149~~, Article 2 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2; or any similar ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local law-enforcement agency from maintaining its own separate photographic database.

2. For persons arrested and released on summonses in accordance with § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court dismisses the proceeding pursuant to § 18.2-251; or (iii) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the

1166 office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief
1167 law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is
1168 completed after a determination of guilt or acquittal by reason of insanity. The court shall require the
1169 officer to complete the report immediately following the person's conviction or acquittal, and the
1170 individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be
1171 served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and
1172 Developmental Services.

1173 B. Within 72 hours following the receipt of (i) a warrant or capias for the arrest of any person on a
1174 charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the
1175 law-enforcement agency which received the warrant shall enter the person's name and other appropriate
1176 information required by the Department of State Police into the "information systems" known as the
1177 Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant
1178 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC),
1179 maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of
1180 birth, social security number and such other known information which the State Police or Federal
1181 Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the
1182 warrant or capias may transfer information electronically into VCIN. When the information is
1183 electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or capias
1184 to the local police department or sheriff's office. When criminal process has been ordered destroyed
1185 pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of
1186 any information relating to the destroyed criminal process from the VCIN and NCIC.

1187 B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant
1188 to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his
1189 post-release supervision or probation, the law-enforcement agency that received the written statement
1190 shall enter, or cause to be entered, the person's name and other appropriate information required by the
1191 Department of State Police into the "information systems" known as the Virginia Criminal Information
1192 Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.)
1193 of Title 52.

1194 C. The clerk of each circuit court and district court shall make an electronic report to the Central
1195 Criminal Records Exchange of (i) any dismissal, indefinite postponement or continuance, charge still
1196 pending due to mental incompetency or incapacity, nolle prosequi, acquittal, or conviction of, including
1197 any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an
1198 offense listed in subsection A, including any action which may have resulted from an indictment,
1199 presentment or information, and (ii) any adjudication of delinquency based upon an act which, if
1200 committed by an adult, would require fingerprints to be filed pursuant to subsection A. In the case of
1201 offenses not required to be reported to the Exchange by subsection A, the reports of any of the
1202 foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest
1203 record required to be maintained by § 15.2-1722. Upon conviction of any person, including juveniles
1204 tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or
1205 juveniles, for an offense for which registration is required as defined in § 9.1-902, the clerk shall within
1206 seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The
1207 report to the Registry shall include the name of the person convicted and all aliases which he is known
1208 to have used, the date and locality of the conviction for which registration is required, his date of birth,
1209 social security number, last known address, and specific reference to the offense for which he was
1210 convicted. No report of conviction or adjudication in a district court shall be filed unless the period
1211 allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the
1212 office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall
1213 also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each
1214 clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the
1215 Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses
1216 not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case
1217 may be, any reversal or other amendment to a prior sentence or disposition previously reported. When
1218 criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the
1219 law-enforcement agency that entered the warrant or capias into the VCIN.

1220 D. In addition to those offenses enumerated in subsection A of this section, the Central Criminal
1221 Records Exchange may receive, classify and file any other fingerprints, photographs, and records of
1222 arrest or confinement submitted to it by any law-enforcement agency or any correctional institution.

1223 E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining
1224 correctional status information, as required by the regulations of the Department of Criminal Justice
1225 Services, with respect to individuals about whom reports have been made under the provisions of this
1226 chapter shall make reports of changes in correctional status information to the Central Criminal Records
1227 Exchange. The reports to the Exchange shall include any commitment to or release or escape from a

state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted.

§ 52-45. Protective Order Registry established.

The Superintendent shall establish, organize and maintain within the Department of State Police a computerized Protective Order Registry as a central repository of information regarding outstanding, valid protective orders *issued under §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, 16.1-279.1, 19.2-152.8, 19.2-152.9, and 19.2-152.10, and subsection B of § 20-103.* Such information shall be maintained and disseminated by the registry as accurately and completely as possible to assist in the expedited entry and dissemination of protective order information.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at least \$93,767 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.