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HOUSE BILL NO. 159

Offered January 8, 2020

Prefiled December 21, 2019

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 protective orders; prohibited contact; remote control of appliance, utility, or device by electronic device.*

Patrons—Kory, Levine and Samirah

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, and 19.2-152.10 of the Code of Virginia are amended and reenacted as follows:

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

A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to family abuse, the court may issue a preliminary protective order against an allegedly abusing person in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 16.1-253.4 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause. Evidence that the petitioner has been subjected to family abuse within a reasonable time and evidence of immediate and present danger of family abuse may be established by a showing that (i) the allegedly abusing person is incarcerated and is to be released from incarceration within 30 days following the petition or has been released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly abusing person was convicted and incarcerated involved family abuse against the petitioner, and (iii) the allegedly abusing person has made threatening contact with the petitioner while he was incarcerated, exhibiting a renewed threat to the petitioner of family abuse.

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

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property.
2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons, *including prohibiting the respondent from using any electronic device to remotely control any appliance, utility, or device located on or within the petitioner's residence or the curtilage thereof.*
3. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.
4. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to such premises.
5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner.
6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.
7. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member and, where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided.
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.
9. Any other relief necessary for the protection of the petitioner and family or household members of

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59 the petitioner.

60 B. The court shall forthwith, but in all cases no later than the end of the business day on which the
61 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the
62 respondent's identifying information and the name, date of birth, sex, and race of each protected person
63 provided to the court. A copy of a preliminary protective order containing any such identifying
64 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service
65 and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the
66 agency shall forthwith verify and enter any modification as necessary to the identifying information and
67 other appropriate information required by the Department of State Police into the Virginia Criminal
68 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et
69 seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as
70 provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit
71 court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the
72 respondent's identifying information and the name, date of birth, sex, and race of each protected person
73 provided to the court to the primary law-enforcement agency providing service and entry of protective
74 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the
75 person subject to the order and other appropriate information required by the Department of State Police
76 into the Virginia Criminal Information Network established and maintained by the Department pursuant
77 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly
78 abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter
79 the date and time of service and other appropriate information required by the Department of State
80 Police into the Virginia Criminal Information Network and make due return to the court. The
81 preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of
82 the issuance of the preliminary order, unless the court is closed pursuant to § 16.1-69.35 or 17.1-207 and
83 such closure prevents the hearing from being held within such time period, in which case the hearing
84 shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is
85 lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective
86 order shall remain in full force and effect until it is dissolved by such court, until another preliminary
87 protective order is entered, or until a protective order is entered. If the respondent fails to appear at this
88 hearing because the respondent was not personally served, or if personally served was incarcerated and
89 not transported to the hearing, the court may extend the protective order for a period not to exceed six
90 months. The extended protective order shall be served forthwith on the respondent. However, upon
91 motion of the respondent and for good cause shown, the court may continue the hearing. The
92 preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the
93 clerk shall provide the petitioner with a copy of the order and information regarding the date and time
94 of service. The order shall further specify that either party may at any time file a motion with the court
95 requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given
96 precedence on the docket of the court.

97 Upon receipt of the return of service or other proof of service pursuant to subsection C of
98 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the
99 primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as
100 necessary into the Virginia Criminal Information Network as described above. If the order is later
101 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded
102 forthwith to the primary law-enforcement agency responsible for service and entry of protective orders,
103 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify
104 and enter any modification as necessary to the identifying information and other appropriate information
105 required by the Department of State Police into the Virginia Criminal Information Network as described
106 above and the order shall be served forthwith and due return made to the court.

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

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

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

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

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

119 H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the
120 petitioner information that is published by the Department of Criminal Justice Services for victims of

domestic violence or for petitioners in protective order cases.

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

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

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

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

2. Prohibiting such contacts by the respondent with the allegedly abused person or family or household members of the allegedly abused person, including (i) prohibiting the respondent from being in the physical presence of the allegedly abused person or family or household members of the allegedly abused person, as the judge or magistrate deems necessary to protect the safety of such persons, and (ii) *prohibiting the respondent from using any electronic device to remotely control any appliance, utility, or device located on or within the petitioner's residence or the curtilage thereof;*

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

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

When the judge or magistrate considers the issuance of an emergency protective order pursuant to clause (i), he shall presume that there is probable danger of further acts of family abuse against a family or household member by the respondent unless the presumption is rebutted by the allegedly abused person.

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

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

E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court or magistrate. A copy of an emergency protective order issued pursuant to this section containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by

the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the respondent. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. One copy of the order shall be given to the 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 electronic request by a law-enforcement officer shall verify the written order to determine whether the officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy shall be filed with the clerk of the juvenile and domestic relations district court within five business days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court. Upon request, the clerk shall provide the allegedly abused 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 or household member left the premises to avoid the danger of family abuse by the respondent.

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

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

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

J. As used in this section:

"Copy" includes a facsimile copy.

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

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

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

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

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

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

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

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons, *including prohibiting*

the respondent from using any electronic device to remotely control any appliance, utility, or device located on or within the petitioner's residence or the curtilage thereof;

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

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

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner;

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

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

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

9. 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

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

A1. If a protective order is issued pursuant to subsection A, the court may also issue a temporary child support order for the support of any children of the petitioner whom the respondent has a legal obligation to support. Such order shall terminate upon the determination of support pursuant to § 20-108.1.

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

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

305 forthwith and due return made to the court.

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

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

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

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

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

334 H. As used in this section:

335 "Copy" includes a facsimile copy; and

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

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

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

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

346 **§ 19.2-152.8. Emergency protective orders authorized.**

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

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

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

359 2. Prohibiting such contacts by the respondent with the alleged victim or the alleged victim's family
360 or household members, including (i) prohibiting the respondent from being in the physical presence of
361 the alleged victim or the alleged victim's family or household members, as the judge or magistrate
362 deems necessary to protect the safety of such persons, and (ii) prohibiting the respondent from using
363 any electronic device to remotely control any appliance, utility, or device located on or within the
364 petitioner's residence or the curtilage thereof;

365 3. Such other conditions as the judge or magistrate deems necessary to prevent (i) acts of violence,
366 force, or threat, (ii) criminal offenses resulting in injury to person or property, or (iii) communication or

other contact of any kind by the respondent; and

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

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

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

E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court or magistrate. A copy of an emergency protective order issued pursuant to this section containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the Virginia Criminal Information Network and make due return to the court. One copy of the order shall be given to the alleged victim of such crime. The judge or magistrate who issues an oral order pursuant to an electronic request by a law-enforcement officer shall verify the written order to determine whether the officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy shall be filed with the clerk of the appropriate district court within five business days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court. Upon request, the clerk shall provide the alleged victim of such crime with information regarding the date and time of service.

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

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

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

I. As used in this section:

"Copy" includes a facsimile copy.

"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.

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

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

L. Upon issuance of an emergency 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 violence or for petitioners in protective order cases.

§ 19.2-152.9. Preliminary protective orders.

A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force, or threat, or (ii) a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat, the court may issue a preliminary protective order against the alleged perpetrator in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 19.2-152.8 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Immediate and present danger of any act of violence, force, or threat or evidence sufficient to establish probable cause that an act of violence, force, or threat has recently occurred shall constitute good cause.

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

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

2. Prohibiting such other contacts by the respondent with the petitioner or the petitioner's family or household members as the court deems necessary for the health and safety of such persons, *including prohibiting the respondent from using any electronic device to remotely control any appliance, utility, or device located on or within the petitioner's residence or the curtilage thereof*;

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

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

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

shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order, unless the court is closed pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered, or until a protective order is entered. If the respondent fails to appear at this hearing because the respondent was not personally served, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served as soon as possible on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

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

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

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

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

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

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

H. Upon issuance of a preliminary 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 violence or for petitioners in protective order cases.

§ 19.2-152.10. Protective order.

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

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

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons, *including prohibiting the respondent from using any electronic device to remotely control any appliance, utility, or device located on or within the petitioner's residence or the curtilage thereof*;

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

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

B. The protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day

551 of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner
552 may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective
553 order shall be given precedence on the docket of the court. The court may extend the protective order
554 for a period not longer than two years to protect the health and safety of the petitioner or persons who
555 are family or household members of the petitioner at the time the request for an extension is made. The
556 extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on
557 the last day of the two-year period if no date is specified. Nothing herein shall limit the number of
558 extensions that may be requested or issued.

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

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

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

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

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

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

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

613 I. No fees shall be charged for filing or serving petitions pursuant to this section.
 614 J. As used in this section:
 615 "Copy" includes a facsimile copy; and
 616 "Protective order" includes an initial, modified or extended protective order.
 617 K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner
 618 information that is published by the Department of Criminal Justice Services for victims of domestic
 619 violence or for petitioners in protective order cases.
 620 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
 621 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
 622 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
 623 **correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia**
 624 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to**
 625 **§ 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be**
 626 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**