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HOUSE BILL NO. 656

Offered January 13, 2010

Prefiled January 12, 2010

A BILL to amend and reenact §§ 16.1-253.1, 16.1-253.4, 16.1-279.1, 18.2-60.3, 19.2-152.8, 19.2-152.9, 19.2-152.10, and 20-103 of the Code of Virginia, relating to protective orders; judicial authority for GPS monitoring.

Patrons—Armstrong, BaCote, Barlow, Bulova, Ebbin, Englin, Herring, Hope, Kory, Lewis, McQuinn, Merricks, Miller, P.J., Morrissey, Scott, J.M., Sickles, Toscano and Tyler; Senator: Reynolds

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-253.1, 16.1-253.4, 16.1-279.1, 18.2-60.3, 19.2-152.8, 19.2-152.9, 19.2-152.10, and 20-103 of the Code of Virginia are amended and reenacted as follows:

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

A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to family abuse, the court may issue a preliminary protective order against an allegedly abusing person in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause. Evidence that the petitioner has been subjected to family abuse within a reasonable time and evidence of immediate and present danger of family abuse may be established by a showing that (i) the allegedly abusing person is incarcerated and is to be released from incarceration within 30 days following the petition or has been released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly abusing person was convicted and incarcerated involved family abuse against the petitioner, and (iii) the allegedly abusing person has made threatening contact with the petitioner while he was incarcerated, exhibiting a renewed threat to the petitioner of family abuse.

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

1. Prohibiting acts of family abuse.
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. *Requiring that the allegedly abusing person be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device or other similar device that sends a signal indicating the person's location to both the petitioner and the local law-enforcement agency when the person is near or at any prohibited location, the cost for such monitoring to be paid by the allegedly abusing person.*

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

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying

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58 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service
59 and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the
60 agency shall forthwith verify and enter any modification as necessary to the identifying information and
61 other appropriate information required by the Department of State Police into the Virginia Criminal
62 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et
63 seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as
64 provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit
65 court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the
66 respondent's identifying information and the name, date of birth, sex, and race of each protected person
67 provided to the court to the primary law-enforcement agency providing service and entry of protective
68 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the
69 person subject to the order and other appropriate information required by the Department of State Police
70 into the Virginia Criminal Information Network established and maintained by the Department pursuant
71 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly
72 abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter
73 the date and time of service and other appropriate information required by the Department of State
74 Police into the Virginia Criminal Information Network and make due return to the court. The
75 preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of
76 the issuance of the preliminary order. If the respondent fails to appear at this hearing because the
77 respondent was not personally served, or if personally served was incarcerated and not transported to the
78 hearing, the court may extend the protective order for a period not to exceed six months. The extended
79 protective order shall be served forthwith on the respondent. However, upon motion of the respondent
80 and for good cause shown, the court may continue the hearing. The preliminary order shall remain in
81 effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with
82 a copy of the order and information regarding the date and time of service. The order shall further
83 specify that either party may at any time file a motion with the court requesting a hearing to dissolve or
84 modify the order. The hearing on the motion shall be given precedence on the docket of the court.

85 Upon receipt of the return of service or other proof of service pursuant to subsection C of
86 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the
87 primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as
88 necessary into the Virginia Criminal Information Network as described above. If the order is later
89 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded
90 forthwith to the primary law-enforcement agency responsible for service and entry of protective orders,
91 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify
92 and enter any modification as necessary to the identifying information and other appropriate information
93 required by the Department of State Police into the Virginia Criminal Information Network as described
94 above and the order shall be served forthwith and due return made to the court.

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

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

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

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

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

107 § 16.1-253.4. Emergency protective orders authorized in certain cases; penalty.

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

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

4. *Requiring that the respondent be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device or other similar device that sends a signal indicating the person's location to both the petitioner and the local law-enforcement agency when the person is near or at any prohibited location, the cost for such monitoring to be paid by the allegedly abusing person.*

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

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

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

181 to writing accurately transcribed the contents of the oral order. The original copy shall be filed with the
182 clerk of the juvenile and domestic relations district court within five business days of the issuance of the
183 order. If the order is later dissolved or modified, a copy of the dissolution or modification order shall
184 also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and
185 entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the
186 agency shall forthwith verify and enter any modification as necessary to the identifying information and
187 other appropriate information required by the Department of State Police into the Virginia Criminal
188 Information Network as described above and the order shall be served forthwith and due return made to
189 the court. Upon request, the clerk shall provide the allegedly abused person with information regarding
190 the date and time of service.

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

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

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

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

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

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

209 § 16.1-279.1. Protective order in cases of family abuse.

210 A. In cases of family abuse, including any case involving an incarcerated or recently incarcerated
211 respondent against whom a preliminary protective order has been issued pursuant to § 16.2-253.1, the
212 court may issue a protective order to protect the health and safety of the petitioner and family or
213 household members of the petitioner. A protective order issued under this section may include any one
214 or more of the following conditions to be imposed on the respondent:

215 1. Prohibiting acts of family abuse;

216 2. Prohibiting such contacts by the respondent with the petitioner or family or household members of
217 the petitioner as the court deems necessary for the health or safety of such persons;

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

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

223 5. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner
224 alone or jointly owned by the parties to the exclusion of the respondent; however, no such grant of
225 possession or use shall affect title to the vehicle;

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

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

231 8. *Requiring that the respondent be subject to electronic monitoring by means of a GPS (Global*
232 *Positioning System) tracking device or other similar device that sends a signal indicating the*
233 *respondent's location to both the petitioner and the local law-enforcement agency when the respondent*
234 *is near or at any prohibited location, the cost for such monitoring to be paid by the respondent; and*

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

237 A1. If a protective order is issued pursuant to subsection A of this section, the court may also issue a
238 temporary child support order for the support of any children of the petitioner whom the respondent has
239 a legal obligation to support. Such order shall terminate upon the determination of support pursuant to
240 § 20-108.1.

241 B. The protective order may be issued for a specified period; however, unless otherwise authorized
242 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 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. 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 electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. Except as otherwise provided in § 16.1-253.2, 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 juvenile and domestic relations 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 dissolve or modify a protective order shall be given precedence on the docket of the court.

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

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

304 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme
305 Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

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

307 § 18.2-60.3. Stalking; penalty.

308 A. Any person, except a law-enforcement officer, as defined in § 9.1-101, and acting in the
309 performance of his official duties, and a registered private investigator, as defined in § 9.1-138, who is
310 regulated in accordance with § 9.1-139 and acting in the course of his legitimate business, who on more
311 than one occasion engages in conduct directed at another person with the intent to place, or when he
312 knows or reasonably should know that the conduct places that other person in reasonable fear of death,
313 criminal sexual assault, or bodily injury to that other person or to that other person's family or
314 household member is guilty of a Class 1 misdemeanor.

315 B. A third or subsequent conviction occurring within five years of a conviction for an offense under
316 this section or for a similar offense under the law of any other jurisdiction shall be a Class 6 felony.

317 C. A person may be convicted under this section irrespective of the jurisdiction or jurisdictions
318 within the Commonwealth wherein the conduct described in subsection A occurred, if the person
319 engaged in that conduct on at least one occasion in the jurisdiction where the person is tried. Evidence
320 of any such conduct that occurred outside the Commonwealth may be admissible, if relevant, in any
321 prosecution under this section provided that the prosecution is based upon conduct occurring within the
322 Commonwealth.

323 D. Upon finding a person guilty under this section, the court shall, in addition to the sentence
324 imposed, issue an order prohibiting contact between the defendant and the victim or the victim's family
325 or household member. *Such order may require that the defendant be subject to electronic monitoring by*
326 *means of a GPS (Global Positioning System) tracking device or other similar device that sends a signal*
327 *indicating the defendant's location to both the victim and the local law-enforcement agency when the*
328 *defendant is near or at any prohibited location, the cost for such monitoring to be paid by the*
329 *defendant.*

330 E. The Department of Corrections, sheriff or regional jail director shall give notice prior to the
331 release from a state correctional facility or a local or regional jail of any person incarcerated upon
332 conviction of a violation of this section, to any victim of the offense who, in writing, requests notice, or
333 to any person designated in writing by the victim. The notice shall be given at least ~~fifteen~~ 15 days
334 prior to release of a person sentenced to a term of incarceration of more than ~~thirty~~ 30 days or, if the
335 person was sentenced to a term of incarceration of at least ~~forty-eight~~ 48 hours but no more than ~~thirty~~
336 30 days, ~~twenty-four~~ 24 hours prior to release. If the person escapes, notice shall be given as soon as
337 practicable following the escape. The victim shall keep the Department of Corrections, sheriff or
338 regional jail director informed of the current mailing address and telephone number of the person named
339 in the writing submitted to receive notice.

340 All information relating to any person who receives or may receive notice under this subsection shall
341 remain confidential and shall not be made available to the person convicted of violating this section.

342 For purposes of this subsection, "release" includes a release of the offender from a state correctional
343 facility or a local or regional jail (i) upon completion of his term of incarceration or (ii) on probation or
344 parole.

345 No civil liability shall attach to the Department of Corrections nor to any sheriff or regional jail
346 director or their deputies or employees for a failure to comply with the requirements of this subsection.

347 F. For purposes of this section:

348 "Family or household member" has the same meaning as provided in § 16.1-228.

349 § 19.2-152.8. Emergency protective orders authorized in cases of stalking, sexual battery, and acts of
350 violence.

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

354 B. When a law-enforcement officer, an allegedly stalked person or an alleged victim of sexual
355 battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3 or a criminal
356 offense resulting in a serious bodily injury to the alleged victim asserts under oath to a judge or
357 magistrate that such person is being or has been subjected to stalking, sexual battery in violation of
358 § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, or a criminal offense resulting in a
359 serious bodily injury to the alleged victim and on that assertion or other evidence the judge or
360 magistrate finds that (i) there is probable danger of a further such offense being committed by the
361 respondent against the alleged victim and (ii) a warrant for the arrest of the respondent has been issued,
362 the judge or magistrate shall issue an ex parte emergency protective order imposing one or more of the
363 following conditions on the respondent:

364 1. Prohibiting acts of violence, acts of sexual battery, or acts of stalking in violation of § 18.2-60.3;

365 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. *Requiring that the respondent be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device or other similar device that sends a signal indicating the respondent's location to both the alleged victim and the local law-enforcement agency when the respondent is near or at any prohibited location, the cost for such monitoring to be paid by the allegedly abusing person; and*

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

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

D. A law-enforcement officer may request an emergency protective order pursuant to this section orally, in person or by electronic means, and the judge of a circuit court, general district court, or juvenile and domestic relations district court or a magistrate may issue an oral emergency protective order. An oral emergency protective order issued pursuant to this section shall be reduced to writing, by the law-enforcement officer requesting the order or the magistrate, on a preprinted form approved and provided by the Supreme Court of Virginia. The completed form shall include a statement of the grounds for the order asserted by the officer or the alleged victim of such crime.

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

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

G. As used in this section, a "law-enforcement officer" means any (i) person who is a full-time or part-time employee of a police department or sheriff's office which is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth and

427 (ii) member of an auxiliary police force established pursuant to subsection B of § 15.2-1731. Part-time
428 employees are compensated officers who are not full-time employees as defined by the employing police
429 department or sheriff's office.

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

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

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

437 § 19.2-152.9. Preliminary protective orders in cases of stalking, sexual battery and acts of violence.

438 A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable
439 period of time, subjected to stalking, sexual battery in violation of § 18.2-67.4, aggravated sexual battery
440 in violation of § 18.2-67.3, or a criminal offense resulting in a serious bodily injury to the petitioner,
441 and (ii) a warrant has been issued for the arrest of the alleged perpetrator of such act or acts, the court
442 may issue a preliminary protective order against the alleged perpetrator in order to protect the health and
443 safety of the petitioner or any family or household member of the petitioner. The order may be issued in
444 an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn
445 testimony before the judge or intake officer. Immediate and present danger of stalking or another
446 criminal offense that may result in a serious bodily injury to the petitioner or evidence sufficient to
447 establish probable cause that stalking, sexual battery in violation of § 18.2-67.4, aggravated sexual
448 battery in violation of § 18.2-67.3, or a criminal offense resulting in a serious bodily injury to the
449 petitioner has recently occurred shall constitute good cause.

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

452 1. Prohibiting criminal offenses that may result in injury to person or property, acts of sexual battery,
453 or acts of stalking in violation of § 18.2-60.3;

454 2. Prohibiting such other contacts by the respondent with the petitioner or the petitioner's family or
455 household members as the court deems necessary for the health and safety of such persons; ~~and~~

456 3. *Requiring that the respondent be subject to electronic monitoring by means of a GPS (Global*
457 *Positioning System) tracking device or other similar device that sends a signal indicating the*
458 *respondent's location to both the petitioner and the local law-enforcement agency when the person is*
459 *near or at any prohibited location, the cost for such monitoring to be paid by the respondent; and*

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

463 B. The court shall forthwith, but in all cases no later than the end of the business day on which the
464 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the
465 respondent's identifying information and the name, date of birth, sex, and race of each protected person
466 provided to the court. A copy of a preliminary protective order containing any such identifying
467 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service
468 and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the
469 agency shall forthwith verify and enter any modification as necessary to the identifying information and
470 other appropriate information required by the Department of State Police into the Virginia Criminal
471 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et
472 seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided
473 in § 16.1-264, and due return made to the court. However, if the order is issued by the circuit court, the
474 clerk of the circuit court shall forthwith forward an attested copy of the order containing the
475 respondent's identifying information and the name, date of birth, sex, and race of each protected person
476 provided to the court to the primary law-enforcement agency providing service and entry of protective
477 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the
478 person subject to the order and other appropriate information required by the Department of State Police
479 into the Virginia Criminal Information Network established and maintained by the Department pursuant
480 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged
481 perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the
482 date and time of service and other appropriate information required by the Department of State Police
483 into the Virginia Criminal Information Network and make due return to the court. The preliminary order
484 shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the
485 preliminary order. If the respondent fails to appear at this hearing because the respondent was not
486 personally served, the court may extend the protective order for a period not to exceed six months. The
487 extended protective order shall be served as soon as possible on the respondent. However, upon motion
488 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, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, 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.

§ 19.2-152.10. Protective order in cases of stalking, sexual battery 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 sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, 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 sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, 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, acts of sexual battery, 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. *Requiring that the respondent be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device or other similar device that sends a signal indicating the respondent's location to both the petitioner and the local law-enforcement agency when the respondent is near or at any prohibited location, the cost for such monitoring to be paid by the respondent; and*

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

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 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. 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 electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order and containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the

550 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith
551 upon the respondent and due return made to the court. However, if the order is issued by the circuit
552 court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the
553 respondent's identifying information and the name, date of birth, sex, and race of each protected person
554 provided to the court to the primary law-enforcement agency providing service and entry of protective
555 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the
556 person subject to the order and other appropriate information required by the Department of State Police
557 into the Virginia Criminal Information Network established and maintained by the Department pursuant
558 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the respondent.
559 Upon service, the agency making service shall enter the date and time of service and other appropriate
560 information required into the Virginia Criminal Information Network and make due return to the court.
561 If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be
562 attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of
563 protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall
564 forthwith verify and enter any modification as necessary to the identifying information and other
565 appropriate information required by the Department of State Police into the Virginia Criminal
566 Information Network as described above and the order shall be served forthwith and due return made to
567 the court.

568 C. Except as otherwise provided, a violation of a protective order issued under this section shall
569 constitute contempt of court.

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

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

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

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

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

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

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

603 § 20-103. Court may make orders pending suit for divorce, custody or visitation, etc.

604 A. In suits for divorce, annulment and separate maintenance, and in proceedings arising under
605 subdivision A 3 or subsection L of § 16.1-241, the court having jurisdiction of the matter may, at any
606 time pending a suit pursuant to this chapter, in the discretion of such court, make any order that may be
607 proper (i) to compel a spouse to pay any sums necessary for the maintenance and support of the
608 petitioning spouse, including an order that the other spouse provide health care coverage for the
609 petitioning spouse, unless it is shown that such coverage cannot be obtained, (ii) to enable such spouse
610 to carry on the suit, (iii) to prevent either spouse from imposing any restraint on the personal liberty of
611 the other spouse, (iv) to provide for the custody and maintenance of the minor children of the parties,

including an order that either party or both parties provide health care coverage or cash medical support, or both, for the children, (v) to provide support, calculated in accordance with § 20-108.2, for any child of the parties to whom a duty of support is owed and to continue to support any child over the age of 18 who meets the requirements set forth in subsection C of § 20-124.2, (vi) for the exclusive use and possession of the family residence during the pendency of the suit, (vii) to preserve the estate of either spouse, so that it be forthcoming to meet any decree which may be made in the suit, or (viii) to compel either spouse to give security to abide such decree. The parties to any petition where a child whose custody, visitation, or support is contested shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the court except that the court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court's discretion. Parties under this section shall include natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party's ability to pay; however, no fee in excess of \$50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Other than statements or admissions by a party admitting criminal activity or child abuse, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding.

B. In addition to the terms provided in subsection A, upon a showing by a party of reasonable apprehension of physical harm to that party by such party's family or household member as that term is defined in § 16.1-228, and consistent with rules of the Supreme Court of Virginia, the court may enter an order excluding that party's family or household member from the jointly owned or jointly rented family dwelling *and may require the excluded person to be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device or other similar device that sends a signal indicating the excluded person's location to both the moving party and the local law-enforcement agency when the person is near or at the dwelling from which he is excluded, the cost for such monitoring to be paid by the excluded person.* In any case where an order is entered under this ~~paragraph~~ subsection, pursuant to an ex parte hearing, the order shall not exclude a family or household member from the family dwelling for a period in excess of 15 days from the date the order is served, in person, upon the person so excluded. The order may provide for an extension of time beyond the 15 days, to become effective automatically. The person served may at any time file a written motion in the clerk's office requesting a hearing to dissolve or modify the order. Nothing in this section shall be construed to prohibit the court from extending an order entered under this subsection for such longer period of time as is deemed appropriate, after a hearing on notice to the parties. If the party subject to the order fails to appear at this hearing, the court may extend the order for a period not to exceed six months.

C. In cases other than those for divorce in which a custody or visitation arrangement for a minor child is sought, the court may enter an order providing for custody, visitation or maintenance pending the suit as provided in subsection A. The order shall be directed to either parent or any person with a legitimate interest who is a party to the suit.

D. Orders entered pursuant to this section which provide for custody or visitation arrangements pending the suit shall be made in accordance with the standards set out in Chapter 6.1 (§ 20-124.1 et seq.) of this title. Orders entered pursuant to subsection B shall be certified by the clerk and forwarded as soon as possible to the local police department or sheriff's office which shall, on the date of receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia crime information network system established and maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. If the order is later dissolved or modified, a copy of the dissolution or modification shall also be certified, forwarded and entered in the system as described above.

E. An order entered pursuant to this section shall have no presumptive effect and shall not be determinative when adjudicating the underlying cause.