

LD9108728

SENATE BILL NO. 302

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 13, 1994)

(Patron Prior to Substitute—Senator Robb)

*A BILL to amend and reenact §§ 16.1-279.1 and 18.2-60.3 of the Code of Virginia, relating to stalking.***Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-279.1 and 18.2-60.3 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-279.1. Order of protection in cases of family abuse.

A. In cases of family abuse, the court may issue an order of protection to protect the health and safety of the petitioner and to effect the rehabilitation of the abusing person and reconciliation of the parties as the court deems appropriate. An order of protection issued under this section may include any one or more of the following conditions to be imposed on the abusing person:

1. Prohibition of further acts of family abuse;

2. Prohibition of such contacts between the parties as the court deems appropriate;

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

4. Requiring that the abusing person provide suitable alternative housing for the petitioner, and, if appropriate, any other family or household member;

5. Ordering the petitioner, with his or her consent, or the abusing person to participate in treatment, counseling or other programs designed for the rehabilitation and reconciliation of the parties; and

6. Any other relief necessary for the protection of the petitioner and minor children.

B. The order of protection shall be issued for a specified period not to exceed one year *unless issued pursuant to § 18.2-60.3*. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order.

C. Any violation of an order of protection issued under this section shall constitute contempt of court.

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

§ 18.2-60.3. Stalking; penalty.

A. Any person who on more than one occasion engages in conduct ~~with~~ *directed at another person or at a member of that other person's immediate family with the intent to cause emotional distress to another person by placing place, or with the knowledge that the conduct is placing or has placed, that other person in reasonable fear of death or bodily injury to that other person or to a member of that other person's immediate family shall be guilty of a Class 2 1 misdemeanor.*

For the purposes of this section, a member of a person's "immediate family" has the meaning set forth for "family or household member" in § 16.1-228.

B. Any person who violates subsection A when there is a protective order or an injunction in effect pursuant to subsection E or prohibiting family abuse, as defined in § 16.1-228, against the individual who is the victim of the conduct described in subsection A, or prohibiting contact between the person and that same individual *or a member of that individual's immediate family*, shall be guilty of a Class 4 ~~misdemeanor~~ *6 felony*.

C. A second conviction occurring within five years of a first conviction for an offense under this section or for a similar offense under the law of any other jurisdiction shall be a Class 4 ~~misdemeanor~~ *6 felony*. A third *or subsequent* conviction occurring within five years of a conviction for an offense under this section or for a similar offense under the law of any other jurisdiction shall be a Class 6 5 felony.

D. *A person may be convicted under this section irrespective of the jurisdiction or jurisdictions within the Commonwealth wherein the conduct described in subsection A occurred, if the person engaged in that conduct on at least one occasion in the jurisdiction where the person is tried.*

E. *Upon finding a person guilty under this section, the court shall, in addition to the sentence imposed, issue a protective order pursuant to § 16.1-279.1, or enter an order as part of its judgment ordering the person not to contact or have contact with the individual at whom the person's conduct described in subsection A was directed or may order the person not to contact or have contact with any member of that individual's immediate family.*