2018 SESSION

ENROLLED

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VIRGINIA ACTS OF ASSEMBLY - CHAPTER

2 An Act 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 3 19.2-152.10 of the Code of Virginia, relating to victims of domestic violence; list of local resources.

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Approved

6 Be it enacted by the General Assembly of Virginia:

7 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 8 Virginia are amended and reenacted as follows: 9

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

10 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 11 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 12 13 cause shown when the petition is supported by an affidavit or sworn testimony before the judge or 14 15 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 16 17 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 18 19 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 20 21 abusing person was convicted and incarcerated involved family abuse against the petitioner, and (iii) the 22 allegedly abusing person has made threatening contact with the petitioner while he was incarcerated, 23 exhibiting a renewed threat to the petitioner of family abuse.

24 A preliminary protective order may include any one or more of the following conditions to be 25 imposed on the allegedly abusing person:

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

27 2. Prohibiting such contacts by the respondent with the petitioner or family or household members of 28 the petitioner as the court deems necessary for the health or safety of such persons.

29 3. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the 30 allegedly abusing person; however, no such grant of possession shall affect title to any real or personal 31 property.

32 4. Enjoining the respondent from terminating any necessary utility service to a premises that the 33 petitioner has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the 34 respondent to restore utility services to such premises.

35 5. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner 36 alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such 37 grant of possession or use shall affect title to the vehicle.

38 6. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner 39 and any other family or household member and, where appropriate, requiring the respondent to pay 40 deposits to connect or restore necessary utility services in the alternative housing provided.

41 7. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such 42 petitioner meets the definition of owner in § 3.2-6500.

43 8. Any other relief necessary for the protection of the petitioner and family or household members of 44 the petitioner.

45 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 46 47 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 48 49 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service 50 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 51 other appropriate information required by the Department of State Police into the Virginia Criminal 52 53 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et 54 seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as 55 provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit 56 court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the

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respondent's identifying information and the name, date of birth, sex, and race of each protected person 57 58 provided to the court to the primary law-enforcement agency providing service and entry of protective 59 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the 60 person subject to the order and other appropriate information required by the Department of State Police 61 into the Virginia Criminal Information Network established and maintained by the Department pursuant 62 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter 63 the date and time of service and other appropriate information required by the Department of State 64 65 Police into the Virginia Criminal Information Network and make due return to the court. The 66 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 67 respondent was not personally served, or if personally served was incarcerated and not transported to the **68** hearing, the court may extend the protective order for a period not to exceed six months. The extended 69 70 protective order shall be served forthwith on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in 71 72 effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with 73 a copy of the order and information regarding the date and time of service. The order shall further 74 specify that either party may at any time file a motion with the court requesting a hearing to dissolve or 75 modify the order. The hearing on the motion shall be given precedence on the docket of the court.

76 Upon receipt of the return of service or other proof of service pursuant to subsection C of 77 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the 78 primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as 79 necessary into the Virginia Criminal Information Network as described above. If the order is later 80 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, 81 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify 82 and enter any modification as necessary to the identifying information and other appropriate information 83 84 required by the Department of State Police into the Virginia Criminal Information Network as described 85 above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the allegedly abusing person. Except 86 as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court. 87

88 D. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if 89 the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the 90 evidence.

91 E. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's 92 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 93 94 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme 95 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

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

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

98 H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to 99 the petitioner information that is published by the Department of Criminal Justice Services for victims of 100 domestic violence or for petitioners in protective order cases. 101

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

102 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 103 104 order to protect the health or safety of any person.

105 B. When a law-enforcement officer or an allegedly abused person asserts under oath to a judge or 106 magistrate, and on that assertion or other evidence the judge or magistrate (i) finds that a warrant for a 107 violation of § 18.2-57.2 has been issued or issues a warrant for violation of § 18.2-57.2 and finds that 108 there is probable danger of further acts of family abuse against a family or household member by the 109 respondent or (ii) finds that reasonable grounds exist to believe that the respondent has committed 110 family abuse and there is probable danger of a further such offense against a family or household 111 member by the respondent, the judge or magistrate shall issue an exparte emergency protective order, 112 except if the respondent is a minor, an emergency protective order shall not be required, imposing one 113 or more of the following conditions on the respondent:

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

115 2. Prohibiting such contacts by the respondent with the allegedly abused person or family or 116 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 117

118 abused person, as the judge or magistrate deems necessary to protect the safety of such persons;

119 3. Granting the family or household member possession of the premises occupied by the parties to
 120 the exclusion of the respondent; however, no such grant of possession shall affect title to any real or
 121 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.

124 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.

128 C. An emergency protective order issued pursuant to this section shall expire at 11:59 p.m. on the 129 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 130 131 domestic relations district court is in session. When issuing an emergency protective order under this 132 section, the judge or magistrate shall provide the protected person or the law-enforcement officer seeking 133 the emergency protective order with the form for use in filing petitions pursuant to § 16.1-253.1 and 134 written information regarding protective orders that shall include the telephone numbers of domestic 135 violence agencies and legal referral sources on a form prepared by the Supreme Court. If these forms 136 are provided to a law-enforcement officer, the officer may provide these forms to the protected person 137 when giving the emergency protective order to the protected person. The respondent may at any time 138 file a motion with the court requesting a hearing to dissolve or modify the order issued hereunder. The 139 hearing on the motion shall be given precedence on the docket of the court.

140 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 141 to § 16.1-253.1 or 16.1-279.1, may request the extension of an emergency protective order for an 142 143 additional period of time not to exceed three days after expiration of the original order. The request for 144 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 145 146 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 147 148 order or the magistrate on a preprinted form approved and provided by the Supreme Court of Virginia. 149 The completed form shall include a statement of the grounds for the order asserted by the officer or the 150 allegedly abused person.

151 E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day 152 on which the order was issued, enter and transfer electronically to the Virginia Criminal Information 153 Network the respondent's identifying information and the name, date of birth, sex, and race of each 154 protected person provided to the court or magistrate. A copy of an emergency protective order issued 155 pursuant to this section containing any such identifying information shall be forwarded forthwith to the 156 primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of 157 the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any 158 modification as necessary to the identifying information and other appropriate information required by 159 the Department of State Police into the Virginia Criminal Information Network established and 160 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be 161 served forthwith upon the respondent and due return made to the court. However, if the order is issued 162 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 163 164 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 165 the name of the person subject to the order and other appropriate information required by the 166 Department of State Police into the Virginia Criminal Network established and maintained by the 167 168 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith 169 on the respondent. Upon service, the agency making service shall enter the date and time of service and 170 other appropriate information required by the Department of State Police into the Virginia Criminal 171 Information Network and make due return to the court. One copy of the order shall be given to the 172 allegedly abused person when it is issued, and one copy shall be filed with the written report required 173 by subsection D of § 19.2-81.3. The judge or magistrate who issues an oral order pursuant to an 174 electronic request by a law-enforcement officer shall verify the written order to determine whether the 175 officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy 176 shall be filed with the clerk of the juvenile and domestic relations district court within five business 177 days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or 178 modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency

179 responsible for service and entry of protective orders, and upon receipt of the order by the primary 180 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the 181 identifying information and other appropriate information required by the Department of State Police 182 into the Virginia Criminal Information Network as described above and the order shall be served 183 forthwith and due return made to the court. Upon request, the clerk shall provide the allegedly abused 184 person with information regarding the date and time of service.

185 F. The availability of an emergency protective order shall not be affected by the fact that the family 186 or household member left the premises to avoid the danger of family abuse by the respondent.

187 G. The issuance of an emergency protective order shall not be considered evidence of any 188 wrongdoing by the respondent.

189 H. As used in this section, "law-enforcement officer" means (i) any full-time or part-time employee 190 of a police department or sheriff's office which is part of or administered by the Commonwealth or any 191 political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth; (ii) any member of an 192 auxiliary police force established pursuant to § 15.2-1731; and (iii) any special conservator of the peace 193 194 who meets the certification requirements for a law-enforcement officer as set forth in § 15.2-1706. 195 Part-time employees are compensated officers who are not full-time employees as defined by the 196 employing police department or sheriff's office.

197 I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's 198 office, nor any employee of them, may disclose, except among themselves, the residential address, 199 telephone number, or place of employment of the person protected by the order or that of the family of 200 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme 201 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause. 202

J. As used in this section:

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"Copy" includes a facsimile copy.

"Physical presence" includes (i) intentionally maintaining direct visual contact with the petitioner or 204 205 (ii) unreasonably being within 100 feet from the petitioner's residence or place of employment. 206

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

207 L. Except as provided in § 16.1-253.2, a violation of a protective order issued under this section shall 208 constitute contempt of court.

M. Upon issuance of an emergency protective order, the clerk of court shall make available to the 209 210 petitioner information that is published by the Department of Criminal Justice Services for victims of 211 domestic violence or for petitioners in protective order cases. 212

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

213 A. In cases of family abuse, including any case involving an incarcerated or recently incarcerated 214 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 215 216 household members of the petitioner. A protective order issued under this section may include any one 217 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;

219 2. Prohibiting such contacts by the respondent with the petitioner or family or household members of 220 the petitioner as the court deems necessary for the health or safety of such persons;

221 3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the 222 respondent; however, no such grant of possession shall affect title to any real or personal property;

223 4. Enjoining the respondent from terminating any necessary utility service to the residence to which 224 the petitioner was granted possession pursuant to subdivision 3 or, where appropriate, ordering the 225 respondent to restore utility services to that residence;

226 5. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner 227 alone or jointly owned by the parties to the exclusion of the respondent and enjoining the respondent 228 from terminating any insurance, registration, or taxes on the motor vehicle and directing the respondent 229 to maintain the insurance, registration, and taxes, as appropriate; however, no such grant of possession 230 or use shall affect title to the vehicle;

231 6. Requiring that the respondent provide suitable alternative housing for the petitioner and, if 232 appropriate, any other family or household member and where appropriate, requiring the respondent to 233 pay deposits to connect or restore necessary utility services in the alternative housing provided;

234 7. Ordering the respondent to participate in treatment, counseling or other programs as the court 235 deems appropriate;

236 8. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such 237 petitioner meets the definition of owner in § 3.2-6500; and

238 9. Any other relief necessary for the protection of the petitioner and family or household members of 239 the petitioner, including a provision for temporary custody or visitation of a minor child.

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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.

244 B. The protective order may be issued for a specified period of time up to a maximum of two years. 245 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 246 of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner 247 may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective 248 order shall be given precedence on the docket of the court. If the petitioner was a family or household 249 member of the respondent at the time the initial protective order was issued, the court may extend the 250 protective order for a period not longer than two years to protect the health and safety of the petitioner 251 or persons who are family or household members of the petitioner at the time the request for an 252 extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day 253 specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein 254 shall limit the number of extensions that may be requested or issued.

255 C. A copy of the protective order shall be served on the respondent and provided to the petitioner as 256 soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, 257 but in all cases no later than the end of the business day on which the order was issued, enter and 258 transfer electronically to the Virginia Criminal Information Network the respondent's identifying 259 information and the name, date of birth, sex, and race of each protected person provided to the court 260 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 261 262 orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith 263 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 264 265 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and 266 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 267 268 required by the Department of State Police into the Virginia Criminal Information Network and make 269 due return to the court. If the order is later dissolved or modified, a copy of the dissolution or 270 modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency 271 responsible for service and entry of protective orders, and upon receipt of the order by the primary 272 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the 273 identifying information and other appropriate information required by the Department of State Police 274 into the Virginia Criminal Information Network as described above and the order shall be served 275 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 thissection shall constitute contempt of court.

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

280 F. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate 281 jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, 282 the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing 283 violent or threatening acts or harassment against or contact or communication with or physical proximity 284 to another person, including any of the conditions specified in subsection A, shall be accorded full faith 285 and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided 286 reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person 287 against whom the order is sought to be enforced sufficient to protect such person's due process rights 288 and consistent with federal law. A person entitled to protection under such a foreign order may file the 289 order in any juvenile and domestic relations district court by filing with the court an attested or 290 exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of 291 the order to the primary law-enforcement agency responsible for service and entry of protective orders 292 which shall, upon receipt, enter the name of the person subject to the order and other appropriate 293 information required by the Department of State Police into the Virginia Criminal Information Network 294 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where 295 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.

301 G. Either party may at any time file a written motion with the court requesting a hearing to dissolve 302 or modify the order. Proceedings to dissolve or modify a protective order shall be given precedence on 303 the docket of the court.

304 H. As used in this section:

305 "Copy" includes a facsimile copy; and

306 "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 307 308 office, nor any employee of them, may disclose, except among themselves, the residential address, 309 telephone number, or place of employment of the person protected by the order or that of the family of 310 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme 311 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause. 312

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

313 K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic 314 315 violence or for petitioners in protective order cases. 316

§ 19.2-152.8. Emergency protective orders authorized.

317 A. Any judge of a circuit court, general district court, juvenile and domestic relations district court or 318 magistrate may issue a written or oral ex parte emergency protective order pursuant to this section in 319 order to protect the health or safety of any person.

320 B. When a law-enforcement officer or an alleged victim asserts under oath to a judge or magistrate 321 that such person is being or has been subjected to an act of violence, force, or threat and on that 322 assertion or other evidence the judge or magistrate finds that (i) there is probable danger of a further 323 such act being committed by the respondent against the alleged victim or (ii) a petition or warrant for 324 the arrest of the respondent has been issued for any criminal offense resulting from the commission of 325 an act of violence, force, or threat, the judge or magistrate shall issue an exparte emergency protective order imposing one or more of the following conditions on the respondent: 326

327 1. Prohibiting acts of violence, force, or threat or criminal offenses resulting in injury to person or 328 property;

329 2. Prohibiting such contacts by the respondent with the alleged victim or the alleged victim's family 330 or household members, including prohibiting the respondent from being in the physical presence of the 331 alleged victim or the alleged victim's family or household members, as the judge or magistrate deems 332 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, 333 334 force, or threat, (ii) criminal offenses resulting in injury to person or property, or (iii) communication or 335 other contact of any kind by the respondent; and

336 4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such 337 petitioner meets the definition of owner in § 3.2-6500.

338 C. An emergency protective order issued pursuant to this section shall expire at 11:59 p.m. on the 339 third day following issuance. If the expiration occurs on a day that the court is not in session, the 340 emergency protective order shall be extended until 11:59 p.m. on the next day that the court which 341 issued the order is in session. The respondent may at any time file a motion with the court requesting a 342 hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the 343 docket of the court.

344 D. A law-enforcement officer may request an emergency protective order pursuant to this section 345 and, if the person in need of protection is physically or mentally incapable of filing a petition pursuant 346 to § 19.2-152.9 or 19.2-152.10, may request the extension of an emergency protective order for an 347 additional period of time not to exceed three days after expiration of the original order. The request for 348 an emergency protective order or extension of an order may be made orally, in person or by electronic 349 means, and the judge of a circuit court, general district court, or juvenile and domestic relations district 350 court or a magistrate may issue an oral emergency protective order. An oral emergency protective order 351 issued pursuant to this section shall be reduced to writing, by the law-enforcement officer requesting the 352 order or the magistrate, on a preprinted form approved and provided by the Supreme Court of Virginia. 353 The completed form shall include a statement of the grounds for the order asserted by the officer or the 354 alleged victim of such crime.

355 \dot{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 356 357 Network the respondent's identifying information and the name, date of birth, sex, and race of each 358 protected person provided to the court or magistrate. A copy of an emergency protective order issued 359 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 360 the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any 361

362 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 363 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be 364 served forthwith upon the respondent and due return made to the court. However, if the order is issued 365 366 by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order 367 containing the respondent's identifying information and the name, date of birth, sex, and race of each 368 protected person provided to the court to the primary law-enforcement agency providing service and 369 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 370 371 Department of State Police into the Virginia Criminal Information Network established and maintained 372 by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served 373 forthwith upon the respondent. Upon service, the agency making service shall enter the date and time of 374 service and other appropriate information required into the Virginia Criminal Information Network and 375 make due return to the court. One copy of the order shall be given to the alleged victim of such crime. 376 The judge or magistrate who issues an oral order pursuant to an electronic request by a law-enforcement 377 officer shall verify the written order to determine whether the officer who reduced it to writing 378 accurately transcribed the contents of the oral order. The original copy shall be filed with the clerk of 379 the appropriate district court within five business days of the issuance of the order. If the order is later 380 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded 381 forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, 382 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify 383 and enter any modification as necessary to the identifying information and other appropriate information 384 required by the Department of State Police into the Virginia Criminal Information Network as described 385 above and the order shall be served forthwith and due return made to the court. Upon request, the clerk 386 shall provide the alleged victim of such crime with information regarding the date and time of service.

387 F. The issuance of an emergency protective order shall not be considered evidence of any 388 wrongdoing by the respondent.

389 G. As used in this section, a "law-enforcement officer" means any (i) person who is a full-time or 390 part-time employee of a police department or sheriff's office which is part of or administered by the 391 Commonwealth or any political subdivision thereof and who is responsible for the prevention and 392 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth and 393 (ii) member of an auxiliary police force established pursuant to § 15.2-1731. Part-time employees are 394 compensated officers who are not full-time employees as defined by the employing police department or 395 sheriff's office.

396 H. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's 397 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 398 399 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme 400 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

I. As used in this section: 401

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"Copy" includes a facsimile copy.

403 "Physical presence" includes (i) intentionally maintaining direct visual contact with the petitioner or 404 (ii) unreasonably being within 100 feet from the petitioner's residence or place of employment.

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

406 K. No emergency protective order shall be issued pursuant to this section against a law-enforcement 407 officer for any action arising out of the lawful performance of his duties.

408 L. Upon issuance of an emergency protective order, the clerk of the court shall make available to the 409 petitioner information that is published by the Department of Criminal Justice Services for victims of 410 domestic violence or for petitioners in protective order cases. 411

§ 19.2-152.9. Preliminary protective orders.

412 A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable 413 period of time, subjected to an act of violence, force, or threat, or (ii) a petition or warrant has been 414 issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of 415 an act of violence, force, or threat, the court may issue a preliminary protective order against the alleged 416 perpetrator in order to protect the health and safety of the petitioner or any family or household member 417 of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the 418 petition is supported by an affidavit or sworn testimony before the judge or intake officer. Immediate 419 and present danger of any act of violence, force, or threat or evidence sufficient to establish probable 420 cause that an act of violence, force, or threat has recently occurred shall constitute good cause.

421 A preliminary protective order may include any one or more of the following conditions to be 422 imposed on the respondent:

423 1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to 424 person or property;

425 2. Prohibiting such other contacts by the respondent with the petitioner or the petitioner's family or 426 household members as the court deems necessary for the health and safety of such persons;

427 3. Such other conditions as the court deems necessary to prevent (i) acts of violence, force, or threat, 428 (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other 429 contact of any kind by the respondent; and

430 4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such 431 petitioner meets the definition of owner in § 3.2-6500.

432 B. The court shall forthwith, but in all cases no later than the end of the business day on which the 433 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the 434 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 435 436 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 437 438 agency shall forthwith verify and enter any modification as necessary to the identifying information and 439 other appropriate information required by the Department of State Police into the Virginia Criminal 440 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et 441 seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided 442 in § 16.1-264, and due return made to the court. However, if the order is issued by the circuit court, the 443 clerk of the circuit court shall forthwith forward an attested copy of the order containing the 444 respondent's identifying information and the name, date of birth, sex, and race of each protected person 445 provided to the court to the primary law-enforcement agency providing service and entry of protective 446 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the 447 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 448 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged 449 perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the 450 date and time of service and other appropriate information required by the Department of State Police 451 452 into the Virginia Criminal Information Network and make due return to the court. The preliminary order 453 shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the 454 preliminary order. If the respondent fails to appear at this hearing because the respondent was not 455 personally served, the court may extend the protective order for a period not to exceed six months. The 456 extended protective order shall be served as soon as possible on the respondent. However, upon motion 457 of the respondent and for good cause shown, the court may continue the hearing. The preliminary order 458 shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the 459 petitioner with a copy of the order and information regarding the date and time of service. The order 460 shall further specify that either party may at any time file a motion with the court requesting a hearing 461 to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of 462 the court.

463 Upon receipt of the return of service or other proof of service pursuant to subsection C of 464 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to 465 primary law-enforcement agency and the agency shall forthwith verify and enter any modification as 466 necessary into the Virginia Criminal Information Network as described above. If the order is later 467 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded 468 forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, 469 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify 470 and enter any modification as necessary to the identifying information and other appropriate information 471 required by the Department of State Police into the Virginia Criminal Information Network as described 472 above and the order shall be served forthwith and due return made to the court.

473 C. The preliminary order is effective upon personal service on the alleged perpetrator. Except as 474 otherwise provided, a violation of the order shall constitute contempt of court.

475 D. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10 476 if the court finds that the petitioner has proven the allegation that the petitioner is or has been, within a 477 reasonable period of time, subjected to an act of violence, force, or threat by a preponderance of the 478 evidence. 479

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

480 F. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's 481 office, nor any employee of them, may disclose, except among themselves, the residential address, 482 telephone number, or place of employment of the person protected by the order or that of the family of 483 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme

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484 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause. 485

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

486 H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to 487 the petitioner information that is published by the Department of Criminal Justice Services for victims of 488 domestic violence or for petitioners in protective order cases.

489 § 19.2-152.10. Protective order.

490 A. The court may issue a protective order pursuant to this chapter to protect the health and safety of 491 the petitioner and family or household members of a petitioner upon (i) the issuance of a petition or 492 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 493 494 order issued under this section may include any one or more of the following conditions to be imposed 495 on the respondent:

496 1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to 497 person or property;

498 2. Prohibiting such contacts by the respondent with the petitioner or family or household members of 499 the petitioner as the court deems necessary for the health or safety of such persons;

500 3. Any other relief necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses 501 that may result in injury to person or property, or (iii) communication or other contact of any kind by 502 the respondent; and

503 4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such 504 petitioner meets the definition of owner in § 3.2-6500.

505 B. The protective order may be issued for a specified period of time up to a maximum of two years. 506 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 507 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 508 509 order shall be given precedence on the docket of the court. The court may extend the protective order 510 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 511 512 extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on 513 the last day of the two-year period if no date is specified. Nothing herein shall limit the number of 514 extensions that may be requested or issued.

515 C. A copy of the protective order shall be served on the respondent and provided to the petitioner as 516 soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, 517 but in all cases no later than the end of the business day on which the order was issued, enter and 518 transfer electronically to the Virginia Criminal Information Network the respondent's identifying 519 information and the name, date of birth, sex, and race of each protected person provided to the court 520 and shall forthwith forward the attested copy of the protective order and containing any such identifying 521 information to the primary law-enforcement agency responsible for service and entry of protective 522 orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith 523 verify and enter any modification as necessary to the identifying information and other appropriate 524 information required by the Department of State Police into the Virginia Criminal Information Network 525 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and 526 the order shall be served forthwith upon the respondent and due return made to the court. Upon service, 527 the agency making service shall enter the date and time of service and other appropriate information 528 required into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, 529 530 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 531 532 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 533 534 Information Network as described above and the order shall be served forthwith and due return made to 535 the court.

536 D. Except as otherwise provided, a violation of a protective order issued under this section shall 537 constitute contempt of court.

538 E. The court may assess costs and attorneys' fees against either party regardless of whether an order 539 of protection has been issued as a result of a full hearing.

540 F. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate 541 jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, 542 the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing 543 violent or threatening acts or harassment against or contact or communication with or physical proximity 544 to another person, including any of the conditions specified in subsection A, shall be accorded full faith

545 and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided 546 reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person 547 against whom the order is sought to be enforced sufficient to protect such person's due process rights 548 and consistent with federal law. A person entitled to protection under such a foreign order may file the 549 order in any appropriate district court by filing with the court, an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary 550 law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, 551 enter the name of the person subject to the order and other appropriate information required by the 552 Department of State Police into the Virginia Criminal Information Network established and maintained 553 554 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. 555

556 Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy 557 available of any foreign order filed with that court. A law-enforcement officer may, in the performance 558 of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been 559 provided to him by any source and may also rely upon the statement of any person protected by the 560 order that the order remains in effect.

561 G. Either party may at any time file a written motion with the court requesting a hearing to dissolve562 or modify the order. Proceedings to modify or dissolve a protective order shall be given precedence on563 the docket of the court.

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

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

- 570 J. As used in this section:
- 571 "Copy" includes a facsimile copy; and

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

573 K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner
574 information that is published by the Department of Criminal Justice Services for victims of domestic
575 violence or for petitioners in protective order cases.