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HOUSE BILL NO. 363

Offered January 11, 2012

Prefiled January 10, 2012

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

Patrons—McClellan, Hope and Scott, J.M.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

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

§ 16.1-253. Preliminary protective order.

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

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

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

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

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

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

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

7. *To grant the petitioner the care, custody, and control of any animal owned, possessed, or kept by the petitioner, the respondent, or by a child residing in the household.*

B. A preliminary protective order may be issued ex parte upon motion of any person or the court's own motion in any matter before the court, or upon petition. The motion or petition shall be supported by an affidavit or by sworn testimony in person before the judge or intake officer which establishes that the child would be subjected to an imminent threat to life or health to the extent that delay for the provision of an adversary hearing would be likely to result in serious or irreparable injury to the child's life or health. If an ex parte order is issued without an affidavit being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Following the issuance of an ex parte order the court shall provide an adversary hearing to the affected parties within the shortest practicable time not to exceed five business days after the issuance of the order.

C. Prior to the hearing required by this section, notice of the hearing shall be given at least 24 hours in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian, or other person standing in loco parentis of the child, to any other family or household member of the child to whom the protective order may be directed and to the child if he or she is 12 years of age or older. The notice provided herein shall include (i) the time, date and place for the hearing and (ii) a specific statement of the factual circumstances which allegedly necessitate the issuance of a preliminary protective order.

D. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

E. At the hearing the child, his or her parents, guardian, legal custodian or other person standing in loco parentis and any other family or household member of the child to whom notice was given shall

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59 have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence
60 on their own behalf.

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

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

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

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

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

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

118 K. The court shall forthwith, but in all cases no later than the end of the business day on which the
119 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the
120 respondent's identifying information and the name, date of birth, sex, and race of each protected person

provided to the court. A copy of the preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing.

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

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

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

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

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

1. Prohibiting acts of family abuse or 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 premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.
4. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to such premises.
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 allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.
6. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member and, where appropriate, requiring the respondent to pay

deposits to connect or restore necessary utility services in the alternative housing provided.

7. *Granting the petitioner the care, custody, and control of any animal owned, possessed, or kept by the petitioner, the respondent, or by a child residing in the household.*

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

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

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

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

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if the court finds that the petitioner has proven the allegation of family abuse 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 or 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; *and*
4. *Granting the petitioner the care, custody, and control of any animal owned, possessed, or kept by the petitioner, the respondent, or by a child residing in the household.*

When the judge or magistrate considers the issuance of an emergency protective order pursuant to clause (i), 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

305 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith
306 on the respondent. Upon service, the agency making service shall enter the date and time of service and
307 other appropriate information required by the Department of State Police into the Virginia Criminal
308 Information Network and make due return to the court. One copy of the order shall be given to the
309 allegedly abused person when it is issued, and one copy shall be filed with the written report required
310 by subsection D of § 19.2-81.3. The judge or magistrate who issues an oral order pursuant to an
311 electronic request by a law-enforcement officer shall verify the written order to determine whether the
312 officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy
313 shall be filed with the clerk of the juvenile and domestic relations district court within five business
314 days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or
315 modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency
316 responsible for service and entry of protective orders, and upon receipt of the order by the primary
317 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the
318 identifying information and other appropriate information required by the Department of State Police
319 into the Virginia Criminal Information Network as described above and the order shall be served
320 forthwith and due return made to the court. Upon request, the clerk shall provide the allegedly abused
321 person with information regarding the date and time of service.

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

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

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

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

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

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

340 § 16.1-279.1. Protective order in cases of family abuse.

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

346 1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property;

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

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

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

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

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

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

362 8. *Granting the petitioner the care, custody, and control of any animal owned, possessed, or kept by*
363 *the petitioner, the respondent, or by a child residing in the household; and*

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

366 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.

§ 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 or an alleged victim asserts under oath to a judge or magistrate that such person is being or has been subjected to an act of violence, force, or threat and on that assertion or other evidence the judge or magistrate finds that (i) there is probable danger of a further such act being committed by the respondent against the alleged victim or (ii) a petition or warrant for the arrest of the respondent has been issued for any criminal offense resulting from the commission of an act of violence, force, or threat, the judge or magistrate shall issue an ex parte emergency protective order imposing one or more of the following conditions on the respondent:

1. Prohibiting acts of violence, force, or threat or criminal offenses resulting in injury to person or property;

2. Prohibiting such contacts by the respondent with the alleged victim 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 violence, force, or threat, (ii) criminal offenses resulting in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and

4. *Granting the petitioner the care, custody, and control of any animal owned, possessed, or kept by the petitioner, the respondent, or by a child residing in the household.*

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 an act of violence, force, or threat, or (ii) a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat, 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 any act of violence, force, or threat or evidence sufficient to establish probable cause that an act of violence, force, or threat 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 of violence, force, or threat or criminal offenses that may result in injury to person or property;

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 violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; *and*

551 4. *Granting the petitioner the care, custody, and control of any animal owned, possessed, or kept by*
552 *the petitioner, the respondent, or by a child residing in the household.*

553 B. The court shall forthwith, but in all cases no later than the end of the business day on which the
554 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the
555 respondent's identifying information and the name, date of birth, sex, and race of each protected person
556 provided to the court. A copy of a preliminary protective order containing any such identifying
557 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service
558 and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the
559 agency shall forthwith verify and enter any modification as necessary to the identifying information and
560 other appropriate information required by the Department of State Police into the Virginia Criminal
561 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et
562 seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided
563 in § 16.1-264, and due return made to the court. However, if the order is issued by the circuit court, the
564 clerk of the circuit court shall forthwith forward an attested copy of the order containing the
565 respondent's identifying information and the name, date of birth, sex, and race of each protected person
566 provided to the court to the primary law-enforcement agency providing service and entry of protective
567 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the
568 person subject to the order and other appropriate information required by the Department of State Police
569 into the Virginia Criminal Information Network established and maintained by the Department pursuant
570 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged
571 perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the
572 date and time of service and other appropriate information required by the Department of State Police
573 into the Virginia Criminal Information Network and make due return to the court. The preliminary order
574 shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the
575 preliminary order. If the respondent fails to appear at this hearing because the respondent was not
576 personally served, the court may extend the protective order for a period not to exceed six months. The
577 extended protective order shall be served as soon as possible on the respondent. However, upon motion
578 of the respondent and for good cause shown, the court may continue the hearing. The preliminary order
579 shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the
580 petitioner with a copy of the order and information regarding the date and time of service. The order
581 shall further specify that either party may at any time file a motion with the court requesting a hearing
582 to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of
583 the court.

584 Upon receipt of the return of service or other proof of service pursuant to subsection C of
585 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to
586 primary law-enforcement agency and the agency shall forthwith verify and enter any modification as
587 necessary into the Virginia Criminal Information Network as described above. If the order is later
588 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded
589 forthwith to the primary law-enforcement agency responsible for service and entry of protective orders,
590 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify
591 and enter any modification as necessary to the identifying information and other appropriate information
592 required by the Department of State Police into the Virginia Criminal Information Network as described
593 above and the order shall be served forthwith and due return made to the court.

594 C. The preliminary order is effective upon personal service on the alleged perpetrator. Except as
595 otherwise provided, a violation of the order shall constitute contempt of court.

596 D. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10
597 if the court finds that the petitioner has proven the allegation that the petitioner is or has been, within a
598 reasonable period of time, subjected to an act of violence, force, or threat by a preponderance of the
599 evidence.

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

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

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

607 § 19.2-152.10. Protective order.

608 A. The court may issue a protective order pursuant to this chapter to protect the health and safety of
609 the petitioner and family or household members of a petitioner upon (i) the issuance of a petition or
610 warrant for, or a conviction of, any criminal offense resulting from the commission of an act of
611 violence, force, or threat or (ii) a hearing held pursuant to subsection D of § 19.2-152.9. A protective
612 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 violence, force, or threat or criminal offenses that may 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; ~~and~~

3. Any other relief necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; *and*

4. *Granting the petitioner the care, custody, and control of any animal owned, possessed, or kept by the petitioner, the respondent, or by a child residing in the household.*

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

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

674 order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary
675 law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt,
676 enter the name of the person subject to the order and other appropriate information required by the
677 Department of State Police into the Virginia Criminal Information Network established and maintained
678 by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may
679 transfer information electronically to the Virginia Criminal Information Network.

680 Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy
681 available of any foreign order filed with that court. A law-enforcement officer may, in the performance
682 of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been
683 provided to him by any source and may also rely upon the statement of any person protected by the
684 order that the order remains in effect.

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

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

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

694 J. As used in this section:

695 "Copy" includes a facsimile copy; and

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

697 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
698 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
699 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
700 **890 of the Acts of Assembly of 2011 requires the Virginia Criminal Sentencing Commission to**
701 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the**
702 **necessary appropriation is \$0 for periods of commitment to the custody of the Department of**
703 **Juvenile Justice.**