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SENATE BILL NO. 541

Senate Amendments in [] - February 13, 2012

A BILL to amend and reenact §§ 9.1-102, 9.1-112, 15.2-1731, 16.1-253.4, 19.2-81.3, 19.2-152.8, and 53.1-31.1 of the Code of Virginia, relating to auxiliary police forces.

Patron Prior to Engrossment—Senator Obenshain

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-102, 9.1-112, 15.2-1731, 16.1-253.4, 19.2-81.3, 19.2-152.8, and 53.1-31.1 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. Establish compulsory training courses for law-enforcement officers in laws and procedures relating to entrapment, search and seizure, evidence, and techniques of report writing, which training shall be completed by law-enforcement officers who have not completed the compulsory training standards set out in subdivision 2, prior to assignment of any such officers to undercover investigation work. Failure to complete the training shall not, for that reason, constitute grounds to exclude otherwise properly admissible testimony or other evidence from such officer resulting from any undercover investigation;

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and for correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and establish the time required for completion of such training;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. [Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers.] Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and with universities, colleges, community colleges, and other

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59 institutions, whether located in or outside the Commonwealth, concerning the development of police
60 training schools and programs or courses of instruction;

61 ~~12-13.~~ Approve institutions, curricula and facilities, whether located in or outside the Commonwealth,
62 for school operation for the specific purpose of training law-enforcement officers; but this shall not
63 prevent the holding of any such school whether approved or not;

64 ~~13-14.~~ Establish and maintain police training programs through such agencies and institutions as the
65 Board deems appropriate;

66 ~~14-15.~~ Establish compulsory minimum qualifications of certification and recertification for instructors
67 in criminal justice training schools approved by the Department;

68 ~~15-16.~~ Conduct and stimulate research by public and private agencies which shall be designed to
69 improve police administration and law enforcement;

70 ~~16-17.~~ Make recommendations concerning any matter within its purview pursuant to this chapter;

71 ~~17-18.~~ Coordinate its activities with those of any interstate system for the exchange of criminal
72 history record information, nominate one or more of its members to serve upon the council or
73 committee of any such system, and participate when and as deemed appropriate in any such system's
74 activities and programs;

75 ~~18-19.~~ Conduct inquiries and investigations it deems appropriate to carry out its functions under this
76 chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to
77 submit information, reports, and statistical data with respect to its policy and operation of information
78 systems or with respect to its collection, storage, dissemination, and usage of criminal history record
79 information and correctional status information, and such criminal justice agencies shall submit such
80 information, reports, and data as are reasonably required;

81 ~~19-20.~~ Conduct audits as required by § 9.1-131;

82 ~~20-21.~~ Conduct a continuing study and review of questions of individual privacy and confidentiality
83 of criminal history record information and correctional status information;

84 ~~21-22.~~ Advise criminal justice agencies and initiate educational programs for such agencies with
85 respect to matters of privacy, confidentiality, and security as they pertain to criminal history record
86 information and correctional status information;

87 ~~22-23.~~ Maintain a liaison with any board, commission, committee, or other body which may be
88 established by law, executive order, or resolution to regulate the privacy and security of information
89 collected by the Commonwealth or any political subdivision thereof;

90 ~~23-24.~~ Adopt regulations establishing guidelines and standards for the collection, storage, and
91 dissemination of criminal history record information and correctional status information, and the privacy,
92 confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and
93 court orders;

94 ~~24-25.~~ Operate a statewide criminal justice research center, which shall maintain an integrated
95 criminal justice information system, produce reports, provide technical assistance to state and local
96 criminal justice data system users, and provide analysis and interpretation of criminal justice statistical
97 information;

98 ~~25-26.~~ Develop a comprehensive, statewide, long-range plan for strengthening and improving law
99 enforcement and the administration of criminal justice throughout the Commonwealth, and periodically
100 update that plan;

101 ~~26-27.~~ Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the
102 Commonwealth, and units of general local government, or combinations thereof, including planning
103 district commissions, in planning, developing, and administering programs, projects, comprehensive
104 plans, and other activities for improving law enforcement and the administration of criminal justice
105 throughout the Commonwealth, including allocating and subgranting funds for these purposes;

106 ~~27-28.~~ Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects
107 and activities for the Commonwealth and units of general local government, or combinations thereof, in
108 the Commonwealth, designed to strengthen and improve law enforcement and the administration of
109 criminal justice at every level throughout the Commonwealth;

110 ~~28-29.~~ Review and evaluate programs, projects, and activities, and recommend, where necessary,
111 revisions or alterations to such programs, projects, and activities for the purpose of improving law
112 enforcement and the administration of criminal justice;

113 ~~29-30.~~ Coordinate the activities and projects of the state departments, agencies, and boards of the
114 Commonwealth and of the units of general local government, or combination thereof, including planning
115 district commissions, relating to the preparation, adoption, administration, and implementation of
116 comprehensive plans to strengthen and improve law enforcement and the administration of criminal
117 justice;

118 ~~30-31.~~ Do all things necessary on behalf of the Commonwealth and its units of general local
119 government, to determine and secure benefits available under the Omnibus Crime Control and Safe
120 Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and

programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

31.32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

32.33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

33.34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

34.35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

35.36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

36.37. Establish training standards and publish a model policy for law-enforcement personnel in the handling of family abuse, domestic violence, sexual assault and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in § 9.1-1301 and shall by December 1, 2009, submit a report on the status of implementation of these requirements to the chairmen of the House and Senate Courts of Justice Committees;

37.38. Establish training standards and publish a model policy for law-enforcement personnel in communicating with and facilitating the safe return of individuals diagnosed with Alzheimer's disease;

38.39. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39.40. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40.41. Publish and disseminate a model policy or guideline that may be used by state and local agencies to ensure that law-enforcement personnel are sensitive to and aware of cultural diversity and the potential for biased policing;

~~41. [Expired.]~~

42. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

43. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

44. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall

182 be administered by the Virginia Center for School Safety pursuant to § 9.1-184. Such training standards
183 shall include, but shall not be limited to, the role and responsibility of school security officers, relevant
184 state and federal laws, school and personal liability issues, security awareness in the school environment,
185 mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics.
186 The Department shall establish an advisory committee consisting of local school board representatives,
187 principals, superintendents, and school security personnel to assist in the development of these standards
188 and certification requirements;

189 45. Establish training standards and publish a model policy and protocols for local and regional
190 sexual assault response teams;

191 46. License and regulate property bail bondsmen and surety bail bondsmen in accordance with
192 Article 11 (§ 9.1-185 et seq.);

193 47. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

194 48. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal
195 justice agencies regarding the investigation, registration, and dissemination of information requirements
196 as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

197 49. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula,
198 and (iii) certification requirements for campus security officers. Such training standards shall include, but
199 not be limited to, the role and responsibility of campus security officers, relevant state and federal laws,
200 school and personal liability issues, security awareness in the campus environment, and disaster and
201 emergency response. The Department shall provide technical support and assistance to campus police
202 departments and campus security departments on the establishment and implementation of policies and
203 procedures, including but not limited to: the management of such departments, investigatory procedures,
204 judicial referrals, the establishment and management of databases for campus safety and security
205 information sharing, and development of uniform record keeping for disciplinary records and statistics,
206 such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an
207 advisory committee consisting of college administrators, college police chiefs, college security
208 department chiefs, and local law-enforcement officials to assist in the development of the standards and
209 certification requirements and training pursuant to this subdivision;

210 50. Establish compulsory training standards and publish a model policy for law-enforcement
211 personnel regarding death notification;

212 51. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established
213 pursuant to § 9.1-187;

214 52. Establish, publish, and disseminate a model policy or guideline for law-enforcement personnel for
215 questioning individuals suspected of driving while intoxicated concerning the physical location of that
216 individual's last consumption of an alcoholic beverage and for communicating that information to the
217 Alcoholic Beverage Control Board;

218 53. Establish training standards and publish a model policy for law-enforcement personnel assigned
219 to vehicle patrol duties that embody current best practices for pursuits and for responding to emergency
220 calls;

221 54. Establish training standards and publish a model policy for law-enforcement personnel involved
222 in criminal investigations that embody current best practices for conducting photographic and live
223 lineups;

224 55. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and
225 attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human
226 trafficking offenses using the common law and existing criminal statutes in the Code of Virginia; and

227 56. Perform such other acts as may be necessary or convenient for the effective performance of its
228 duties.

229 § 9.1-112. Committee on Training; membership.

230 There is created a permanent Committee on Training under the Board that shall be the policy-making
231 body responsible to the Board for effecting the provisions of subdivisions 2 through 46 17 of § 9.1-102.
232 The Committee on Training shall be composed of 14 members of the Board as follows: the
233 Superintendent of the Department of State Police; the Director of the Department of Corrections; a
234 member of the Private Security Services Advisory Board; the Executive Secretary of the Supreme Court
235 of Virginia; two sheriffs representing the Virginia State Sheriffs Association; two representatives of the
236 Chiefs of Police Association; the active-duty law-enforcement officer representing police and fraternal
237 associations; the attorney for the Commonwealth representing the Association of Commonwealth's
238 Attorneys; a representative of the Virginia Municipal League; a representative of the Virginia
239 Association of Counties; a regional jail superintendent representing the Virginia Association of Regional
240 Jails; and one member designated by the chairman of the Board from among the other appointments
241 made by the Governor.

242 The Committee on Training shall annually elect its chairman from among its members.

243 § 15.2-1731. Establishment, etc., authorized; powers, authority and immunities generally.

A. Localities, for the further preservation of the public peace, safety and good order of the community, may establish, equip and maintain auxiliary police forces, the members of which when called into service as hereinafter provided shall have all the powers and authority and all the immunities of constables at common law.

B. Localities also, for the further preservation of the public peace, safety, and good order of the community, may establish, equip, and maintain auxiliary police forces which that have all the powers and authority and all the immunities of full-time law-enforcement officers, if all such forces have met the training requirements established by the Department of Criminal Justice Services under § 9.1-102. Any

B. Notwithstanding any other provision of this section, any auxiliary officer employed prior to July 1, 1987 2012, shall be exempted from any initial training requirement established under § 9.1-102 until a date one year subsequent to the promulgation of compulsory minimum training standards for auxiliary police officers, except that (i) any such officer shall not be permitted to carry or use a firearm while serving as an auxiliary police officer unless such officer has met the firearms training requirements established in accordance with in-service training standards for law-enforcement officers as prescribed by the Criminal Justice Services Board, and (ii) within one year after the promulgation of such compulsory minimum training standards, any such officer shall have received training that satisfies such standards through prior training or through supplemental training as may be required to address identified deficiencies in prior training.

§ 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.

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

305 issued pursuant to this section shall be reduced to writing, by the law-enforcement officer requesting the
306 order or the magistrate on a preprinted form approved and provided by the Supreme Court of Virginia.
307 The completed form shall include a statement of the grounds for the order asserted by the officer or the
308 allegedly abused person.

309 E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day
310 on which the order was issued, enter and transfer electronically to the Virginia Criminal Information
311 Network the respondent's identifying information and the name, date of birth, sex, and race of each
312 protected person provided to the court or magistrate. A copy of an emergency protective order issued
313 pursuant to this section containing any such identifying information shall be forwarded forthwith to the
314 primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of
315 the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any
316 modification as necessary to the identifying information and other appropriate information required by
317 the Department of State Police into the Virginia Criminal Information Network established and
318 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be
319 served forthwith upon the respondent and due return made to the court. However, if the order is issued
320 by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order
321 containing the respondent's identifying information and the name, date of birth, sex, and race of each
322 protected person provided to the court to the primary law-enforcement agency providing service and
323 entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter
324 the name of the person subject to the order and other appropriate information required by the
325 Department of State Police into the Virginia Criminal Information Network established and maintained by the
326 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith
327 on the respondent. Upon service, the agency making service shall enter the date and time of service and
328 other appropriate information required by the Department of State Police into the Virginia Criminal
329 Information Network and make due return to the court. One copy of the order shall be given to the
330 allegedly abused person when it is issued, and one copy shall be filed with the written report required
331 by subsection D of § 19.2-81.3. The judge or magistrate who issues an oral order pursuant to an
332 electronic request by a law-enforcement officer shall verify the written order to determine whether the
333 officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy
334 shall be filed with the clerk of the juvenile and domestic relations district court within five business
335 days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or
336 modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency
337 responsible for service and entry of protective orders, and upon receipt of the order by the primary
338 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the
339 identifying information and other appropriate information required by the Department of State Police
340 into the Virginia Criminal Information Network as described above and the order shall be served
341 forthwith and due return made to the court. Upon request, the clerk shall provide the allegedly abused
342 person with information regarding the date and time of service.

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

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

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

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

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

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

361 § 19.2-81.3. Arrest without a warrant authorized in cases of assault and battery against a family or
362 household member and stalking and for violations of protective orders; procedure, etc.

363 A. Any law-enforcement officer, as defined in § 19.2-81, may arrest without a warrant for an alleged
364 violation of § 18.2-57.2, 18.2-60.4, or 16.1-253.2 regardless of whether such violation was committed in
365 his presence, if such arrest is based on probable cause or upon personal observations or the reasonable
366 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.

C. A law-enforcement officer having probable cause to believe that a violation of § 18.2-60.4 has occurred that 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 of violence, force, or threat, as defined in § 19.2-152.7:1, by the person against whom the protective order was issued against the person protected by the order or the protected 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.

D. 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.

E. 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.

F. 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.

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

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

§ 19.2-152.8. 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.

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.

§ 53.1-31.1. Transportation of prisoners.

Notwithstanding any other provision of law, the Department shall provide all transportation to and from court for any prisoner in connection with a crime committed within a state correctional facility, or a facility operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.), unless the affected sheriff and the Department agree on other transportation. Auxiliary police forces established under § 15.2-1731 who have met the training requirements of ~~§ 9.1-101~~ 9.1-102, with the concurrence of the sheriff or other chief law-enforcement officer as appropriate, are specifically authorized to provide such transportation.

ENGROSSED

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