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SENATE BILL NO. 426

Offered January 10, 2018

Prefiled January 9, 2018

4 5 A BILL to amend and reenact §§ 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 victims of domestic violence; list of local resources. 6

Patrons-Wexton, Chase, Dunnavant, Ebbin, McClellan and Vogel; Delegates: Adams, D.M., Ayala, Boysko, Convirs-Fowler, Delaney, Hope, Krizek, Levine, Lindsey, Mullin, Plum, Rasoul, Rodman, Sickles, Simon, Turpin, Tyler and Watts

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Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia: 10

1. That §§ 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 11

Virginia are amended and reenacted as follows: 12

13 § 16.1-253.1. Preliminary protective orders in cases of family abuse; confidentiality.

14 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 15 allegedly abusing person in order to protect the health and safety of the petitioner or any family or 16 household member of the petitioner. The order may be issued in an exparte proceeding upon good 17 cause shown when the petition is supported by an affidavit or sworn testimony before the judge or 18 intake officer. Immediate and present danger of family abuse or evidence sufficient to establish probable 19 20 cause that family abuse has recently occurred shall constitute good cause. Evidence that the petitioner 21 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 22 23 incarcerated and is to be released from incarceration within 30 days following the petition or has been 24 released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly 25 abusing person was convicted and incarcerated involved family abuse against the petitioner, and (iii) the 26 allegedly abusing person has made threatening contact with the petitioner while he was incarcerated, 27 exhibiting a renewed threat to the petitioner of family abuse.

28 A preliminary protective order may include any one or more of the following conditions to be 29 imposed on the allegedly abusing person: 30

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

31 2. Prohibiting such contacts by the respondent with the petitioner or family or household members of 32 the petitioner as the court deems necessary for the health or safety of such persons. 33

3. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the 34 allegedly abusing person; however, no such grant of possession shall affect title to any real or personal 35 property.

36 4. Enjoining the respondent from terminating any necessary utility service to a premises that the 37 petitioner has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the 38 respondent to restore utility services to such premises.

39 5. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner 40 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. 41

6. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner 42 43 and any other family or household member and, where appropriate, requiring the respondent to pay 44 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 45 46 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 47 **48** the petitioner.

49 B. The court shall forthwith, but in all cases no later than the end of the business day on which the 50 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the 51 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 52 53 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 54 55 agency shall forthwith verify and enter any modification as necessary to the identifying information and 56 other appropriate information required by the Department of State Police into the Virginia Criminal

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57 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et 58 seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as 59 provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit 60 court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the 61 respondent's identifying information and the name, date of birth, sex, and race of each protected person 62 provided to the court to the primary law-enforcement agency providing service and entry of protective 63 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 64 into the Virginia Criminal Information Network established and maintained by the Department pursuant 65 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly 66 abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter 67 the date and time of service and other appropriate information required by the Department of State 68 69 Police into the Virginia Criminal Information Network and make due return to the court. The 70 preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of 71 the issuance of the preliminary order. If the respondent fails to appear at this hearing because the 72 respondent was not personally served, or if personally served was incarcerated and not transported to the 73 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 74 75 and for good cause shown, the court may continue the hearing. The preliminary order shall remain in 76 effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with 77 a copy of the order and information regarding the date and time of service. The order shall further 78 specify that either party may at any time file a motion with the court requesting a hearing to dissolve or 79 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 80 81 § 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 82 83 necessary into the Virginia Criminal Information Network as described above. If the order is later 84 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded 85 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 86 87 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 88 89 above and the order shall be served forthwith and due return made to the court.

90 C. The preliminary order is effective upon personal service on the allegedly abusing person. Except 91 as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

92 D. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if 93 the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the 94 evidence.

95 E. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's 96 office, nor any employee of them, may disclose, except among themselves, the residential address, 97 telephone number, or place of employment of the person protected by the order or that of the family of 98 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme 99 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause. 100

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.

H. Upon issuance of a preliminary protective order, the court shall provide the petitioner with a list 102 of local resources, including contact information for any sexual and domestic violence victim service 103 provider, crime victim and witness assistance program, legal aid or legal services office, crisis 104 105 intervention hotline, individual support services provider, support groups, or emergency companion 106 services, emergency housing services, or transportation services provider. 107

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

108 A. Any judge of a circuit court, general district court, juvenile and domestic relations district court or 109 magistrate may issue a written or oral ex parte emergency protective order pursuant to this section in 110 order to protect the health or safety of any person.

111 B. When a law-enforcement officer or an allegedly abused person asserts under oath to a judge or 112 magistrate, and on that assertion or other evidence the judge or magistrate (i) finds that a warrant for a 113 violation of § 18.2-57.2 has been issued or issues a warrant for violation of § 18.2-57.2 and finds that 114 there is probable danger of further acts of family abuse against a family or household member by the 115 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 116 117 member by the respondent, the judge or magistrate shall issue an ex parte emergency protective order, 118 except if the respondent is a minor, an emergency protective order shall not be required, imposing one

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119 or more of the following conditions on the respondent:

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

121 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 or family or household members of the allegedly abused person, so the judge or magistrate deems necessary to protect the safety of such persons;

125 3. Granting the family or household member possession of the premises occupied by the parties to
126 the exclusion of the respondent; however, no such grant of possession shall affect title to any real or
127 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.

134 C. An emergency protective order issued pursuant to this section shall expire at 11:59 p.m. on the 135 third day following issuance. If the expiration occurs on a day that the court is not in session, the 136 emergency protective order shall be extended until 11:59 p.m. on the next day that the juvenile and 137 domestic relations district court is in session. When issuing an emergency protective order under this 138 section, the judge or magistrate shall provide the protected person or the law-enforcement officer seeking 139 the emergency protective order with the form for use in filing petitions pursuant to § 16.1-253.1 and 140 written information regarding protective orders that shall include the telephone numbers of domestic 141 violence agencies and legal referral sources on a form prepared by the Supreme Court. If these forms 142 are provided to a law-enforcement officer, the officer may provide these forms to the protected person 143 when giving the emergency protective order to the protected person. The respondent may at any time 144 file a motion with the court requesting a hearing to dissolve or modify the order issued hereunder. The 145 hearing on the motion shall be given precedence on the docket of the court.

146 D. A law-enforcement officer may request an emergency protective order pursuant to this section 147 and, if the person in need of protection is physically or mentally incapable of filing a petition pursuant 148 to § 16.1-253.1 or 16.1-279.1, may request the extension of an emergency protective order for an 149 additional period of time not to exceed three days after expiration of the original order. The request for 150 an emergency protective order or extension of an order may be made orally, in person or by electronic 151 means, and the judge of a circuit court, general district court, or juvenile and domestic relations district 152 court or a magistrate may issue an oral emergency protective order. An oral emergency protective order 153 issued pursuant to this section shall be reduced to writing, by the law-enforcement officer requesting the 154 order or the magistrate on a preprinted form approved and provided by the Supreme Court of Virginia. 155 The completed form shall include a statement of the grounds for the order asserted by the officer or the 156 allegedly abused person.

157 E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day 158 on which the order was issued, enter and transfer electronically to the Virginia Criminal Information 159 Network the respondent's identifying information and the name, date of birth, sex, and race of each 160 protected person provided to the court or magistrate. A copy of an emergency protective order issued 161 pursuant to this section containing any such identifying information shall be forwarded forthwith to the 162 primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of 163 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 164 the Department of State Police into the Virginia Criminal Information Network established and 165 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be 166 167 served forthwith upon the respondent and due return made to the court. However, if the order is issued 168 by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order 169 containing the respondent's identifying information and the name, date of birth, sex, and race of each 170 protected person provided to the court to the primary law-enforcement agency providing service and 171 entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter 172 the name of the person subject to the order and other appropriate information required by the 173 Department of State Police into the Virginia Criminal Network established and maintained by the 174 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith 175 on the respondent. Upon service, the agency making service shall enter the date and time of service and 176 other appropriate information required by the Department of State Police into the Virginia Criminal 177 Information Network and make due return to the court. One copy of the order shall be given to the 178 allegedly abused person when it is issued, and one copy shall be filed with the written report required by subsection D of § 19.2-81.3. The judge or magistrate who issues an oral order pursuant to an 179

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180 electronic request by a law-enforcement officer shall verify the written order to determine whether the 181 officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy 182 shall be filed with the clerk of the juvenile and domestic relations district court within five business 183 days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or 184 modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency 185 responsible for service and entry of protective orders, and upon receipt of the order by the primary 186 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 187 188 into the Virginia Criminal Information Network as described above and the order shall be served 189 forthwith and due return made to the court. Upon request, the clerk shall provide the allegedly abused 190 person with information regarding the date and time of service.

F. The availability of an emergency protective order shall not be affected by the fact that the family 191 192 or household member left the premises to avoid the danger of family abuse by the respondent.

193 G. The issuance of an emergency protective order shall not be considered evidence of any 194 wrongdoing by the respondent.

195 H. As used in this section, "law-enforcement officer" means (i) any full-time or part-time employee 196 of a police department or sheriff's office which is part of or administered by the Commonwealth or any 197 political subdivision thereof and who is responsible for the prevention and detection of crime and the 198 enforcement of the penal, traffic, or highway laws of the Commonwealth; (ii) any member of an 199 auxiliary police force established pursuant to § 15.2-1731; and (iii) any special conservator of the peace 200 who meets the certification requirements for a law-enforcement officer as set forth in § 15.2-1706. 201 Part-time employees are compensated officers who are not full-time employees as defined by the 202 employing police department or sheriff's office.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's 203 204 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 205 206 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. 207 208

J. As used in this section:

"Copy" includes a facsimile copy.

210 "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. 211 212

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

213 L. Except as provided in § 16.1-253.2, a violation of a protective order issued under this section shall 214 constitute contempt of court.

215 M. Upon issuance of an emergency protective order, the court or magistrate shall provide the 216 petitioner with a list of local resources, including contact information for any sexual and domestic 217 violence victim service provider, crime victim and witness assistance program, legal aid or legal 218 services office, crisis intervention hotline, individual support services provider, support groups, or 219 emergency companion services, emergency housing services, or transportation services provider. 220

§ 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 221 222 respondent against whom a preliminary protective order has been issued pursuant to § 16.1-253.1, the 223 court may issue a protective order to protect the health and safety of the petitioner and family or 224 household members of the petitioner. A protective order issued under this section may include any one 225 or more of the following conditions to be imposed on the respondent: 226

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;

229 3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the 230 respondent; however, no such grant of possession shall affect title to any real or personal property;

231 4. Enjoining the respondent from terminating any necessary utility service to the residence to which 232 the petitioner was granted possession pursuant to subdivision 3 or, where appropriate, ordering the 233 respondent to restore utility services to that residence;

234 5. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner 235 alone or jointly owned by the parties to the exclusion of the respondent and enjoining the respondent 236 from terminating any insurance, registration, or taxes on the motor vehicle and directing the respondent 237 to maintain the insurance, registration, and taxes, as appropriate; however, no such grant of possession 238 or use shall affect title to the vehicle;

239 6. Requiring that the respondent provide suitable alternative housing for the petitioner and, if 240 appropriate, any other family or household member and where appropriate, requiring the respondent to 241 pay deposits to connect or restore necessary utility services in the alternative housing provided;

242 7. Ordering the respondent to participate in treatment, counseling or other programs as the court243 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

246 9. Any other relief necessary for the protection of the petitioner and family or household members of247 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.

252 B. The protective order may be issued for a specified period of time up to a maximum of two years. 253 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 254 of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner 255 may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective 256 order shall be given precedence on the docket of the court. If the petitioner was a family or household 257 member of the respondent at the time the initial protective order was issued, the court may extend the 258 protective order for a period not longer than two years to protect the health and safety of the petitioner 259 or persons who are family or household members of the petitioner at the time the request for an 260 extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day 261 specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein 262 shall limit the number of extensions that may be requested or issued.

263 C. A copy of the protective order shall be served on the respondent and provided to the petitioner as 264 soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, 265 but in all cases no later than the end of the business day on which the order was issued, enter and 266 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 267 268 and shall forthwith forward the attested copy of the protective order containing any such identifying 269 information to the primary law-enforcement agency responsible for service and entry of protective 270 orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith 271 verify and enter any modification as necessary to the identifying information and other appropriate 272 information required by the Department of State Police into the Virginia Criminal Information Network 273 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and 274 the order shall be served forthwith upon the respondent and due return made to the court. Upon service, 275 the agency making service shall enter the date and time of service and other appropriate information 276 required by the Department of State Police into the Virginia Criminal Information Network and make 277 due return to the court. If the order is later dissolved or modified, a copy of the dissolution or 278 modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency 279 responsible for service and entry of protective orders, and upon receipt of the order by the primary 280 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the 281 identifying information and other appropriate information required by the Department of State Police 282 into the Virginia Criminal Information Network as described above and the order shall be served 283 forthwith and due return made to the court.

284 D. Except as otherwise provided in § 16.1-253.2, a violation of a protective order issued under this285 section shall constitute contempt of court.

286 E. The court may assess costs and attorneys' fees against either party regardless of whether an order287 of protection has been issued as a result of a full hearing.

288 F. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate 289 jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, 290 the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing 291 violent or threatening acts or harassment against or contact or communication with or physical proximity 292 to another person, including any of the conditions specified in subsection A, shall be accorded full faith 293 and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided 294 reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person 295 against whom the order is sought to be enforced sufficient to protect such person's due process rights 296 and consistent with federal law. A person entitled to protection under such a foreign order may file the 297 order in any juvenile and domestic relations district court by filing with the court an attested or 298 exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of 299 the order to the primary law-enforcement agency responsible for service and entry of protective orders 300 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 301 302 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where

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303 practical, the court may transfer information electronically to the Virginia Criminal Information Network. 304 Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy 305 available of any foreign order filed with that court. A law-enforcement officer may, in the performance 306 of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been 307 provided to him by any source and may also rely upon the statement of any person protected by the 308 order that the order remains in effect.

309 G. Either party may at any time file a written motion with the court requesting a hearing to dissolve 310 or modify the order. Proceedings to dissolve or modify a protective order shall be given precedence on the docket of the court. 311

312 H. As used in this section: 313

"Copy" includes a facsimile copy; and

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

315 I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's 316 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 317 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme 318 319 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause. 320

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

321 K. Upon issuance of a protective order, the court shall provide the petitioner with a list of local 322 resources, including contact information for any sexual and domestic violence victim service provider, 323 crime victim and witness assistance program, legal aid or legal services office, crisis intervention 324 hotline, individual support services provider, support groups, or emergency companion services, 325 emergency housing services, or transportation services provider.

§ 19.2-152.8. Emergency protective orders authorized.

327 A. Any judge of a circuit court, general district court, juvenile and domestic relations district court or 328 magistrate may issue a written or oral ex parte emergency protective order pursuant to this section in 329 order to protect the health or safety of any person.

330 B. When a law-enforcement officer or an alleged victim asserts under oath to a judge or magistrate 331 that such person is being or has been subjected to an act of violence, force, or threat and on that 332 assertion or other evidence the judge or magistrate finds that (i) there is probable danger of a further 333 such act being committed by the respondent against the alleged victim or (ii) a petition or warrant for 334 the arrest of the respondent has been issued for any criminal offense resulting from the commission of 335 an act of violence, force, or threat, the judge or magistrate shall issue an exparte emergency protective 336 order imposing one or more of the following conditions on the respondent:

337 1. Prohibiting acts of violence, force, or threat or criminal offenses resulting in injury to person or 338 property;

339 2. Prohibiting such contacts by the respondent with the alleged victim or the alleged victim's family 340 or household members, including prohibiting the respondent from being in the physical presence of the 341 alleged victim or the alleged victim's family or household members, as the judge or magistrate deems 342 necessary to protect the safety of such persons;

343 3. Such other conditions as the judge or magistrate deems necessary to prevent (i) acts of violence, 344 force, or threat, (ii) criminal offenses resulting in injury to person or property, or (iii) communication or 345 other contact of any kind by the respondent; and

346 4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such 347 petitioner meets the definition of owner in § 3.2-6500.

348 C. An emergency protective order issued pursuant to this section shall expire at 11:59 p.m. on the 349 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 350 351 issued the order is in session. The respondent may at any time file a motion with the court requesting a 352 hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the 353 docket of the court.

354 D. A law-enforcement officer may request an emergency protective order pursuant to this section 355 and, if the person in need of protection is physically or mentally incapable of filing a petition pursuant 356 to § 19.2-152.9 or 19.2-152.10, may request the extension of an emergency protective order for an 357 additional period of time not to exceed three days after expiration of the original order. The request for 358 an emergency protective order or extension of an order may be made orally, in person or by electronic 359 means, and the judge of a circuit court, general district court, or juvenile and domestic relations district 360 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 361 order or the magistrate, on a preprinted form approved and provided by the Supreme Court of Virginia. 362 The completed form shall include a statement of the grounds for the order asserted by the officer or the 363 364 alleged victim of such crime.

365 E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day 366 on which the order was issued, enter and transfer electronically to the Virginia Criminal Information 367 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 368 369 pursuant to this section containing any such identifying information shall be forwarded forthwith to the 370 primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of 371 the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any 372 modification as necessary to the identifying information and other appropriate information required by 373 the Department of State Police into the Virginia Criminal Information Network established and 374 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be 375 served forthwith upon the respondent and due return made to the court. However, if the order is issued 376 by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order 377 containing the respondent's identifying information and the name, date of birth, sex, and race of each 378 protected person provided to the court to the primary law-enforcement agency providing service and 379 entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter 380 the name of the person subject to the order and other appropriate information required by the 381 Department of State Police into the Virginia Criminal Information Network established and maintained 382 by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served 383 forthwith upon the respondent. Upon service, the agency making service shall enter the date and time of 384 service and other appropriate information required into the Virginia Criminal Information Network and 385 make due return to the court. One copy of the order shall be given to the alleged victim of such crime. 386 The judge or magistrate who issues an oral order pursuant to an electronic request by a law-enforcement 387 officer shall verify the written order to determine whether the officer who reduced it to writing 388 accurately transcribed the contents of the oral order. The original copy shall be filed with the clerk of 389 the appropriate district court within five business days of the issuance of the order. If the order is later 390 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, 391 392 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify 393 and enter any modification as necessary to the identifying information and other appropriate information 394 required by the Department of State Police into the Virginia Criminal Information Network as described 395 above and the order shall be served forthwith and due return made to the court. Upon request, the clerk 396 shall provide the alleged victim of such crime with information regarding the date and time of service.

397 F. The issuance of an emergency protective order shall not be considered evidence of any 398 wrongdoing by the respondent.

399 G. As used in this section, a "law-enforcement officer" means any (i) person who is a full-time or 400 part-time employee of a police department or sheriff's office which is part of or administered by the 401 Commonwealth or any political subdivision thereof and who is responsible for the prevention and 402 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth and 403 (ii) member of an auxiliary police force established pursuant to § 15.2-1731. Part-time employees are 404 compensated officers who are not full-time employees as defined by the employing police department or 405 sheriff's office.

406 H. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's 407 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 408 409 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. 410

- 411 I. As used in this section:
- 412 "Copy" includes a facsimile copy.
- 413 "Physical presence" includes (i) intentionally maintaining direct visual contact with the petitioner or 414 (ii) unreasonably being within 100 feet from the petitioner's residence or place of employment.
- 415 J. No fee shall be charged for filing or serving any petition pursuant to this section.
- 416 K. No emergency protective order shall be issued pursuant to this section against a law-enforcement 417 officer for any action arising out of the lawful performance of his duties.

418 L. Upon issuance of an emergency protective order, the court or magistrate shall provide the 419 petitioner with a list of local resources, including contact information for any sexual and domestic 420 violence victim service provider, crime victim and witness assistance program, legal aid or legal 421 services office, crisis intervention hotline, individual support services provider, support groups, or 422 emergency companion services, emergency housing services, or transportation services provider. 423

§ 19.2-152.9. Preliminary protective orders.

424 A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable 425 period of time, subjected to an act of violence, force, or threat, or (ii) a petition or warrant has been SB426

426 issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of 427 an act of violence, force, or threat, the court may issue a preliminary protective order against the alleged 428 perpetrator in order to protect the health and safety of the petitioner or any family or household member 429 of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the 430 petition is supported by an affidavit or sworn testimony before the judge or intake officer. Immediate 431 and present danger of any act of violence, force, or threat or evidence sufficient to establish probable 432 cause that an act of violence, force, or threat has recently occurred shall constitute good cause.

433 A preliminary protective order may include any one or more of the following conditions to be 434 imposed on the respondent:

435 1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to436 person or property;

437 2. Prohibiting such other contacts by the respondent with the petitioner or the petitioner's family or438 household members as the court deems necessary for the health and safety of such persons;

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

442 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.

444 B. The court shall forthwith, but in all cases no later than the end of the business day on which the 445 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the 446 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 447 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 448 449 450 agency shall forthwith verify and enter any modification as necessary to the identifying information and 451 other appropriate information required by the Department of State Police into the Virginia Criminal 452 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et 453 seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided 454 in § 16.1-264, and due return made to the court. However, if the order is issued by the circuit court, the 455 clerk of the circuit court shall forthwith forward an attested copy of the order containing the 456 respondent's identifying information and the name, date of birth, sex, and race of each protected person 457 provided to the court to the primary law-enforcement agency providing service and entry of protective 458 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the 459 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 460 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged 461 462 perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the 463 date and time of service and other appropriate information required by the Department of State Police 464 into the Virginia Criminal Information Network and make due return to the court. The preliminary order 465 shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the 466 preliminary order. If the respondent fails to appear at this hearing because the respondent was not 467 personally served, the court may extend the protective order for a period not to exceed six months. The 468 extended protective order shall be served as soon as possible on the respondent. However, upon motion 469 of the respondent and for good cause shown, the court may continue the hearing. The preliminary order 470 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 471 472 shall further specify that either party may at any time file a motion with the court requesting a hearing 473 to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of 474 the court.

475 Upon receipt of the return of service or other proof of service pursuant to subsection C of 476 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to 477 primary law-enforcement agency and the agency shall forthwith verify and enter any modification as 478 necessary into the Virginia Criminal Information Network as described above. If the order is later 479 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded 480 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 481 482 and enter any modification as necessary to the identifying information and other appropriate information 483 required by the Department of State Police into the Virginia Criminal Information Network as described **484** above and the order shall be served forthwith and due return made to the court.

485 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.

487 D. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10

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488 if the court finds that the petitioner has proven the allegation that the petitioner is or has been, within a 489 reasonable period of time, subjected to an act of violence, force, or threat by a preponderance of the 490 evidence. 491

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

492 F. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's 493 office, nor any employee of them, may disclose, except among themselves, the residential address, 494 telephone number, or place of employment of the person protected by the order or that of the family of 495 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme 496 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

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

498 H. Upon issuance of a preliminary protective order, the court shall provide the petitioner with a list 499 of local resources, including contact information for any sexual and domestic violence victim service provider, crime victim and witness assistance program, legal aid or legal services office, crisis 500 501 intervention hotline, individual support services provider, support groups, or emergency companion 502 services, emergency housing services, or transportation services provider. 503

§ 19.2-152.10. Protective order.

504 A. The court may issue a protective order pursuant to this chapter to protect the health and safety of 505 the petitioner and family or household members of a petitioner upon (i) the issuance of a petition or 506 warrant for, or a conviction of, any criminal offense resulting from the commission of an act of 507 violence, force, or threat or (ii) a hearing held pursuant to subsection D of § 19.2-152.9. A protective 508 order issued under this section may include any one or more of the following conditions to be imposed 509 on the respondent:

510 1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to 511 person or property;

512 2. Prohibiting such contacts by the respondent with the petitioner or family or household members of 513 the petitioner as the court deems necessary for the health or safety of such persons;

514 3. Any other relief necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses 515 that may result in injury to person or property, or (iii) communication or other contact of any kind by 516 the respondent; and

517 4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such 518 petitioner meets the definition of owner in § 3.2-6500.

519 B. The protective order may be issued for a specified period of time up to a maximum of two years. 520 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 521 of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner 522 may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective 523 order shall be given precedence on the docket of the court. The court may extend the protective order 524 for a period not longer than two years to protect the health and safety of the petitioner or persons who 525 are family or household members of the petitioner at the time the request for an extension is made. The 526 extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on 527 the last day of the two-year period if no date is specified. Nothing herein shall limit the number of 528 extensions that may be requested or issued.

529 C. A copy of the protective order shall be served on the respondent and provided to the petitioner as 530 soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, 531 but in all cases no later than the end of the business day on which the order was issued, enter and 532 transfer electronically to the Virginia Criminal Information Network the respondent's identifying 533 information and the name, date of birth, sex, and race of each protected person provided to the court 534 and shall forthwith forward the attested copy of the protective order and containing any such identifying 535 information to the primary law-enforcement agency responsible for service and entry of protective 536 orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith 537 verify and enter any modification as necessary to the identifying information and other appropriate 538 information required by the Department of State Police into the Virginia Criminal Information Network 539 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and 540 the order shall be served forthwith upon the respondent and due return made to the court. Upon service, 541 the agency making service shall enter the date and time of service and other appropriate information 542 required into the Virginia Criminal Information Network and make due return to the court. If the order 543 is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, 544 forwarded forthwith to the primary law-enforcement agency responsible for service and entry of 545 protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall 546 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 547 Information Network as described above and the order shall be served forthwith and due return made to 548

549 the court.

550 D. Except as otherwise provided, a violation of a protective order issued under this section shall 551 constitute contempt of court.

552 E. The court may assess costs and attorneys' fees against either party regardless of whether an order 553 of protection has been issued as a result of a full hearing.

554 F. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate 555 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 556 557 violent or threatening acts or harassment against or contact or communication with or physical proximity 558 to another person, including any of the conditions specified in subsection A, shall be accorded full faith 559 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 560 against whom the order is sought to be enforced sufficient to protect such person's due process rights 561 and consistent with federal law. A person entitled to protection under such a foreign order may file the 562 563 order in any appropriate district court by filing with the court, an attested or exemplified copy of the 564 order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary 565 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 566 567 Department of State Police into the Virginia Criminal Information Network established and maintained 568 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. 569

570 Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy 571 available of any foreign order filed with that court. A law-enforcement officer may, in the performance 572 of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been 573 provided to him by any source and may also rely upon the statement of any person protected by the 574 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 575 576 or modify the order. Proceedings to modify or dissolve a protective order shall be given precedence on 577 the docket of the court.

578 H. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's 579 office, nor any employee of them, may disclose, except among themselves, the residential address, 580 telephone number, or place of employment of the person protected by the order or that of the family of 581 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme 582 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause. 583

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

584 J. As used in this section:

585 "Copy" includes a facsimile copy; and

"Protective order" includes an initial, modified or extended protective order. 586

K. Upon issuance of a protective order, the court shall provide the petitioner with a list of local 587 588 resources, including contact information for any sexual and domestic violence victim service provider, crime victim and witness assistance program, legal aid or legal services office, crisis intervention 589 590 hotline, individual support services provider, support groups, or emergency companion services, 591 emergency housing services, or transportation services provider.