

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 900

An Act to amend and reenact § 16.1-279.1 of the Code of Virginia, relating to enforcement of foreign protective orders.

[H 1043]

Approved April 10, 1996

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-279.1 of the Code of Virginia is amended and reenacted as follows:

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

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. The clerk shall certify and forward forthwith a copy of the order to the local police department or sheriff's office which shall, on the date of receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia crime information network system established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be certified, forwarded and entered in the system as described above.

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.

E. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any district court by filing with the court a certified copy of the order and an affidavit, under oath, that to the best of such person's knowledge the order is then in effect as written and upon such filing shall be enforceable as an order entered pursuant to this section.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy of the foreign order available. 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.