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HOUSE BILL NO. 972

Offered January 8, 2014

Prefiled January 8, 2014

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; companion animals.

Patrons—Cline, Minchew, Ramadan, Comstock, Hope, Lopez, McClellan, Rust and Watts

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 person or persons on whose behalf the order is issued the possession of any companion animal jointly owned, possessed, or cared for by (i) such person and the respondent or (ii) a child residing in such person's household and the respondent.*

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

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59 loco parentis and any other family or household member of the child to whom notice was given shall
60 have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence
61 on their own behalf.

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

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

79 G. (Effective until July 1, 2014) If at the preliminary protective order hearing held pursuant to this
80 section the court makes a finding of abuse or neglect and a preliminary protective order is issued, a
81 dispositional hearing shall be held pursuant to § 16.1-278.2. The court shall forthwith, but in all cases no
82 later than the end of the business day on which the order was issued, enter and transfer electronically to
83 the Virginia Criminal Information Network the respondent's identifying information and the name, date
84 of birth, sex, and race of each protected person provided to the court. A copy of the preliminary
85 protective order containing any such identifying information shall be forwarded forthwith to the primary
86 law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order
87 by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as
88 necessary to the identifying information and other appropriate information required by the Department of
89 State Police into the Virginia Criminal Information Network established and maintained by the
90 Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be
91 served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return
92 made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall
93 forthwith forward an attested copy of the order containing the respondent's identifying information and
94 the name, date of birth, sex, and race of each protected person provided to the court to the primary
95 law-enforcement agency providing service and entry of protective orders and upon receipt of the order,
96 the primary law-enforcement agency shall enter the name of the person subject to the order and other
97 appropriate information required by the Department of State Police into the Virginia Criminal
98 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et
99 seq.) of Title 52 and the order shall be served forthwith upon the allegedly abusing person in person as
100 provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service
101 and other appropriate information required by the Department of State Police into the Virginia Criminal
102 Information Network and make due return to the court. The preliminary order shall specify a date for
103 the dispositional hearing. The dispositional hearing shall be scheduled at the time of the hearing
104 pursuant to this section, and shall be held within 75 days of this hearing. If an adjudicatory hearing is
105 requested pursuant to subsection F, the dispositional hearing shall nonetheless be scheduled at the
106 hearing pursuant to this section. All parties present at the hearing shall be given notice of the date and
107 time scheduled for the dispositional hearing; parties who are not present shall be summoned to appear as
108 provided in § 16.1-263.

109 G. (Effective July 1, 2014) If at the preliminary protective order hearing held pursuant to this section
110 the court makes a finding of abuse or neglect and a preliminary protective order is issued, a
111 dispositional hearing shall be held pursuant to § 16.1-278.2. The court shall forthwith, but in all cases no
112 later than the end of the business day on which the order was issued, enter and transfer electronically to
113 the Virginia Criminal Information Network the respondent's identifying information and the name, date
114 of birth, sex, and race of each protected person provided to the court. A copy of the preliminary
115 protective order containing any such identifying information shall be forwarded forthwith to the primary
116 law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order
117 by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as
118 necessary to the identifying information and other appropriate information required by the Department of
119 State Police into the Virginia Criminal Information Network established and maintained by the
120 Department of State Police 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 upon 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 dispositional hearing. The dispositional hearing shall be scheduled at the time of the hearing pursuant to this section, and shall be held within 60 days of this hearing. If an adjudicatory hearing is requested pursuant to subsection F, the dispositional hearing shall nonetheless be scheduled at the hearing pursuant to this section. All parties present at the hearing shall be given notice of the date and time scheduled for the dispositional hearing; parties who are not present shall be summoned to appear as provided in § 16.1-263.

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

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

K. 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 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 possession of any companion animal jointly owned, possessed, or cared for by (i) the petitioner and the respondent or (ii) a child residing in the petitioner's household and the respondent.*
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. 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 the allegedly abused person or family or household members of the allegedly abused person 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 possession of any companion animal jointly owned, possessed, or cared for by (i) the petitioner and the respondent or (ii) a child residing in the petitioner's household and the respondent.*

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

305 written information regarding protective orders that shall include the telephone numbers of domestic
306 violence agencies and legal referral sources on a form prepared by the Supreme Court. If these forms
307 are provided to a law-enforcement officer, the officer may provide these forms to the protected person
308 when giving the emergency protective order to the protected person. The respondent may at any time
309 file a motion with the court requesting a hearing to dissolve or modify the order issued hereunder. The
310 hearing on the motion shall be given precedence on the docket of the court.

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

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

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

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

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

366 I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's

office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

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

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

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

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

1. Prohibiting acts of family abuse 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 residence occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property;

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

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

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

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

8. *Granting the petitioner the possession of any companion animal jointly owned, possessed, or cared for by (i) the petitioner and the respondent or (ii) a child residing in the petitioner's household and the respondent; and*

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

A1. If a protective order is issued pursuant to subsection A, 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, including a circuit court if the circuit court issued the order, 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. Upon service, the agency making service shall enter the date and time of service and other appropriate information

428 required by the Department of State Police into the Virginia Criminal Information Network and make
429 due return to the court. If the order is later dissolved or modified, a copy of the dissolution or
430 modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency
431 responsible for service and entry of protective orders, and upon receipt of the order by the primary
432 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the
433 identifying information and other appropriate information required by the Department of State Police
434 into the Virginia Criminal Information Network as described above and the order shall be served
435 forthwith and due return made to the court.

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

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

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

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

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

464 H. As used in this section:

465 "Copy" includes a facsimile copy; and

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

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

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

473 **§ 19.2-152.8. Emergency protective orders authorized.**

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

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

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

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

489 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 possession of any companion animal jointly owned, possessed, or cared for by (i) the petitioner and the respondent or (ii) a child residing in the petitioner's household and 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 § 15.2-1731. Part-time employees are

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

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

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

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

560 K. No emergency protective order shall be issued pursuant to this section against a law-enforcement
561 officer for any action arising out of the lawful performance of his duties.

562 **§ 19.2-152.9. Preliminary protective orders.**

563 A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable
564 period of time, subjected to an act of violence, force, or threat, or (ii) a petition or warrant has been
565 issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of
566 an act of violence, force, or threat, the court may issue a preliminary protective order against the alleged
567 perpetrator in order to protect the health and safety of the petitioner or any family or household member
568 of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the
569 petition is supported by an affidavit or sworn testimony before the judge or intake officer. Immediate
570 and present danger of any act of violence, force, or threat or evidence sufficient to establish probable
571 cause that an act of violence, force, or threat has recently occurred shall constitute good cause.

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

574 1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to
575 person or property;

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

578 3. Such other conditions as the court deems necessary to prevent (i) acts of violence, force, or threat,
579 (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other
580 contact of any kind by the respondent; *and*

581 4. *Granting the petitioner the possession of any companion animal jointly owned, possessed, or cared*
582 *for by (i) the petitioner and the respondent or (ii) a child residing in the petitioner's household and the*
583 *respondent.*

584 B. The court shall forthwith, but in all cases no later than the end of the business day on which the
585 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the
586 respondent's identifying information and the name, date of birth, sex, and race of each protected person
587 provided to the court. A copy of a preliminary protective order containing any such identifying
588 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service
589 and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the
590 agency shall forthwith verify and enter any modification as necessary to the identifying information and
591 other appropriate information required by the Department of State Police into the Virginia Criminal
592 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et
593 seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided
594 in § 16.1-264, and due return made to the court. However, if the order is issued by the circuit court, the
595 clerk of the circuit court shall forthwith forward an attested copy of the order containing the
596 respondent's identifying information and the name, date of birth, sex, and race of each protected person
597 provided to the court to the primary law-enforcement agency providing service and entry of protective
598 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the
599 person subject to the order and other appropriate information required by the Department of State Police
600 into the Virginia Criminal Information Network established and maintained by the Department pursuant
601 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged
602 perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the
603 date and time of service and other appropriate information required by the Department of State Police
604 into the Virginia Criminal Information Network and make due return to the court. The preliminary order
605 shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the
606 preliminary order. If the respondent fails to appear at this hearing because the respondent was not
607 personally served, the court may extend the protective order for a period not to exceed six months. The
608 extended protective order shall be served as soon as possible on the respondent. However, upon motion
609 of the respondent and for good cause shown, the court may continue the hearing. The preliminary order
610 shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the
611 petitioner with a copy of the order and information regarding the date and time of service. The order
612 shall further specify that either party may at any time file a motion with the court requesting a hearing

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

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

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

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

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

F. 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.

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

§ 19.2-152.10. Protective order.

A. The court may issue a protective order pursuant to this chapter to protect the health and safety of the petitioner and family or household members of a petitioner upon (i) the issuance of a petition or warrant for, or a conviction of, any criminal offense resulting from the commission of an act of violence, force, or threat or (ii) a hearing held pursuant to subsection D of § 19.2-152.9. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of 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 possession of any companion animal jointly owned, possessed, or cared for by (i) the petitioner and the respondent or (ii) a child residing in the petitioner's household and the respondent.*

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, including a circuit court if the circuit court issued the order, 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. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

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

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

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

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

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

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

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

J. As used in this section:

"Copy" includes a facsimile copy; and

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