

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 16.1-253.4 of the Code of Virginia, as it is currently effective and as it*
 3 *may become effective, relating to protective orders; extension of emergency order.*

4 [H291]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That §16.1-253.4 of the Code of Virginia, as it is currently effective and as it may become**
 8 **effective, is amended and reenacted as follows:**

9 § 16.1-253.4. Emergency protective orders authorized in cases of family abuse.

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

13 B. When a law-enforcement officer or an allegedly abused person asserts under oath to a judge or
 14 magistrate, and on that assertion or other evidence the judge or magistrate finds that (i) a warrant for a
 15 violation of § 18.2-57.2 has been issued and there is probable danger of further acts of family abuse
 16 against a family or household member by the respondent or (ii) reasonable grounds exist to believe that
 17 the respondent has committed family abuse and there is probable danger of a further such offense
 18 against a family or household member by the respondent, the judge or magistrate shall issue an ex parte
 19 emergency protective order imposing one or more of the following conditions on the respondent:

20 1. Prohibiting acts of family abuse;

21 2. Prohibiting such contacts by the respondent with family or household members of the respondent
 22 as the judge or magistrate deems necessary to protect the safety of such persons; and

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

26 C. An emergency protective order issued pursuant to this section shall expire at 5 p.m. on the next
 27 business day that the juvenile and domestic relations court is in session or seventy-two hours after
 28 issuance, whichever is later. The respondent may at any time file a motion with the court requesting a
 29 hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the
 30 docket of the court.

31 D. A law-enforcement officer may request an emergency protective order pursuant to this section
 32 *and, if the person in need of protection is physically or mentally incapable of filing a petition pursuant*
 33 *to § 16.2-253.1 or § 16.1-279.1, may request the extension of an emergency protective order for an*
 34 *additional period of time not to exceed seventy-two hours after expiration of the original order. The*
 35 *request for an emergency protective order or extension of an order may be made orally, in person or by*
 36 *electronic means, and the judge of a circuit court, general district court, or juvenile and domestic*
 37 *relations district court or a magistrate may issue an oral emergency protective order. An oral emergency*
 38 *protective order issued pursuant to this section shall be reduced to writing, by the law-enforcement*
 39 *officer requesting the order or the magistrate on a preprinted form approved and provided by the*
 40 *Supreme Court of Virginia. The completed form shall include a statement of the grounds for the order*
 41 *asserted by the officer or the allegedly abused person.*

42 E. As soon as practicable after receipt of the order by a local law-enforcement agency for service,
 43 the agency shall enter the name of the person subject to the order and other appropriate information
 44 required by the Department of State Police into the Virginia crime information network system
 45 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. A
 46 copy of an emergency protective order issued pursuant to this section shall be served upon the
 47 respondent as soon as possible, and upon service, the agency making service shall enter the date and
 48 time of service into the Virginia crime information network system. One copy of the order shall be
 49 given to the allegedly abused person when it is issued, and one copy shall be filed with the written
 50 report required by § 19.2-81.3 C. The original copy shall be forwarded for verification to the judge or
 51 magistrate who issued the order and then filed with the clerk of the juvenile and domestic relations
 52 district court within five business days of the issuance of the order. If the order is later dissolved or
 53 modified, a copy of the dissolution or modification order shall also be attested, forwarded and entered in
 54 the system as described above. Upon request, the clerk shall provide the allegedly abused person with
 55 information regarding the date and time of service.

56 F. The availability of an emergency protective order shall not be affected by the fact that the family

57 or household member left the premises to avoid the danger of family abuse by the respondent.

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

60 H. As used in this section, a "law-enforcement officer" means any full-time or part-time employee of
61 a police department or sheriff's office which is part of or administered by the Commonwealth or any
62 political subdivision thereof and who is responsible for the prevention and detection of crime and the
63 enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are
64 compensated officers who are not full-time employees as defined by the employing police department or
65 sheriff's office.

66 § 16.1-253.4. (Delayed effective date) Emergency protective orders authorized in certain cases;
67 penalty.

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

71 B. When a law-enforcement officer or an allegedly abused person asserts under oath to a judge or
72 magistrate, and on that assertion or other evidence the judge or magistrate finds that (i) a warrant for a
73 violation of § 18.2-57.2 has been issued and there is probable danger of further acts of family abuse
74 against a family or household member by the respondent or (ii) reasonable grounds exist to believe that
75 the respondent has committed family abuse and there is probable danger of a further such offense
76 against a family or household member by the respondent, the judge or magistrate may issue an ex parte
77 emergency protective order imposing one or more of the following conditions on the respondent:

78 1. Prohibiting acts of family abuse;

79 2. Prohibiting such contacts by the respondent with family or household members as the judge or
80 magistrate deems necessary to protect the safety of such persons; and

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

84 C. An emergency protective order issued pursuant to this section shall expire at 5 p.m. on the next
85 business day that the family court sits in the jurisdiction or seventy-two hours after issuance, whichever
86 is later. The respondent may at any time file a motion with the court requesting a hearing to dissolve or
87 modify the order. The hearing on the motion shall be given precedence on the docket of the court.

88 D. A law-enforcement officer may request an emergency protective order pursuant to this section
89 *and, if the person in need of protection is physically or medically incapable of filing a petition pursuant*
90 *to § 16.2-253.1 or § 16.1-279.1, may request the extension of an emergency protective order for an*
91 *additional period of time not to exceed seventy-two hours after expiration of the original order. The*
92 *request for an emergency protective order or extension of an order may be made orally, in person or by*
93 *electronic means, and the judge of a circuit court, general district court, or family court or a magistrate*
94 *may issue an oral emergency protective order. An oral emergency protective order issued pursuant to*
95 *this section shall be reduced to writing, by the law-enforcement officer requesting the order or by the*
96 *magistrate, on a preprinted form approved and provided by the Supreme Court of Virginia. The*
97 *completed form shall include a statement of the grounds for the order asserted by the officer or the*
98 *allegedly abused person.*

99 E. As soon as practicable after receipt of the order by a local law-enforcement agency for service,
100 the agency shall enter the name of the person subject to the order and other appropriate information
101 required by the Department of State Police into the Virginia crime information network system
102 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. A
103 copy of an emergency protective order issued pursuant to this section shall be served upon the
104 respondent as soon as possible, and upon service, the agency making service shall enter the date and
105 time of service, into the Virginia crime information network system. One copy of the order shall be
106 given to the allegedly abused person when it is issued, and one copy shall be filed with the written
107 report required by § 19.2-81.3 C. The original copy shall be forwarded for verification to the judge or
108 magistrate who issued the order and then filed with the clerk of the family court within five business
109 days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or
110 modification order shall also be attested, forwarded and entered in the system as described above. Upon
111 request, the clerk shall provide the allegedly abused person with information regarding the date and time
112 of service.

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

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120 enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are
121 compensated officers who are not full-time employees as defined by the employing police department or
122 sheriff's office.