

091195784

HOUSE BILL NO. 1897

Offered January 14, 2009

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A BILL to amend and reenact §§ 16.1-241, 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.2, 16.1-279.1, 19.2-152.8, 19.2-152.9, 19.2-152.10, and 20-124.1 of the Code of Virginia, relating to supervised visitation.

 Patron—Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241, 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.2, 16.1-279.1, 19.2-152.8, 19.2-152.9, 19.2-152.10, and 20-124.1 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-241. Jurisdiction; consent for abortion.

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244; and

6. Who is charged with a traffic infraction as defined in § 46.2-100.

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

INTRODUCED

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59 The authority of the juvenile court to adjudicate matters involving the custody, visitation, support,
60 control or disposition of a child shall not be limited to the consideration of petitions filed by a mother,
61 father or legal guardian but shall include petitions filed at any time by any party with a legitimate
62 interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not
63 be limited to, grandparents, stepparents, former stepparents, blood relatives and family members. A party
64 with a legitimate interest shall not include any person (i) whose parental rights have been terminated by
65 court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a
66 person whose parental rights have been terminated by court order, either voluntarily or involuntarily,
67 including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family
68 members, if the child subsequently has been legally adopted, except where a final order of adoption is
69 entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of
70 § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United
71 States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a
72 result of such violation. The authority of the juvenile court to consider a petition involving the custody
73 of a child shall not be proscribed or limited where the child has previously been awarded to the custody
74 of a local board of social services. *If supervised visitation is ordered by the court pursuant to a finding*
75 *of abuse or neglect under § 16.1-252 or 16.1-253, it shall be in accordance with the definition of*
76 *supervised visitation in § 20-124.1.*

77 B. The admission of minors for inpatient treatment in a mental health facility in accordance with the
78 provisions of Article 16 (§ 16.1-335 et seq.) of this chapter and the involuntary admission of a person
79 with mental illness or judicial certification of eligibility for admission to a training center for persons
80 with mental retardation in accordance with the provisions of Chapters 1 (§ 37.2-100 et seq.) and 8
81 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary admission and certification of adults
82 shall be concurrent with the general district court.

83 C. Except as provided in subsections D and H hereof, judicial consent to such activities as may
84 require parental consent may be given for a child who has been separated from his parents, guardian,
85 legal custodian or other person standing in loco parentis and is in the custody of the court when such
86 consent is required by law.

87 D. Judicial consent for emergency surgical or medical treatment for a child who is neither married
88 nor has ever been married, when the consent of his parent, guardian, legal custodian or other person
89 standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person
90 standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown,
91 (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such
92 consent or provide such treatment when requested by the judge to do so.

93 E. Any person charged with deserting, abandoning or failing to provide support for any person in
94 violation of law.

95 F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

96 1. Who has been abused or neglected;

97 2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817
98 or is otherwise before the court pursuant to subdivision A 4 of this section; or

99 3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court
100 finds that such person has by overt act or omission induced, caused, encouraged or contributed to the
101 conduct of the child complained of in the petition.

102 G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other
103 person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services
104 that are required by law to be provided for that child or such child's parent, guardian, legal custodian or
105 other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not
106 exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

107 H. Judicial consent to apply for a work permit for a child when such child is separated from his
108 parents, legal guardian or other person standing in loco parentis.

109 I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or
110 neglect of children or with any violation of law that causes or tends to cause a child to come within the
111 purview of this law, or with any other offense against the person of a child. In prosecution for felonies
112 over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is
113 probable cause.

114 J. All offenses in which one family or household member is charged with an offense in which
115 another family or household member is the victim and all offenses under § 18.2-49.1.

116 In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to
117 determining whether or not there is probable cause. Any objection based on jurisdiction under this
118 subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial,
119 before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it
120 shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for

challenging directly or collaterally the jurisdiction of the court in which the case is tried.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or 16.1-279.1.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20. A circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.

R. Petitions for the purpose of obtaining an emergency protective order pursuant to § 16.1-253.4.

S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.2-1526.

U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

V. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independent of the wishes of any authorized person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he finds that (i) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful, and (ii) every other authorized person, if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

The minor may participate in the court proceedings on her own behalf, and the court may appoint a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall, upon her request, appoint counsel for her.

Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so that the court may reach a decision promptly and without delay in order to serve the best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

An expedited confidential appeal to the circuit court shall be available to any minor for whom the court denies an order authorizing an abortion without consent or without notice. Any such appeal shall be heard and decided no later than five days after the appeal is filed. The time periods required by this subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent or without notice shall not be subject to appeal.

No filing fees shall be required of the minor at trial or upon appeal.

If either the original court or the circuit court fails to act within the time periods required by this

subsection, the court before which the proceeding is pending shall immediately authorize a physician to perform the abortion without consent of or notice to an authorized person.

Nothing contained in this subsection shall be construed to authorize a physician to perform an abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult woman.

A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent has been obtained or the minor delivers to the physician a court order entered pursuant to this section and the physician or his agent provides such notice as such order may require. However, neither consent nor judicial authorization nor notice shall be required if the minor declares that she is abused or neglected and the attending physician has reason to suspect that the minor may be an abused or neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the facts justifying the exception in the minor's medical record.

For purposes of this subsection:

"Authorization" means the minor has delivered to the physician a notarized, written statement signed by an authorized person that the authorized person knows of the minor's intent to have an abortion and consents to such abortion being performed on the minor.

"Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with whom the minor regularly and customarily resides and who has care and control of the minor. Any person who knows he is not an authorized person and who knowingly and willfully signs an authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

"Consent" means that (i) the physician has given notice of intent to perform the abortion and has received authorization from an authorized person, or (ii) at least one authorized person is present with the minor seeking the abortion and provides written authorization to the physician, which shall be witnessed by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the minor's medical record and maintained as a part thereof.

"Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

"Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual notice of his intention to perform such abortion to an authorized person, either in person or by telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at least 72 hours prior to the performance of the abortion.

"Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

"Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

W. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) of this chapter relating to standby guardians for minor children.

X. Petitions filed pursuant to § 18.2-370.5 for an order allowing the petitioner to enter and be present on school or child day center property. In such cases jurisdiction shall be concurrent with and not exclusive of circuit courts.

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of any process in a proceeding pursuant to subdivision 3 of subsection A, except as provided in subdivision A 6 of § 17.1-272, or subsection B, D, M or R of this section.

Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of subsection V shall be guilty of a Class 3 misdemeanor.

§ 16.1-253. Preliminary protective order.

A. Upon the motion of any person or upon the court's own motion, the court may issue a preliminary protective order, after a hearing, if necessary to protect a child's life, health, safety or normal development pending the final determination of any matter before the court. The order may require a child's parents, guardian, legal custodian, other person standing in loco parentis or other family or household member of the child to observe reasonable conditions of behavior for a specified length of

time. These conditions shall include any one or more of the following:

1. To abstain from offensive conduct against the child, a family or household member of the child or any person to whom custody of the child is awarded;

2. To cooperate in the provision of reasonable services or programs designed to protect the child's life, health or normal development;

3. To allow persons named by the court to come into the child's home at reasonable times designated by the court to visit the child or inspect the fitness of the home and to determine the physical or emotional health of the child;

4. To allow visitation with the child by persons entitled thereto, as determined by the court;

5. To refrain from acts of commission or omission which tend to endanger the child's life, health or normal development; or

6. To refrain from such contact with the child or family or household members of the child, as the court may deem appropriate, including removal of such person from the residence of the child. However, prior to the issuance by the court of an order removing such person from the residence of the child, the petitioner must prove by a preponderance of the evidence that such person's probable future conduct would constitute a danger to the life or health of such child, and that there are no less drastic alternatives which could reasonably and adequately protect the child's life or health pending a final determination on the petition.

If supervised visitation is ordered, it shall be in accordance with the definition of supervised visitation in § 20-124.1.

B. A preliminary protective order may be issued ex parte upon motion of any person or the court's own motion in any matter before the court, or upon petition. The motion or petition shall be supported by an affidavit or by sworn testimony in person before the judge or intake officer which establishes that the child would be subjected to an imminent threat to life or health to the extent that delay for the provision of an adversary hearing would be likely to result in serious or irreparable injury to the child's life or health. If an ex parte order is issued without an affidavit 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. Following the issuance of an ex parte order the court shall provide an adversary hearing to the affected parties within the shortest practicable time not to exceed five business days after the issuance of the order.

C. Prior to the hearing required by this section, notice of the hearing shall be given at least 24 hours in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian, or other person standing in loco parentis of the child, to any other family or household member of the child to whom the protective order may be directed and to the child if he or she is 12 years of age or older. The notice provided herein shall include (i) the time, date and place for the hearing and (ii) a specific statement of the factual circumstances which allegedly necessitate the issuance of a preliminary protective order.

D. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

E. At the hearing the child, his or her parents, guardian, legal custodian or other person standing in loco parentis and any other family or household member of the child to whom notice was given shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf.

F. If a petition alleging abuse or neglect of a child has been filed, at the hearing pursuant to this section the court shall determine whether the allegations of abuse or neglect have been proven by a preponderance of the evidence. Any finding of abuse or neglect shall be stated in the court order. However, if, before such a finding is made, a person responsible for the care and custody of the child, the child's guardian ad litem or the local department of social services objects to a finding being made at the hearing, the court shall schedule an adjudicatory hearing to be held within 30 days of the date of the initial preliminary protective order hearing. The adjudicatory hearing shall be held to determine whether the allegations of abuse and neglect have been proven by a preponderance of the evidence. Parties who are present at the hearing shall be given notice of the date set for the adjudicatory hearing and parties who are not present shall be summoned as provided in § 16.1-263. The adjudicatory hearing shall be held and an order may be entered, although a party to the hearing fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort.

Any preliminary protective order issued shall remain in full force and effect pending the adjudicatory hearing.

G. If at the preliminary protective order hearing held pursuant to this section the court makes a finding of abuse or neglect and a preliminary protective order is issued, a dispositional hearing shall be

305 held pursuant to § 16.1-278.2. The court shall forthwith, but in all cases no later than the end of the
306 business day on which the order was issued, enter and transfer identifying information provided to the
307 court electronically to the Virginia Criminal Information Network. A copy of the preliminary protective
308 order and an addendum containing any such identifying information shall be forwarded forthwith to the
309 primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of
310 the order and addendum by the primary law-enforcement agency, the agency shall forthwith verify and
311 enter any modification as necessary to the identifying information and other appropriate information
312 required by the Department of State Police into the Virginia Criminal Information Network established
313 and maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52
314 and the order shall be served forthwith on the allegedly abusing person in person as provided in
315 § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the
316 clerk of the circuit court shall forthwith forward an attested copy of the order and an addendum
317 containing identifying information to the primary law-enforcement agency providing service and entry of
318 protective orders and upon receipt of the order and addendum, the primary law-enforcement agency shall
319 enter the name of the person subject to the order and other appropriate information required by the
320 Department of State Police into the Virginia Criminal Information Network established and maintained
321 by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served
322 forthwith upon the allegedly abusing person in person as provided in § 16.1-264. Upon service, the
323 agency making service shall enter the date and time of service and other appropriate information
324 required by the Department of State Police into the Virginia Criminal Information Network and make
325 due return to the court. The preliminary order shall specify a date for the dispositional hearing. The
326 dispositional hearing shall be scheduled at the time of the hearing pursuant to this section, and shall be
327 held within 75 days of this hearing. If an adjudicatory hearing is requested pursuant to subsection F, the
328 dispositional hearing shall nonetheless be scheduled at the hearing pursuant to this section. All parties
329 present at the hearing shall be given notice of the date and time scheduled for the dispositional hearing;
330 parties who are not present shall be summoned to appear as provided in § 16.1-263.

331 H. Nothing in this section enables the court to remove a child from the custody of his or her parents,
332 guardian, legal custodian or other person standing in loco parentis, except as provided in § 16.1-278.2,
333 and no order hereunder shall be entered against a person over whom the court does not have
334 jurisdiction.

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

340 J. Violation of any order issued pursuant to this section shall constitute contempt of court.

341 K. The court shall forthwith, but in all cases no later than the end of the business day on which the
342 order was issued, enter and transfer identifying information provided to the court electronically to the
343 Virginia Criminal Information Network. A copy of the preliminary protective order and an addendum
344 containing any such identifying information shall be forwarded forthwith to the primary law-enforcement
345 agency responsible for service and entry of protective orders. Upon receipt of the order and addendum
346 by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as
347 necessary to the identifying information and other appropriate information required by the Department of
348 State Police into the Virginia Criminal Information Network established and maintained by the
349 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith
350 on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court.
351 However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward
352 an attested copy of the order and an addendum containing identifying information to the primary
353 law-enforcement agency providing service and entry of protective orders and upon receipt of the order
354 and addendum, the primary law-enforcement agency shall enter the name of the person subject to the
355 order and other appropriate information required by the Department of State Police into the Virginia
356 Criminal Information Network established and maintained by the Department pursuant to Chapter 2
357 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in
358 person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time
359 of service and other appropriate information required by the Department of State Police into the Virginia
360 Criminal Information Network and make due return to the court. The preliminary order shall specify a
361 date for the full hearing.

362 Upon receipt of the return of service or other proof of service pursuant to subsection C of
363 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the
364 primary law-enforcement agency and the agency shall forthwith verify and enter any modification as
365 necessary into the Virginia Criminal Information Network as described above. If the order is later
366 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.

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

M. If any identifying information in the addendum is determined to be incorrect by the entering agency, the agency shall enter the corrected information into the Virginia Criminal Information Network.

§ 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. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse 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 allegedly abusing person:

1. Prohibiting acts of family abuse.
2. Prohibiting such other contacts between the parties as the court deems appropriate.
3. Prohibiting such other contacts with the allegedly abused family or household member as the court deems necessary to protect the safety of such persons.

4. 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.

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

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

If supervised visitation is ordered, it shall be in accordance with the definition of supervised visitation in § 20-124.1.

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 identifying information provided to the court electronically to the Virginia Criminal Information Network. A copy of a preliminary protective order and an addendum 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 and addendum 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 allegedly abusing person 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 and an addendum containing identifying information to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order and addendum, 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 allegedly abusing person 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. 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 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 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 the 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 allegedly abusing person. Except as otherwise provided in § 16.1-253.2, 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 § 16.1-279.1 if the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.

E. 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.

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

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

H. If any identifying information in the addendum is determined to be incorrect by the entering agency, the agency shall enter the corrected information into the Virginia Criminal Information Network.

§ 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;

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

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.

If supervised visitation is ordered, it shall be in accordance with the definition of supervised visitation in § 20-124.1.

When the judge or magistrate considers the issuance of an emergency protective order pursuant to clause (i) of this subsection, 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 the end of the third day following issuance. If the expiration occurs at a time that the court is not in session, the emergency protective order shall be extended until the end of the next business 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 identifying information provided to the court or magistrate electronically to the Virginia Criminal Information Network. A copy of an emergency protective order issued pursuant to this section and an addendum 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 and addendum 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 and an addendum containing identifying information to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order and addendum, 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 § 19.2-81.3 C. 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, a "law-enforcement officer" means any (i) 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 subsection B of § 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.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's

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

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

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

557 L. If any identifying information in the addendum is determined to be incorrect by the entering
558 agency, the agency shall enter the corrected information into the Virginia Criminal Information Network.

559 § 16.1-278.2. Abused, neglected, or abandoned children or children without parental care.

560 A. Within ~~seventy-five~~ 75 days of a preliminary removal order hearing held pursuant to § 16.1-252
561 or a hearing on a preliminary protective order held pursuant to § 16.1-253, a dispositional hearing shall
562 be held if the court found abuse or neglect and (i) removed the child from his home or (ii) entered a
563 preliminary protective order. Notice of the dispositional hearing shall be provided to the child's parent,
564 guardian, legal custodian or other person standing in loco parentis in accordance with § 16.1-263. The
565 hearing shall be held and a dispositional order may be entered, although a parent, guardian, legal
566 custodian or person standing in loco parentis fails to appear and is not represented by counsel, provided
567 personal or substituted service was made on the person, or the court determines that such person cannot
568 be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the
569 person cannot be found or his post office address cannot be ascertained after reasonable effort. Notice
570 shall also be provided to the local department of social services, the guardian ad litem and, if appointed,
571 the court-appointed special advocate.

572 If a child is found to be (a) abused or neglected; (b) at risk of being abused or neglected by a parent
573 or custodian who has been adjudicated as having abused or neglected another child in his care; or (c)
574 abandoned by his parent or other custodian, or without parental care and guardianship because of his
575 parent's absence or physical or mental incapacity, the juvenile court or the circuit court may make any
576 of the following orders of disposition to protect the welfare of the child:

577 1. Enter an order pursuant to the provisions of § 16.1-278;

578 2. Permit the child to remain with his parent, subject to such conditions and limitations as the court
579 may order with respect to such child and his parent or other adult occupant of the same dwelling;

580 3. Prohibit or limit contact as the court deems appropriate between the child and his parent or other
581 adult occupant of the same dwelling whose presence tends to endanger the child's life, health or normal
582 development. The prohibition may exclude any such individual from the home under such conditions as
583 the court may prescribe for a period to be determined by the court but in no event for longer than 180
584 days from the date of such determination. A hearing shall be held within 150 days to determine further
585 disposition of the matter that may include limiting or prohibiting contact for another 180 days;

586 4. Permit the local board of social services or a public agency designated by the community policy
587 and management team to place the child, subject to the provisions of § 16.1-281, in suitable family
588 homes, child-caring institutions, residential facilities, or independent living arrangements with legal
589 custody remaining with the parents or guardians. The local board or public agency and the parents or
590 guardians shall enter into an agreement which shall specify the responsibilities of each for the care and
591 control of the child. The board or public agency that places the child shall have the final authority to
592 determine the appropriate placement for the child.

593 Any order allowing a local board or public agency to place a child where legal custody remains with
594 the parents or guardians as provided in this section shall be entered only upon a finding by the court
595 that reasonable efforts have been made to prevent placement out of the home and that continued
596 placement in the home would be contrary to the welfare of the child; and the order shall so state.

597 5. After a finding that there is no less drastic alternative, transfer legal custody, subject to the
598 provisions of § 16.1-281, to any of the following:

599 a. A relative or other interested individual subject to the provisions of subsection A1 of this section;

600 b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by
601 law to receive and provide care for such child; however, a court shall not transfer legal custody of an
602 abused or neglected child to an agency, organization or facility out of the Commonwealth without the
603 approval of the Commissioner of Social Services; or

604 c. The local board of social services of the county or city in which the court has jurisdiction or, at
605 the discretion of the court, to the local board of the county or city in which the child has residence if
606 other than the county or city in which the court has jurisdiction. The local board shall accept the child
607 for care and custody, provided that it has been given reasonable notice of the pendency of the case and
608 an opportunity to be heard. However, in an emergency in the county or city in which the court has
609 jurisdiction, the local board may be required to accept a child for a period not to exceed ~~fourteen~~ 14
610 days without prior notice or an opportunity to be heard if the judge entering the placement order
611 describes the emergency and the need for such temporary placement in the order. Nothing in this section
612 shall prohibit the commitment of a child to any local board of social services in the Commonwealth

when the local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.

Any order authorizing removal from the home and transferring legal custody of a child to a local board of social services as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child; and the order shall so state.

6. Transfer legal custody pursuant to subdivision 5 of this section and order the parent to participate in such services and programs or to refrain from such conduct as the court may prescribe; or

7. Terminate the rights of the parent pursuant to § 16.1-283.

A1. Any order transferring custody of the child to a relative or other interested individual pursuant to subdivision A 5 a shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative or other interested individual is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative or other interested individual should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

B. If the child has been placed in foster care, at the dispositional hearing the court shall review the foster care plan for the child filed in accordance with § 16.1-281 by the local department of social services, a public agency designated by the community policy and management team which places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardians, or child welfare agency.

C. Any preliminary protective orders entered on behalf of the child shall be reviewed at the dispositional hearing and may be incorporated, as appropriate, in the dispositional order.

D. A dispositional order entered pursuant to this section is a final order from which an appeal may be taken in accordance with § 16.1-296.

E. If supervised visitation is ordered, it shall be in accordance with the definition of supervised visitation in § 20-124.1.

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

A. In cases of family abuse, 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;

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;

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 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; however, no such grant of possession or use shall affect title to the vehicle;

6. 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;

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

8. 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.

If supervised visitation is ordered, it shall be in accordance with the definition of supervised visitation in § 20-124.1.

A1. If a protective order is issued pursuant to subsection A of this section, 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; however, unless otherwise authorized by law, a protective order may not be issued under this section for a period longer than two years. The protective order shall expire at the end of the last day identified for the two-year period and if no date

674 is identified, it shall expire at the end of the two years following the date of issuance. A copy of the
675 protective order shall be served on the respondent and provided to the petitioner as soon as possible.
676 The court shall forthwith, but in all cases no later than the end of the business day on which the order
677 was issued, enter and transfer identifying information provided to the court electronically to the Virginia
678 Criminal Information Network and shall forthwith forward the attested copy of the protective order and
679 an addendum containing any such identifying information to the primary law-enforcement agency
680 responsible for service and entry of protective orders. Upon receipt of the order and addendum by the
681 primary law-enforcement agency, the agency shall forthwith verify and enter any modification as
682 necessary to the identifying information and other appropriate information required by the Department of
683 State Police into the Virginia Criminal Information Network established and maintained by the
684 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith
685 upon the respondent and due return made to the court. However, if the order is issued by the circuit
686 court, the clerk of the circuit court shall forthwith forward an attested copy of the order and an
687 addendum containing identifying information to the primary law-enforcement agency providing service
688 and entry of protective orders and upon receipt of the order and addendum, the primary law-enforcement
689 agency shall enter the name of the person subject to the order and other appropriate information required
690 by the Department of State Police into the Virginia Criminal Information Network established and
691 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be
692 served forthwith upon the respondent. Upon service, the agency making service shall enter the date and
693 time of service and other appropriate information required by the Department of State Police into the
694 Virginia Criminal Information Network and make due return to the court. If the order is later dissolved
695 or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith
696 to the primary law-enforcement agency responsible for service and entry of protective orders, and upon
697 receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter
698 any modification as necessary to the identifying information and other appropriate information required
699 by the Department of State Police into the Virginia Criminal Information Network as described above
700 and the order shall be served forthwith and due return made to the court.

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

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

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

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

726 F. Either party may at any time file a written motion with the court requesting a hearing to dissolve
727 or modify the order. Proceedings to dissolve or modify a protective order shall be given precedence on
728 the docket of the court.

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

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

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

J. If any identifying information in the addendum is determined to be incorrect by the entering agency, the agency shall enter the corrected information into the Virginia Criminal Information Network.

§ 19.2-152.8. Emergency protective orders authorized in cases of stalking and acts of violence.

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, an allegedly stalked person or an alleged victim of a criminal offense resulting in a serious bodily injury to the alleged victim asserts under oath to a judge or magistrate that such person is being or has been subjected to stalking or a criminal offense resulting in a serious bodily injury to the alleged victim and on that assertion or other evidence the judge or magistrate finds that (i) there is probable danger of a further such offense being committed by the respondent against the alleged victim and (ii) a warrant for the arrest of the respondent has been issued, the judge or magistrate shall issue an ex parte emergency protective order imposing one or more of the following conditions on the respondent:

1. Prohibiting acts of violence or acts of stalking in violation of § 18.2-60.3;

2. Prohibiting such contacts by the respondent with the alleged victim of such crime or such person's family or household members as the judge or magistrate deems necessary to protect the safety of such persons; and

3. Such other conditions as the judge or magistrate deems necessary to prevent acts of stalking, or criminal offenses resulting in injury to person or property, or communication or other contact of any kind by the respondent.

If supervised visitation is ordered, it shall be in accordance with the definition of supervised visitation in § 20-124.1.

C. An emergency protective order issued pursuant to this section shall expire at the end of the third day following issuance. If the expiration occurs at a time that the court is not in session, the emergency protective order shall be extended until the end of the next business 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 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 identifying information provided to the court or magistrate electronically to the Virginia Criminal Information Network. A copy of an emergency protective order issued pursuant to this section and an addendum 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 and addendum 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 and an addendum containing identifying information to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order and addendum, 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 subsection B of § 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.

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

K. If any identifying information in the addendum is determined to be incorrect by the entering agency, the agency shall enter the corrected information into the Virginia Criminal Information Network.

§ 19.2-152.9. Preliminary protective orders in cases of stalking and acts of violence.

A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of time, subjected to stalking or a criminal offense resulting in a serious bodily injury to the petitioner, and (ii) a warrant has been issued for the arrest of the alleged perpetrator of such act or acts, 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. Immediate and present danger of stalking or another criminal offense that may result in a serious bodily injury to the petitioner or evidence sufficient to establish probable cause that stalking or a criminal offense resulting in a serious bodily injury to the petitioner 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 criminal offenses that may result in injury to person or property or acts of stalking in violation of § 18.2-60.3;

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; and

3. Such other conditions as the court deems necessary to prevent acts of stalking, criminal offenses that may result in injury to person or property, or communication or other contact of any kind by the respondent.

If supervised visitation is ordered, it shall be in accordance with the definition of supervised visitation in § 20-124.1.

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 identifying information provided to the court electronically to the Virginia Criminal Information Network. A copy of a preliminary protective order and an addendum 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 and addendum 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 stalker 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 and an addendum containing identifying information to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order and addendum, 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 stalker 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. 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 in § 16.1-253.2, 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 of a criminal offense resulting in a serious bodily injury to the petitioner or stalking 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. If any identifying information in the addendum is determined to be incorrect by the entering agency, the agency shall enter the corrected information into the Virginia Criminal Information Network. § 19.2-152.10. Protective order in cases of stalking and acts of violence.

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 warrant for a criminal offense resulting in a serious bodily injury to the petitioner, or a violation of § 18.2-60.3, (ii) a hearing held pursuant to subsection D of § 19.2-152.9, or (iii) a conviction for a criminal offense resulting in a serious bodily injury to the petitioner, or a violation of § 18.2-60.3. 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 criminal offenses that may result in injury to person or property, or acts of stalking in violation of § 18.2-60.3;

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; and

3. Any other relief necessary to prevent criminal offenses that may result in injury to person or property, or acts of stalking, communication or other contact of any kind by the respondent.

If supervised visitation is ordered, it shall be in accordance with the definition of supervised visitation in § 20-124.1.

B. The protective order may be issued for a specified period; however, unless otherwise authorized by law, a protective order may not be issued under this section for a period longer than two years. The protective order shall expire at the end of the last day identified for the two-year period and if no date is identified, it shall expire at the end of the two years following the date of issuance. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. 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 identifying information provided to the court electronically to the Virginia Criminal Information Network and shall forthwith forward the attested copy of the protective order and

an addendum containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order and addendum 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 and an addendum containing identifying information to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order and addendum, 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 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. 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. Except as otherwise provided, a violation of a protective order 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 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 law-enforcement agency responsible for service and entry of protective orders which shall, upon 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 Criminal Information Network established and maintained 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.

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.

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

G. 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.

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

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

J. If any identifying information in the addendum is determined to be incorrect by the entering agency, the agency shall enter the corrected information into the Virginia Criminal Information Network.

§ 20-124.1. Definitions.

As used in this chapter:

"Joint custody" means (i) joint legal custody where both parents retain joint responsibility for the

care and control of the child and joint authority to make decisions concerning the child even though the child's primary residence may be with only one parent, (ii) joint physical custody where both parents share physical and custodial care of the child, or (iii) any combination of joint legal and joint physical custody which the court deems to be in the best interest of the child.

"Person with a legitimate interest" shall be broadly construed and includes, but is not limited to grandparents, stepparents, former stepparents, blood relatives and family members provided any such party has intervened in the suit or is otherwise properly before the court. The term shall be broadly construed to accommodate the best interest of the child. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated, either voluntarily or involuntarily, including but not limited to grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation.

"Sole custody" means that one person retains responsibility for the care and control of a child and has primary authority to make decisions concerning the child.

"Supervised visitation" means contact between a parent and a child that occurs in the immediate presence of a supervising person approved by the court and under conditions designed to prevent any physical, emotional, or sexual abuse, threats, intimidation, abduction, or humiliation of either the child or the child's custodial parent or guardian. The supervising person shall not be any family or household member as that term is defined in clauses (i), (ii), (iv), (v), and (vi) under the definition of "family or household member" in § 16.1-228 of the parent subject to supervised visitation, a business associate or employee of that parent, or any other person the court deems inappropriate. In addition, if supervised visitation is ordered after the court finds that the child is an "abused and neglected child" as that term is defined in § 16.1-228, the supervising person shall not be a family or household member as that term is defined in § 16.1-228. If the court deems it appropriate, a family or household member who may not function as the supervising person may be present during supervised visitation.