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SENATE BILL NO. 1222

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 11, 2011)

(Patron Prior to Substitute—Senator Barker)

A *BILL to amend and reenact §§ 16.1-69.55, 16.1-228, 16.1-253.1, 16.1-253.4, 16.1-279.1, 17.1-213, 17.1-272, 18.2-60.4, 19.2-81.3, 19.2-120, 19.2-152.8, 19.2-152.9, and 19.2-152.10 of the Code of Virginia, relating to protective orders; availability; penalty.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.55, 16.1-228, 16.1-253.1, 16.1-253.4, 16.1-279.1, 17.1-213, 17.1-272, 18.2-60.4, 19.2-81.3, 19.2-120, 19.2-152.8, 19.2-152.9, and 19.2-152.10 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.55. 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 elapsed from either dismissal or termination of the case by court order or by operation of law. Financial records in connection with such cases shall be subject to the provisions of § 16.1-69.56;

4. In all cases involving sexually violent offenses, as defined in § 37.2-900, and in all misdemeanor

60 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,
61 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
62 for 50 years;

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

65 6. All dockets in juvenile cases shall be governed by the provisions of § 16.1-306 F.

66 § 16.1-228. Definitions.

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

68 "Abused or neglected child" means any child:

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

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

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

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

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

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

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

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

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

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

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

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

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

118 However, to find that a child falls within these provisions, (i) the conduct complained of must
119 present a clear and substantial danger to the child's life or health or to the life or health of another
120 person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being
121 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~~ that results in bodily injury or places one in reasonable apprehension of bodily injury and ~~which~~ that is committed by a person against such person's family or household member. *Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.*

"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.

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

183 supervision.

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

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

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

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

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

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

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

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

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

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

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

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

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

226 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of
227 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

228 § 16.1-253.1. Preliminary protective orders in cases of family abuse; confidentiality.

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

243 A preliminary protective order may include any one or more of the following conditions to be
244 imposed on the allegedly abusing person:

- 245 1. Prohibiting acts of family abuse *and criminal offenses that result in injury to person or property.*
246 2. Prohibiting such other contacts between the parties as the court deems appropriate.
247 3. Prohibiting such other contacts with the allegedly abused family or household member as the court
248 deems necessary to protect the safety of such persons.
249 4. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the
250 allegedly abusing person; however, no such grant of possession shall affect title to any real or personal
251 property.
252 5. Enjoining the respondent from terminating any necessary utility service to a premises that the
253 petitioner has been granted possession of pursuant to subdivision 4 or, where appropriate, ordering the
254 respondent to restore utility services to such premises.
255 6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner
256 alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such
257 grant of possession or use shall affect title to the vehicle.
258 7. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner
259 and any other family or household member and, where appropriate, requiring the respondent to pay
260 deposits to connect or restore necessary utility services in the alternative housing provided.
261 8. Any other relief necessary for the protection of the petitioner and family or household members of
262 the petitioner.
263 B. The court shall forthwith, but in all cases no later than the end of the business day on which the
264 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the
265 respondent's identifying information and the name, date of birth, sex, and race of each protected person
266 provided to the court. A copy of a preliminary protective order containing any such identifying
267 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service
268 and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the
269 agency shall forthwith verify and enter any modification as necessary to the identifying information and
270 other appropriate information required by the Department of State Police into the Virginia Criminal
271 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et
272 seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as
273 provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit
274 court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the
275 respondent's identifying information and the name, date of birth, sex, and race of each protected person
276 provided to the court to the primary law-enforcement agency providing service and entry of protective
277 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the
278 person subject to the order and other appropriate information required by the Department of State Police
279 into the Virginia Criminal Information Network established and maintained by the Department pursuant
280 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly
281 abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter
282 the date and time of service and other appropriate information required by the Department of State
283 Police into the Virginia Criminal Information Network and make due return to the court. The
284 preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of
285 the issuance of the preliminary order. If the respondent fails to appear at this hearing because the
286 respondent was not personally served, or if personally served was incarcerated and not transported to the
287 hearing, the court may extend the protective order for a period not to exceed six months. The extended
288 protective order shall be served forthwith on the respondent. However, upon motion of the respondent
289 and for good cause shown, the court may continue the hearing. The preliminary order shall remain in
290 effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with
291 a copy of the order and information regarding the date and time of service. The order shall further
292 specify that either party may at any time file a motion with the court requesting a hearing to dissolve or
293 modify the order. The hearing on the motion shall be given precedence on the docket of the court.
294 Upon receipt of the return of service or other proof of service pursuant to subsection C of
295 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the
296 primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as
297 necessary into the Virginia Criminal Information Network as described above. If the order is later
298 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded
299 forthwith to the primary law-enforcement agency responsible for service and entry of protective orders,
300 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify
301 and enter any modification as necessary to the identifying information and other appropriate information
302 required by the Department of State Police into the Virginia Criminal Information Network as described
303 above and the order shall be served forthwith and due return made to the court.
304 C. The preliminary order is effective upon personal service on the allegedly abusing person. Except
305 as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

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

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

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

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

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

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

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

1. Prohibiting acts of family abuse *and criminal offenses that result in injury to person or property*;
2. Prohibiting such contacts by the respondent with family or household members of the respondent as the judge or magistrate deems necessary to protect the safety of such persons; and

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

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

C. An emergency protective order issued pursuant to this section shall expire at 11:59 p.m. on the third day following issuance. If the expiration occurs on a day that the court is not in session, the emergency protective order shall be extended until 11:59 p.m. on the next day that the juvenile and domestic relations district court is in session. When issuing an emergency protective order under this section, the judge or magistrate shall provide the protected person or the law-enforcement officer seeking the emergency protective order with the form for use in filing petitions pursuant to § 16.1-253.1 and written information regarding protective orders that shall include the telephone numbers of domestic violence agencies and legal referral sources on a form prepared by the Supreme Court. If these forms are provided to a law-enforcement officer, the officer may provide these forms to the protected person when giving the emergency protective order to the protected person. The respondent may at any time file a motion with the court requesting a hearing to dissolve or modify the order issued hereunder. The hearing on the motion shall be given precedence on the docket of the court.

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

E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court or magistrate. A copy of an emergency protective order issued pursuant to this section containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of

the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the respondent. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. One copy of the order shall be given to the allegedly abused person when it is issued, and one copy shall be filed with the written report required by § 19.2-81.3 C. The judge or magistrate who issues an oral order pursuant to an electronic request by a law-enforcement officer shall verify the written order to determine whether the officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy shall be filed with the clerk of the juvenile and domestic relations district court within five business days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court. Upon request, the clerk shall provide the allegedly abused person with information regarding the date and time of service.

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

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

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

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

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

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

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

A. In cases of family abuse, 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 *and criminal offenses that result in injury to person or property*;
2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;
3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property;
4. Enjoining the respondent from terminating any necessary utility service to the residence to which the petitioner was granted possession pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to that residence;
5. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner

alone or jointly owned by the parties to the exclusion of the respondent; however, no such grant of possession or use shall affect title to the vehicle;

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

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

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

A1. If a protective order is issued pursuant to subsection A of this section, the court may also issue a temporary child support order for the support of any children of the petitioner whom the respondent has a legal obligation to support. Such order shall terminate upon the determination of support pursuant to § 20-108.1.

B. The protective order may be issued for a specified period 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.

C. 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.

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

E. 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.

F. 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.

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

H. As used in this section:

"Copy" includes a facsimile copy; and

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

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

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

§ 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.

§ 17.1-272. Process and service fees generally.

A. The fee for process and service in the following instances shall be \$12:

1. Service on any person, firm or corporation, an order, notice, summons or any other civil process, except as herein otherwise provided, and for service on any person, firm, or corporation any process when the body is not taken and making a return thereof, except that no fee shall be charged for service pursuant to § 2.2-4022.

2. Summoning a witness or garnishee on an attachment.

3. Service on any person of an attachment or other process under which the body is taken and making a return thereon.

4. Service of any order of court not otherwise provided for, except that no fees shall be charged for protective orders issued pursuant to Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

5. Making a return of a writ of fieri facias where no levy is made or forthcoming bond is taken.

6. Summoning a witness in any case in which custody or visitation of a minor child or children is at issue.

B. The fees for process and service in the following instances shall be \$25:

1. Service and publication of any notice of a publicly-advertised public sale.

2. Service of a writ of possession, except that there shall be an additional fee of \$12 for each additional defendant.

3. Levying upon current money, bank notes, goods or chattels of a judgment debtor pursuant to § 8.01-478.

4. Service of a declaration in ejectment on any person, firm or corporation, except that there shall be an additional fee of \$12 for each additional defendant.

5. Levying distress warrant or an attachment.

6. Levying an execution.

C. The process and service fee for serving any papers returnable out of state shall be \$75, except no fees shall be charged for the service of papers in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a ~~protection~~ protective order or a petition for ~~protection~~ a protective order; ~~to protect a victim of domestic violence, stalking or sexual assault.~~ A victim of domestic violence, stalking, or sexual assault shall not bear the costs associated with the filing of criminal charges against the offender, ~~or~~ and no victim shall bear the costs associated with the filing, issuance, registration, or service of a warrant, ~~protection~~ protective order, petition for a ~~protection~~ protective order, or witness subpoena, issued inside or outside the Commonwealth.

D. The fees set out in this section shall be allowable for services provided by such officers in the circuit and district courts.

§ 18.2-60.4. Violation of protective orders; penalty.

Any person who violates any provision of a protective order issued pursuant to §§ 19.2-152.8, 19.2-152.9 or § 19.2-152.10 is guilty of a Class 1 misdemeanor. Conviction hereunder shall bar a finding of contempt for the same act. *The punishment for any person convicted of a second offense of violating a protective order, when the offense is committed within five years of the prior conviction and when either the instant or prior offense was based on an act or threat of violence, shall include a mandatory minimum term of confinement of 60 days. The punishment for any person convicted of a third or subsequent offense of violating a protective order, when the offense is committed within 20 years of the first conviction and when either the instant or one of the prior offenses was based on an act or threat of violence, shall include a mandatory minimum term of confinement of six months.*

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

Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order pursuant to § 19.2-152.10 for a specified period not exceeding two years from the date of conviction.

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

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

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

B1. A law-enforcement officer having probable cause to believe that a violation of § 18.2-60.4 has occurred which involves physical aggression shall arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the predominant physical aggressor unless there are special circumstances which would dictate a course of action other than an arrest. The standards for determining who is the predominant physical aggressor shall be based on the following considerations: (i) who was the first aggressor, (ii) the protection of the health and safety of the person to whom the protective order was issued and the person's family and household members, (iii) prior acts involving violence, force, or threat by the person against whom the protective order was issued against the person protected by the order or the person's family or household members, (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.

C. Regardless of whether an arrest is made, the officer shall file a written report with his department, which shall state whether any arrests were made, and if so, the number of arrests, specifically including any incident in which he has probable cause to believe family abuse 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 or the person protected by an order issued pursuant to § 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 or person protected by the order. Upon request of the allegedly abused person or person protected by the order, the department shall make a summary of the report available to the allegedly abused person or person protected by the order.

D. 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.

E. 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 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 as provided in this subsection.

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

G. 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

675 compensated officers who are not full-time employees as defined by the employing police department or
676 sheriff's office.

677 § 19.2-120. Admission to bail.

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

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

683 1. He will not appear for trial or hearing or at such other time and place as may be directed, or

684 2. His liberty will constitute an unreasonable danger to himself or the public.

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

688 1. An act of violence as defined in § 19.2-297.1;

689 2. An offense for which the maximum sentence is life imprisonment or death;

690 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
691 controlled substance if (i) the maximum term of imprisonment is 10 years or more and the person was
692 previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as
693 defined in § 18.2-248;

694 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
695 for a mandatory minimum sentence;

696 5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1
697 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;

698 6. Any felony committed while the person is on release pending trial for a prior felony under federal
699 or state law or on release pending imposition or execution of sentence or appeal of sentence or
700 conviction;

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

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

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

709 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
710 past five years of the instant offense, been convicted three times on different dates of a violation of any
711 combination of these Code sections, or any ordinance of any county, city, or town or the laws of any
712 other state or of the United States substantially similar thereto, and has been at liberty between each
713 conviction;

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

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

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

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

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

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

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

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

734 F. If the judicial officer sets a secured bond and the person engages the services of a licensed bail
735 bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon
736 request, with a copy of the person's Virginia criminal history record, if readily available, to be used by

the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his release. The bondsman shall pay a \$15 fee payable to the state treasury to be credited to the Literary Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389. The bondsman shall review the record on the premises and promptly return the record to the magistrate after reviewing it.

CHAPTER 9.1.

PROTECTIVE ORDERS FOR STALKING.

§ 19.2-152.8. Emergency protective orders authorized.

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

B. When a law-enforcement officer, ~~an allegedly stalked person or an alleged victim of sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3 or a criminal offense resulting in a serious bodily injury to the~~ or an alleged victim asserts under oath to a judge or magistrate that such person is being or has been subjected to ~~stalking, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, or a criminal offense resulting in a serious~~ *involving violence, force, or threat that results in a serious* bodily injury to the alleged victim *or places the alleged victim in reasonable apprehension of death, sexual assault, or bodily injury, including, but not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury,* and on that assertion or other evidence the judge or magistrate finds that (i) there is probable danger of a further such offense ~~or acts~~ being committed by the respondent against the alleged victim ~~and~~ or (ii) a ~~petition or warrant~~ *petition or warrant* for the arrest of the respondent has been issued ~~for any of the offenses listed in this section,~~ the judge or magistrate shall issue an ex parte emergency protective order imposing one or more of the following conditions on the respondent:

1. Prohibiting ~~acts of involving violence, acts of sexual battery, or acts of force, or threat, including, but not limited to, any forceful detention, stalking in violation of § 18.2-60.3, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offenses that result in bodily injury or place one in reasonable apprehension of death, sexual assault, or bodily injury;~~

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

3. Such other conditions as the judge or magistrate deems necessary to prevent *(i) acts of involving violence, force, or threat, including, but not limited to, any forceful detention, stalking, acts of sexual battery, or criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offenses that result in bodily injury or place one in reasonable apprehension of death, sexual assault, or bodily injury, (ii) criminal offenses resulting in injury to person or property, or (iii) 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 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 § 19.2-152.9 or 19.2-152.10, may request the extension of an emergency protective order for an additional period of time not to exceed three days after expiration of the original order. The request for an emergency protective order or extension of an order may be made orally, in person or by electronic means,* and the judge of a circuit court, general district court, or juvenile and domestic relations district court or a magistrate may issue an oral emergency protective order. An oral emergency protective order issued pursuant to this section shall be reduced to writing, by the law-enforcement officer requesting the order or the magistrate, on a preprinted form approved and provided by the Supreme Court of Virginia. The completed form shall include a statement of the grounds for the order asserted by the officer or the alleged victim of such crime.

E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court or magistrate. A copy of an emergency protective order issued pursuant to this section containing any such identifying information shall be forwarded forthwith to the

primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal 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 above and the order shall be served forthwith and due return made to the court. Upon request, the clerk shall provide the alleged victim of such crime with information regarding the date and time of service.

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

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

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

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

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

§ 19.2-152.9. Preliminary protective orders.

A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of time, subjected to ~~stalking, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, or a criminal offense resulting any act involving violence, force, or threat that results in a serious~~ bodily injury to the petitioner, ~~and or that places the petitioner in reasonable apprehension of death, sexual assault, or bodily injury, including, but not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury,~~ or (ii) a petition or warrant has been issued for the arrest of the alleged perpetrator of such act or acts, the court may issue a preliminary protective order against the alleged perpetrator in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. Immediate and present danger of ~~stalking or another criminal offense any act of violence, force, or threat~~ that may result in a serious bodily injury to the petitioner or evidence sufficient to establish probable cause that ~~stalking, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or a criminal offense resulting in a serious~~ bodily injury to the petitioner ~~or placing the petitioner in reasonable apprehension of death, sexual assault, or bodily injury~~ has recently occurred

shall constitute good cause.

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

1. Prohibiting *acts involving violence, force, or threat, including, but not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offenses that result in bodily injury or place one in reasonable apprehension of death, sexual assault, or bodily injury, or any 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;*

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

3. Such other conditions as the court deems necessary to prevent (i) *acts of involving violence, force, or threat, including, but not limited to, any forceful detention, stalking, acts of sexual battery, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offenses that result in bodily injury or place one in reasonable apprehension of death, sexual assault, or bodily injury,* (ii) criminal offenses that may result in injury to ~~person or~~ property, or (iii) communication or other contact of any kind by the respondent.

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer 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 alleged perpetrator 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 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.

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

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10 if the court finds that the petitioner has proven the allegation of *a an act involving violence, force, or*

921 *threat that results in bodily injury to the petitioner or places the petitioner in reasonable apprehension*
922 *of death, sexual assault, or bodily injury, including, but not limited to, any forceful detention, stalking,*
923 *criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any*
924 *criminal offense resulting the results in a serious bodily injury to the petitioner, sexual battery in*
925 *violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, or stalking or places one*
926 *in reasonable apprehension of death, sexual assault, or bodily injury by a preponderance of the*
927 *evidence.*

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

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

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

935 § 19.2-152.10. Protective order.

936 A. The court may issue a protective order pursuant to this chapter to protect the health and safety of
937 the petitioner and family or household members of a petitioner upon (i) the issuance of a *petition or*
938 *warrant for sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of*
939 *§ 18.2-67.3, or a conviction of, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61) of*
940 *Chapter 4 of Title 18.2, or a criminal offense resulting that results in a serious bodily injury to the*
941 *petitioner or places the petitioner in reasonable apprehension of death, sexual assault, or bodily injury,*
942 *or a violation of § 18.2-60.3, (ii) a hearing held pursuant to subsection D of § 19.2-152.9; or (iii) a*
943 *conviction for sexual battery in violation of § 18.2-67.4; aggravated sexual battery in violation of*
944 *§ 18.2-67.3, a criminal offense resulting in a serious bodily injury to the petitioner, or a violation of*
945 *§ 18.2-60.3. A protective order issued under this section may include any one or more of the following*
946 *conditions to be imposed on the respondent:*

947 1. *Prohibiting any acts involving violence, force, or threat, including, but not limited to any forceful*
948 *detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of*
949 *Title 18.2, or any criminal offenses that result in bodily injury or place one in reasonable apprehension*
950 *of death, sexual assault, or bodily injury, or any criminal offenses that may result in injury to person or*
951 *property, acts of sexual battery, or acts of stalking in violation of § 18.2-60.3;*

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

954 3. *Any other relief necessary to prevent (i) acts involving violence, force, or threat, including, but*
955 *not limited to any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61*
956 *et seq.) of Chapter 4 of Title 18.2, or any criminal offenses that result in bodily injury or place one in*
957 *reasonable apprehension of death, sexual assault, or bodily injury, (ii) any criminal offenses that may*
958 *result in injury to person or property, acts of sexual battery, or acts of stalking, or (iii) communication*
959 *or other contact of any kind by the respondent.*

960 B. The protective order may be issued for a specified period of time up to a maximum of two years.
961 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
962 of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner
963 may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective
964 order shall be given precedence on the docket of the court. The court may extend the protective order
965 for a period not longer than two years to protect the health and safety of the petitioner or persons who
966 are family or household members of the petitioner at the time the request for an extension is made. The
967 extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on
968 the last day of the two-year period if no date is specified. Nothing herein shall limit the number of
969 extensions that may be requested or issued.

970 C. A copy of the protective order shall be served on the respondent and provided to the petitioner as
971 soon as possible. The court shall forthwith, but in all cases no later than the end of the business day on
972 which the order was issued, enter and transfer electronically to the Virginia Criminal Information
973 Network the respondent's identifying information and the name, date of birth, sex, and race of each
974 protected person provided to the court and shall forthwith forward the attested copy of the protective
975 order and containing any such identifying information to the primary law-enforcement agency
976 responsible for service and entry of protective orders. Upon receipt of the order by the primary
977 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the
978 identifying information and other appropriate information required by the Department of State Police
979 into the Virginia Criminal Information Network established and maintained by the Department pursuant
980 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent
981 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the
982 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.

D. Except as otherwise provided, a violation of a protective order issued under this section shall constitute contempt of court.

E. 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.

F. 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.

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

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

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

J. As used in this section:

"Copy" includes a facsimile copy; and

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

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.