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## HOUSE BILL NO. 1074

Offered January 10, 2018

Prefiled January 10, 2018

A *BILL to amend and reenact §§ 16.1-253.1, 16.1-253.2, 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; reciprocal no contact provisions.*

Patron—Heretick

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-253.1, 16.1-253.2, 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:**

**§ 16.1-253.1. 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. *A preliminary protective order that prohibits contacts by the respondent may also include a provision prohibiting such contacts by the petitioner with the respondent as the court deems necessary for the health and 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 as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

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

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59 agency shall forthwith verify and enter any modification as necessary to the identifying information and  
60 other appropriate information required by the Department of State Police into the Virginia Criminal  
61 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et  
62 seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as  
63 provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit  
64 court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the  
65 respondent's identifying information and the name, date of birth, sex, and race of each protected person  
66 provided to the court to the primary law-enforcement agency providing service and entry of protective  
67 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the  
68 person subject to the order and other appropriate information required by the Department of State Police  
69 into the Virginia Criminal Information Network established and maintained by the Department pursuant  
70 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly  
71 abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter  
72 the date and time of service and other appropriate information required by the Department of State  
73 Police into the Virginia Criminal Information Network and make due return to the court. The  
74 preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of  
75 the issuance of the preliminary order. If the respondent fails to appear at this hearing because the  
76 respondent was not personally served, or if personally served was incarcerated and not transported to the  
77 hearing, the court may extend the protective order for a period not to exceed six months. The extended  
78 protective order shall be served forthwith on the respondent. However, upon motion of the respondent  
79 and for good cause shown, the court may continue the hearing. The preliminary order shall remain in  
80 effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with  
81 a copy of the order and information regarding the date and time of service. The order shall further  
82 specify that either party may at any time file a motion with the court requesting a hearing to dissolve or  
83 modify the order. The hearing on the motion shall be given precedence on the docket of the court.

84 Upon receipt of the return of service or other proof of service pursuant to subsection C of  
85 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the  
86 primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as  
87 necessary into the Virginia Criminal Information Network as described above. If the order is later  
88 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded  
89 forthwith to the primary law-enforcement agency responsible for service and entry of protective orders,  
90 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify  
91 and enter any modification as necessary to the identifying information and other appropriate information  
92 required by the Department of State Police into the Virginia Criminal Information Network as described  
93 above and the order shall be served forthwith and due return made to the court.

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

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

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

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

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

106 **§ 16.1-253.2. Violation of provisions of protective orders; penalty.**

107 A. In addition to any other penalty provided by law, any person who violates any provision of a  
108 protective order issued pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, or 16.1-279.1 or  
109 subsection B of § 20-103, when such violation involves a provision of the protective order that prohibits  
110 such person from (i) going or remaining upon land, buildings, or premises; (ii) further acts of family  
111 abuse; or (iii) committing a criminal offense, or which prohibits contacts by the respondent with the  
112 allegedly abused person or family or household members of the allegedly abused person *or by the*  
113 *allegedly abused person with the respondent* as the court deems appropriate, is guilty of a Class 1  
114 misdemeanor. The punishment for any person convicted of a second offense of violating a protective  
115 order, when the offense is committed within five years of the prior conviction and when either the  
116 instant or prior offense was based on an act or threat of violence, shall include a mandatory minimum  
117 term of confinement of 60 days. Any person convicted of a third or subsequent offense of violating a  
118 protective order, when the offense is committed within 20 years of the first conviction and when either  
119 the instant or one of the prior offenses was based on an act or threat of violence is guilty of a Class 6  
120 felony and the punishment shall include a mandatory minimum term of confinement of six months. The

mandatory minimum terms of confinement prescribed for violations of this section shall be served consecutively with any other sentence.

B. In addition to any other penalty provided by law, any person who, while knowingly armed with a firearm or other deadly weapon, violates any provision of a protective order with which he has been served issued pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, or 16.1-279.1 or subsection B of § 20-103 is guilty of a Class 6 felony.

C. If the respondent commits an assault and battery upon any party protected by the protective order resulting in bodily injury to the party or stalks any party protected by the protective order in violation of § 18.2-60.3, he is guilty of a Class 6 felony. Any person who violates such a protective order by furtively entering the home of any protected party while the party is present, or by entering and remaining in the home of the protected party until the party arrives, is guilty of a Class 6 felony, in addition to any other penalty provided by law.

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

**§ 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, including prohibiting the respondent from being in the physical presence of 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. *An emergency protective order that prohibits contacts by the respondent may also include a provision prohibiting such contacts by the allegedly abused person with the respondent, including prohibiting the allegedly abused person from being in the physical presence of the respondent, as the judge or magistrate deems necessary to protect the safety of such persons;*

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 as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

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

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

192 E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day  
193 on which the order was issued, enter and transfer electronically to the Virginia Criminal Information  
194 Network the respondent's identifying information and the name, date of birth, sex, and race of each  
195 protected person provided to the court or magistrate. A copy of an emergency protective order issued  
196 pursuant to this section containing any such identifying information shall be forwarded forthwith to the  
197 primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of  
198 the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any  
199 modification as necessary to the identifying information and other appropriate information required by  
200 the Department of State Police into the Virginia Criminal Information Network established and  
201 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be  
202 served forthwith upon the respondent and due return made to the court. However, if the order is issued  
203 by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order  
204 containing the respondent's identifying information and the name, date of birth, sex, and race of each  
205 protected person provided to the court to the primary law-enforcement agency providing service and  
206 entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter  
207 the name of the person subject to the order and other appropriate information required by the  
208 Department of State Police into the Virginia Criminal Network established and maintained by the  
209 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith  
210 on the respondent. Upon service, the agency making service shall enter the date and time of service and  
211 other appropriate information required by the Department of State Police into the Virginia Criminal  
212 Information Network and make due return to the court. One copy of the order shall be given to the  
213 allegedly abused person when it is issued, and one copy shall be filed with the written report required  
214 by subsection D of § 19.2-81.3. The judge or magistrate who issues an oral order pursuant to an  
215 electronic request by a law-enforcement officer shall verify the written order to determine whether the  
216 officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy  
217 shall be filed with the clerk of the juvenile and domestic relations district court within five business  
218 days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or  
219 modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency  
220 responsible for service and entry of protective orders, and upon receipt of the order by the primary  
221 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the  
222 identifying information and other appropriate information required by the Department of State Police  
223 into the Virginia Criminal Information Network as described above and the order shall be served  
224 forthwith and due return made to the court. Upon request, the clerk shall provide the allegedly abused  
225 person with information regarding the date and time of service.

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

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

230 H. As used in this section, "law-enforcement officer" means (i) any full-time or part-time employee  
231 of a police department or sheriff's office which is part of or administered by the Commonwealth or any  
232 political subdivision thereof and who is responsible for the prevention and detection of crime and the  
233 enforcement of the penal, traffic, or highway laws of the Commonwealth; (ii) any member of an  
234 auxiliary police force established pursuant to § 15.2-1731; and (iii) any special conservator of the peace  
235 who meets the certification requirements for a law-enforcement officer as set forth in § 15.2-1706.  
236 Part-time employees are compensated officers who are not full-time employees as defined by the  
237 employing police department or sheriff's office.

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

243 J. As used in this section:

"Copy" includes a facsimile copy.

"Physical presence" includes (i) intentionally maintaining direct visual contact with the petitioner or (ii) unreasonably being within 100 feet from the petitioner's residence or place of employment.

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

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

**§ 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. *A protective order that prohibits contacts by the respondent may also include a provision prohibiting such contacts by the petitioner with the respondent as the court deems necessary to protect 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 and enjoining the respondent from terminating any insurance, registration, or taxes on the motor vehicle and directing the respondent to maintain the insurance, registration, and taxes, as appropriate; 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;
8. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500; 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 family or household member of the respondent 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 required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

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

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

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

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

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

H. As used in this section:

"Copy" includes a facsimile copy; and

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

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

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

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

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

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

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

2. Prohibiting such contacts by the respondent with the alleged victim or the alleged victim's family or household members, including prohibiting the respondent from being in the physical presence of the alleged victim or the alleged victim's family or household members, as the judge or magistrate deems necessary to protect the safety of such persons. *An emergency protective order that prohibits contacts by the respondent may also include a provision prohibiting such contacts by the alleged victim with the respondent, including prohibiting the alleged victim from being in the physical presence of the respondent, as the judge or magistrate deems necessary to protect the safety of such persons;*

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 as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

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.

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

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

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

442 I. As used in this section:

443 "Copy" includes a facsimile copy.

444 "Physical presence" includes (i) intentionally maintaining direct visual contact with the petitioner or  
445 (ii) unreasonably being within 100 feet from the petitioner's residence or place of employment.

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

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

449 **§ 19.2-152.9. Preliminary protective orders.**

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

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

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

463 2. Prohibiting such other contacts by the respondent with the petitioner or the petitioner's family or  
464 household members as the court deems necessary for the health and safety of such persons. A  
465 *preliminary protective order that prohibits contacts by the respondent may also include a provision*  
466 *prohibiting such contacts by the petitioner with the respondent as the court deems necessary to protect*  
467 *the health and safety of such persons;*

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

471 4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such  
472 petitioner meets the definition of owner in § 3.2-6500.

473 B. The court shall forthwith, but in all cases no later than the end of the business day on which the  
474 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the  
475 respondent's identifying information and the name, date of birth, sex, and race of each protected person  
476 provided to the court. A copy of a preliminary protective order containing any such identifying  
477 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service  
478 and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the  
479 agency shall forthwith verify and enter any modification as necessary to the identifying information and  
480 other appropriate information required by the Department of State Police into the Virginia Criminal  
481 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et  
482 seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided  
483 in § 16.1-264, and due return made to the court. However, if the order is issued by the circuit court, the  
484 clerk of the circuit court shall forthwith forward an attested copy of the order containing the  
485 respondent's identifying information and the name, date of birth, sex, and race of each protected person  
486 provided to the court to the primary law-enforcement agency providing service and entry of protective  
487 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the  
488 person subject to the order and other appropriate information required by the Department of State Police  
489 into the Virginia Criminal Information Network established and maintained by the Department pursuant



to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order. If the respondent fails to appear at this hearing because the respondent was not personally served, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served as soon as possible on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

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

C. The preliminary order is effective upon personal service on the alleged perpetrator. Except as otherwise provided, 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. *A protective order that prohibits contacts by the respondent may also include a provision prohibiting such contacts by the petitioner with the respondent as the court deems necessary to protect the health or safety of such persons;*

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 as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

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

551 for a period not longer than two years to protect the health and safety of the petitioner or persons who  
552 are family or household members of the petitioner at the time the request for an extension is made. The  
553 extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on  
554 the last day of the two-year period if no date is specified. Nothing herein shall limit the number of  
555 extensions that may be requested or issued.

556 C. A copy of the protective order shall be served on the respondent and provided to the petitioner as  
557 soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith,  
558 but in all cases no later than the end of the business day on which the order was issued, enter and  
559 transfer electronically to the Virginia Criminal Information Network the respondent's identifying  
560 information and the name, date of birth, sex, and race of each protected person provided to the court  
561 and shall forthwith forward the attested copy of the protective order and containing any such identifying  
562 information to the primary law-enforcement agency responsible for service and entry of protective  
563 orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith  
564 verify and enter any modification as necessary to the identifying information and other appropriate  
565 information required by the Department of State Police into the Virginia Criminal Information Network  
566 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and  
567 the order shall be served forthwith upon the respondent and due return made to the court. Upon service,  
568 the agency making service shall enter the date and time of service and other appropriate information  
569 required into the Virginia Criminal Information Network and make due return to the court. If the order  
570 is later dissolved or modified, a copy of the dissolution or modification order shall also be attested,  
571 forwarded forthwith to the primary law-enforcement agency responsible for service and entry of  
572 protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall  
573 forthwith verify and enter any modification as necessary to the identifying information and other  
574 appropriate information required by the Department of State Police into the Virginia Criminal  
575 Information Network as described above and the order shall be served forthwith and due return made to  
576 the court.

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

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

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

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

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

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

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

611 J. As used in this section:

612 "Copy" includes a facsimile copy; and

613 "Protective order" includes an initial, modified or extended protective order.  
614 2. That the provisions of this act may result in a net increase in periods of imprisonment or  
615 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot  
616 be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter  
617 836 of the Acts of Assembly of 2017 requires the Virginia Criminal Sentencing Commission to  
618 assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the  
619 necessary appropriation cannot be determined for periods of commitment to the custody of the  
620 Department of Juvenile Justice.