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SENATE BILL NO. 1222

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 26, 2011)

(Patrons Prior to Substitute—Senators Barker, Hanger [SB 1091], Lucas [SB 1364], and Reynolds [SB 877])
A BILL to amend and reenact §§ 16.1-69.55, 17.1-213, 17.1-272, 18.2-60.4, 19.2-81.3, 19.2-120, 19.2-152.8, 19.2-152.9, and 19.2-152.10 of the Code of Virginia, relating to protective orders; availability; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.55, 17.1-213, 17.1-272, 18.2-60.4, 19.2-81.3, 19.2-120, 19.2-152.8, 19.2-152.9, and 19.2-152.10 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.55. Retention of case records; limitations on enforcement of judgments; extensions.

A. Criminal and traffic infraction proceedings:

1. In misdemeanor and traffic infraction cases, except misdemeanor cases under § 16.1-253.2 ~~or~~, 18.2-57.2, *or* 18.2-60.4, all documents shall be retained for 10 years, including cases sealed in expungement proceedings under § 19.2-392.2. In misdemeanor cases under § 16.1-253.2 ~~or~~, 18.2-57.2, *or* 18.2-60.4, all documents shall be retained for 20 years. In misdemeanor cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-370.1, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, all documents shall be retained for 50 years. Documents in misdemeanor and traffic infraction cases for which an appeal has been made shall be returned to and filed with the clerk of the appropriate circuit court pursuant to § 16.1-135;

2. In felony cases which are certified to the grand jury, all documents shall be certified to the clerk of the appropriate circuit court pursuant to §§ 19.2-186 and 19.2-190. All other felony case documents shall be handled as provided in subdivision A 1 of this section;

3. Dockets and indices shall be retained for 10 years.

B. Civil proceedings:

1. All documents in civil proceedings in district court which are dismissed, including dismissal under § 8.01-335, shall be retained until completion of the Commonwealth's audit of the court records. Notwithstanding § 8.01-275.1, the clerks of the district courts may destroy documents in civil proceedings in which no service of process is had 24 months after the last return date;

2. In civil actions which result in a judgment all documents in the possession of the general district court shall be retained for 10 years and, unless sooner satisfied, the judgment shall remain in force for a period of 10 years;

3. In civil cases that are appealed to the circuit court pursuant to § 16.1-112, all documents pertaining thereto shall be transferred to the circuit court in accordance with those sections;

4. The limitations on enforcement of general district court judgments provided in § 16.1-94.1 shall not apply if the plaintiff, prior to the expiration of that period for enforcement, pays the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. However, a judgment debtor wishing to discharge a judgment pursuant to the provisions of § 8.01-456, when the judgment creditor cannot be located, may, prior to the expiration of that period for enforcement, pay the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. After the expiration of the period provided in § 16.1-94.1, executions on such docketed civil judgments may issue from the general district court wherein the judgment was obtained upon the filing in the general district court of an abstract from the circuit court. In all other respects, the docketing of a general district court judgment in a circuit court confers upon such judgment the same status as if the judgment were a circuit court judgment;

5. Dockets for civil cases shall be retained for 10 years;

6. Indices in civil cases shall be retained for 10 years.

C. Juvenile and domestic relations district court proceedings:

1. In adult criminal cases, all records shall be retained as provided in subdivision A 1 of this section;

2. In juvenile cases, all documents and indices shall be governed by the provisions of § 16.1-306;

3. In all cases involving support arising under Titles 16.1, 20 or 63.2, all documents and indices shall be retained until the last juvenile involved, if any, has reached 19 years of age and 10 years have elapsed from either dismissal or termination of the case by court order or by operation of law. Financial records in connection with such cases shall be subject to the provisions of § 16.1-69.56;

4. In all cases involving sexually violent offenses, as defined in § 37.2-900, and in all misdemeanor cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370,

60 18.2-370.01, 18.2-370.1, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, all documents shall be retained
61 for 50 years;

62 5. In cases transferred to circuit court for trial as an adult or appealed to circuit court, all documents
63 pertaining thereto shall be transferred to circuit court;

64 6. All dockets in juvenile cases shall be governed by the provisions of § 16.1-306 F.

65 § 17.1-213. Disposition of papers in ended cases.

66 A. All case files for cases ended prior to January 1, 1913, shall be permanently maintained in
67 hardcopy form, either in the locality served by the circuit court where such files originated or in The
68 Library of Virginia in accordance with the provisions of § 42.1-86 and subsection C of § 42.1-87.

69 B. The following records for cases ending on or after January 1, 1913, may be destroyed in their
70 entirety at the discretion of the clerk of each circuit court after having been retained for 10 years after
71 conclusion:

72 1. Conditional sales contracts;

73 2. Concealed weapons permit applications;

74 3. Minister appointments;

75 4. Petitions for appointment of trustee;

76 5. Name changes;

77 6. Nolle prosequi cases;

78 7. Civil actions that are voluntarily dismissed, including nonsuits, cases that are dismissed as settled
79 and agreed, cases that are dismissed with or without prejudice, cases that are discontinued or dismissed
80 under § 8.01-335 and district court appeals dismissed under § 16.1-113 prior to 1988;

81 8. Misdemeanor and traffic cases, except as provided in subdivision C 3, including those which were
82 commenced on a felony charge but concluded as a misdemeanor;

83 9. Suits to enforce a lien;

84 10. Garnishments;

85 11. Executions except for those covered in § 8.01-484;

86 12. Miscellaneous oaths and qualifications, but only if the order or oath or qualification is spread in
87 the appropriate order book; and

88 13. Civil cases pertaining to declarations of habitual offender status and full restoration of driving
89 privileges.

90 C. All other records or cases ending on or after January 1, 1913, may be destroyed in their entirety
91 at the discretion of the clerk of each circuit court subject to the following guidelines:

92 1. All civil case files to which subsection D does not pertain may be destroyed after 20 years from
93 the court order date.

94 2. All criminal cases dismissed, including those not a true bill, acquittals and not guilty verdicts, may
95 be destroyed after 10 years from the court order date.

96 3. All criminal case files involving a felony conviction or a misdemeanor conviction under
97 § 16.1-253.2 ~~or~~, 18.2-57.2, *or* 18.2-60.4 may be destroyed (i) after 20 years from the sentencing date or
98 (ii) when the sentence term ends, whichever comes later.

99 D. Under the provisions of subsections B and C, the entire file of any case deemed by the local clerk
100 of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance shall
101 be retained permanently as shall all cases in which the title to real estate is established, conveyed or
102 condemned by an order or decree of the court. The final order for all cases in which the title to real
103 estate is so affected shall include an appropriate notification thereof to the clerk.

104 E. Except as provided in subsection A, the clerk of a circuit court may cause (i) any or all ended
105 records, papers, or documents pertaining to civil and criminal cases which have been ended for a period
106 of three years or longer; (ii) any unexecuted search warrants and affidavits for unexecuted search
107 warrants, provided at least three years have passed since issued; (iii) any abstracts of judgments; and (iv)
108 original wills, to be destroyed if such records, papers, documents, or wills no longer have administrative,
109 fiscal, historical, or legal value to warrant continued retention, provided such records, papers, or
110 documents have been microfilmed or converted to an electronic format. Such microfilm and
111 microphotographic processes and equipment shall meet state archival microfilm standards pursuant to
112 § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such records,
113 papers, or documents so converted shall be placed in conveniently accessible files and provisions made
114 for examining and using same. The clerk shall further provide security negative copies of any such
115 microfilmed materials for storage in The Library of Virginia.

116 § 17.1-272. Process and service fees generally.

117 A. The fee for process and service in the following instances shall be \$12:

118 1. Service on any person, firm or corporation, an order, notice, summons or any other civil process,
119 except as herein otherwise provided, and for service on any person, firm, or corporation any process
120 when the body is not taken and making a return thereof, except that no fee shall be charged for service
121 pursuant to § 2.2-4022.

2. Summoning a witness or garnishee on an attachment.
 3. Service on any person of an attachment or other process under which the body is taken and making a return thereon.
 4. Service of any order of court not otherwise provided for, except that no fees shall be charged for protective orders issued pursuant to Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.
 5. Making a return of a writ of fieri facias where no levy is made or forthcoming bond is taken.
 6. Summoning a witness in any case in which custody or visitation of a minor child or children is at issue.
- B. The fees for process and service in the following instances shall be \$25:
1. Service and publication of any notice of a publicly-advertised public sale.
 2. Service of a writ of possession, except that there shall be an additional fee of \$12 for each additional defendant.
 3. Levying upon current money, bank notes, goods or chattels of a judgment debtor pursuant to § 8.01-478.
 4. Service of a declaration in ejectment on any person, firm or corporation, except that there shall be an additional fee of \$12 for each additional defendant.
 5. Levying distress warrant or an attachment.
 6. Levying an execution.
- C. The process and service fee for serving any papers returnable out of state shall be \$75, except no fees shall be charged for the service of papers in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a ~~protection~~ protective order or a petition for ~~protection~~ a protective order, to protect a victim of domestic violence, stalking or sexual assault. A victim of domestic violence, stalking, or sexual assault shall not bear the costs associated with the filing of criminal charges against the offender, ~~or~~ and no victim shall bear the costs associated with the filing, issuance, registration, or service of a warrant, ~~protection~~ protective order, petition for a ~~protection~~ protective order, or witness subpoena, issued inside or outside the Commonwealth.
- D. The fees set out in this section shall be allowable for services provided by such officers in the circuit and district courts.
- § 18.2-60.4. Violation of protective orders; penalty.
- Any person who violates any provision of a protective order issued pursuant to §§ 19.2-152.8, 19.2-152.9 or § 19.2-152.10 is guilty of a Class 1 misdemeanor. Conviction hereunder shall bar a finding of contempt for the same act. *The punishment for any person convicted of a second offense of violating a protective order, when the offense is committed within five years of the prior conviction and when either the instant or prior offense was based on an act or threat of violence, shall include a mandatory minimum term of confinement of 60 days. Any person convicted of a third or subsequent offense of violating a protective order, when the offense is committed within 20 years of the first conviction and when either the instant or one of the prior offenses was based on an act or threat of violence, is guilty of a Class 6 felony and the punishment shall include a mandatory minimum term of confinement of six months.*
- If the respondent commits an assault and battery upon any party protected by the protective order resulting in serious bodily injury to the party, he is guilty of a Class 6 felony. Any person who violates such a protective order by furtively entering the home of any protected party while the party is present, or by entering and remaining in the home of the protected party until the party arrives, is guilty of a Class 6 felony, in addition to any other penalty provided by law.*
- Upon conviction of any offense hereunder for which a mandatory minimum term of confinement is not specified, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended.*
- Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order pursuant to § 19.2-152.10 for a specified period not exceeding two years from the date of conviction.
- § 19.2-81.3. Arrest without a warrant authorized in cases of assault and battery against a family or household member and stalking and for violations of protective orders; procedure, etc.
- A. Any law-enforcement officer, as defined in § 19.2-81, may arrest without a warrant for an alleged violation of § 18.2-57.2, 18.2-60.4, or 16.1-253.2 regardless of whether such violation was committed in his presence, if such arrest is based on probable cause or upon personal observations or the reasonable complaint of a person who observed the alleged offense or upon personal investigation.
- B. A law-enforcement officer having probable cause to believe that a violation of § 18.2-57.2 or 16.1-253.2 has occurred shall arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the predominant physical aggressor unless there are special circumstances which would dictate a course of action other than an arrest. The standards for determining who is the predominant physical aggressor shall be based on the following considerations:

183 (i) who was the first aggressor, (ii) the protection of the health and safety of family and household
184 members, (iii) prior complaints of family abuse by the allegedly abusing person involving the family or
185 household members, (iv) the relative severity of the injuries inflicted on persons involved in the
186 incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other
187 observations.

188 C. Regardless of whether an arrest is made, the officer shall file a written report with his department,
189 which shall state whether any arrests were made, and if so, the number of arrests, specifically including
190 any incident in which he has probable cause to believe family abuse has occurred, and, where required,
191 including a complete statement in writing that there are special circumstances that would dictate a course
192 of action other than an arrest. The officer shall provide the allegedly abused person, both orally and in
193 writing, information regarding the legal and community resources available to the allegedly abused
194 person. Upon request of the allegedly abused person, the department shall make a summary of the report
195 available to the allegedly abused person.

196 D. In every case in which a law-enforcement officer makes an arrest under this section, he shall
197 petition for an emergency protective order as authorized in § 16.1-253.4 or 19.2-152.8 when the person
198 arrested and taken into custody is brought before the magistrate, except if the person arrested is a minor,
199 a petition for an emergency protective order shall not be required. Regardless of whether an arrest is
200 made, if the officer has probable cause to believe that a danger of acts of family abuse exists, the
201 law-enforcement officer shall seek an emergency protective order under § 16.1-253.4, except if the
202 suspected abuser is a minor, a petition for an emergency protective order shall not be required.

203 E. A law-enforcement officer investigating any complaint of family abuse, including but not limited
204 to assault and battery against a family or household member shall, upon request, transport, or arrange
205 for the transportation of an abused person to a hospital or safe shelter, or to appear before a magistrate.
206 Any local law-enforcement agency may adopt a policy requiring an officer to transport or arrange for
207 transportation of an abused person as provided in this subsection.

208 F. The definition of "family or household member" in § 16.1-228 applies to this section.

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

216 § 19.2-120. Admission to bail.

217 Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall, to
218 the extent feasible, obtain the person's criminal history.

219 A. A person who is held in custody pending trial or hearing for an offense, civil or criminal
220 contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to
221 believe that:

- 222 1. He will not appear for trial or hearing or at such other time and place as may be directed, or
- 223 2. His liberty will constitute an unreasonable danger to himself or the public.

224 B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of
225 conditions will reasonably assure the appearance of the person or the safety of the public if the person is
226 currently charged with:

- 227 1. An act of violence as defined in § 19.2-297.1;
- 228 2. An offense for which the maximum sentence is life imprisonment or death;
- 229 3. A violation of § 18.2-248, 18.2-248.01, 18.2-255, or 18.2-255.2 involving a Schedule I or II
230 controlled substance if (i) the maximum term of imprisonment is 10 years or more and the person was
231 previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as
232 defined in § 18.2-248;
- 233 4. A violation of § 18.2-308.1, 18.2-308.2, or 18.2-308.4 and which relates to a firearm and provides
234 for a mandatory minimum sentence;
- 235 5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1
236 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;
- 237 6. Any felony committed while the person is on release pending trial for a prior felony under federal
238 or state law or on release pending imposition or execution of sentence or appeal of sentence or
239 conviction;
- 240 7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted
241 of an offense listed in § 18.2-67.5:2 or a substantially similar offense under the laws of any state or the
242 United States and the judicial officer finds probable cause to believe that the person who is currently
243 charged with one of these offenses committed the offense charged;
- 244 8. A violation of § 18.2-374.1 or 18.2-374.3 where the offender has reason to believe that the

solicited person is under 15 years of age and the offender is at least five years older than the solicited person;

9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;

10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the past five years of the instant offense, been convicted three times on different dates of a violation of any combination of these Code sections, or any ordinance of any county, city, or town or the laws of any other state or of the United States substantially similar thereto, and has been at liberty between each conviction;

11. A second or subsequent violation of § 16.1-253.2 *or* 18.2-60.4 or a substantially similar offense under the laws of any state or the United States; or

12. A violation of subsection B of § 18.2-57.2.

C. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is being arrested pursuant to § 19.2-81.6.

D. The court shall consider the following factors and such others as it deems appropriate in determining, for the purpose of rebuttal of the presumption against bail described in subsection B, whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of the public:

1. The nature and circumstances of the offense charged;

2. The history and characteristics of the person, including his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, membership in a criminal street gang as defined in § 18.2-46.1, and record concerning appearance at court proceedings; and

3. The nature and seriousness of the danger to any person or the community that would be posed by the person's release.

E. The judicial officer shall inform the person of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124.

F. If the judicial officer sets a secured bond and the person engages the services of a licensed bail bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon request, with a copy of the person's Virginia criminal history record, if readily available, to be used by the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his release. The bondsman shall pay a \$15 fee payable to the state treasury to be credited to the Literary Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389. The bondsman shall review the record on the premises and promptly return the record to the magistrate after reviewing it.

CHAPTER 9.1.

PROTECTIVE ORDERS FOR STALKING.

§ 19.2-152.8. Emergency protective orders authorized.

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 sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3 or a criminal offense resulting in a serious bodily injury to the~~ *or an* alleged victim asserts under oath to a judge or magistrate that such person is being or has been subjected to stalking, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, ~~or a criminal offense resulting in a serious bodily injury to the alleged victim, an assault, or any conduct that creates a reasonable fear of death, sexual assault, or bodily injury,~~ and on that assertion or other evidence the judge or magistrate finds that (i) there is probable danger of a further such offense *or conduct* being committed by the respondent against the alleged victim ~~and~~ *or* (ii) a *petition or* warrant for the arrest of the respondent has been issued *for any of the offenses listed in this section,* 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, acts of sexual battery, ~~or~~ acts of stalking in violation of § 18.2-60.3, *acts of assault, or any acts of threatening conduct;*

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, acts of sexual battery, ~~or~~ criminal offenses resulting in injury to person or property, *acts of assault,* 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 *and, if the person in need of protection is physically or mentally incapable of filing a petition pursuant to § 19.2-152.9 or 19.2-152.10, 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 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 (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.

§ 19.2-152.9. Preliminary protective orders.

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, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, ~~or a criminal offense resulting in a serious~~ *and assault, or any conduct that creates a reasonable fear of death, sexual assault, or bodily injury*, or (ii) a petition or 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, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, ~~or a criminal offense resulting in a serious~~ *an assault, or conduct creating a reasonable fear of death, sexual assault, or 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, acts of sexual battery, ~~or acts of stalking in violation of § 18.2-60.3, acts of assault, or any acts of threatening conduct;~~

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, acts of sexual battery, criminal offenses that may result in injury to person or property, *acts of assault*, or communication or other contact of any kind by the respondent.

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 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 on the alleged perpetrator 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 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 on the alleged perpetrator 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~~ *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~~ *or* stalking, ~~assault, or conduct creating a reasonable fear of death, sexual assault, or bodily injury,~~ 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.

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 *petition or* warrant for, ~~or a conviction of,~~ 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~~ *serious* bodily injury to the petitioner, ~~or~~ a violation of § 18.2-60.3, ~~or assault or~~ (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, ~~acts of assault, or any conduct that creates a reasonable fear of death, sexual assault, or bodily injury;~~

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, acts of sexual battery, ~~or~~ acts of stalking, ~~acts of assault,~~ or communication or other contact of any kind by the respondent.

B. The protective order may be issued for a specified period of time up to a maximum of 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. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. The court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of 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. Nothing herein shall limit the number of extensions that may be requested or issued.

C. 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 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 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.

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

E. 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.

F. 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.

G. 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.

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

J. As used in this section:

"Copy" includes a facsimile copy; and

"Protective order" includes an initial, modified or extended protective order.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$93,767 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.