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## SENATE BILL NO. 541

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee  
on March 10, 2012)

(Patron Prior to Substitute—Senator Obenshain)

A BILL to amend and reenact §§ 9.1-102, 9.1-112, 15.2-1731, 16.1-253.4, 19.2-81.3, 19.2-152.8, and 53.1-31.1 of the Code of Virginia, relating to auxiliary police forces.

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

**1. That §§ 9.1-102, 9.1-112, 15.2-1731, 16.1-253.4, 19.2-81.3, 19.2-152.8, and 53.1-31.1 of the Code of Virginia are amended and reenacted as follows:**

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. Establish compulsory training courses for law-enforcement officers in laws and procedures relating to entrapment, search and seizure, evidence, and techniques of report writing, which training shall be completed by law-enforcement officers who have not completed the compulsory training standards set out in subdivision 2, prior to assignment of any such officers to undercover investigation work. Failure to complete the training shall not, for that reason, constitute grounds to exclude otherwise properly admissible testimony or other evidence from such officer resulting from any undercover investigation;

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and for correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and establish the time required for completion of such training;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and with universities, colleges, community colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

60 12-13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth,  
61 for school operation for the specific purpose of training law-enforcement officers; but this shall not  
62 prevent the holding of any such school whether approved or not;  
63 13-14. Establish and maintain police training programs through such agencies and institutions as the  
64 Board deems appropriate;  
65 14-15. Establish compulsory minimum qualifications of certification and recertification for instructors  
66 in criminal justice training schools approved by the Department;  
67 15-16. Conduct and stimulate research by public and private agencies which shall be designed to  
68 improve police administration and law enforcement;  
69 16-17. Make recommendations concerning any matter within its purview pursuant to this chapter;  
70 17-18. Coordinate its activities with those of any interstate system for the exchange of criminal  
71 history record information, nominate one or more of its members to serve upon the council or  
72 committee of any such system, and participate when and as deemed appropriate in any such system's  
73 activities and programs;  
74 18-19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this  
75 chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to  
76 submit information, reports, and statistical data with respect to its policy and operation of information  
77 systems or with respect to its collection, storage, dissemination, and usage of criminal history record  
78 information and correctional status information, and such criminal justice agencies shall submit such  
79 information, reports, and data as are reasonably required;  
80 19-20. Conduct audits as required by § 9.1-131;  
81 20-21. Conduct a continuing study and review of questions of individual privacy and confidentiality  
82 of criminal history record information and correctional status information;  
83 21-22. Advise criminal justice agencies and initiate educational programs for such agencies with  
84 respect to matters of privacy, confidentiality, and security as they pertain to criminal history record  
85 information and correctional status information;  
86 22-23. Maintain a liaison with any board, commission, committee, or other body which may be  
87 established by law, executive order, or resolution to regulate the privacy and security of information  
88 collected by the Commonwealth or any political subdivision thereof;  
89 23-24. Adopt regulations establishing guidelines and standards for the collection, storage, and  
90 dissemination of criminal history record information and correctional status information, and the privacy,  
91 confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and  
92 court orders;  
93 24-25. Operate a statewide criminal justice research center, which shall maintain an integrated  
94 criminal justice information system, produce reports, provide technical assistance to state and local  
95 criminal justice data system users, and provide analysis and interpretation of criminal justice statistical  
96 information;  
97 25-26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law  
98 enforcement and the administration of criminal justice throughout the Commonwealth, and periodically  
99 update that plan;  
100 26-27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the  
101 Commonwealth, and units of general local government, or combinations thereof, including planning  
102 district commissions, in planning, developing, and administering programs, projects, comprehensive  
103 plans, and other activities for improving law enforcement and the administration of criminal justice  
104 throughout the Commonwealth, including allocating and subgranting funds for these purposes;  
105 27-28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects  
106 and activities for the Commonwealth and units of general local government, or combinations thereof, in  
107 the Commonwealth, designed to strengthen and improve law enforcement and the administration of  
108 criminal justice at every level throughout the Commonwealth;  
109 28-29. Review and evaluate programs, projects, and activities, and recommend, where necessary,  
110 revisions or alterations to such programs, projects, and activities for the purpose of improving law  
111 enforcement and the administration of criminal justice;  
112 29-30. Coordinate the activities and projects of the state departments, agencies, and boards of the  
113 Commonwealth and of the units of general local government, or combination thereof, including planning  
114 district commissions, relating to the preparation, adoption, administration, and implementation of  
115 comprehensive plans to strengthen and improve law enforcement and the administration of criminal  
116 justice;  
117 30-31. Do all things necessary on behalf of the Commonwealth and its units of general local  
118 government, to determine and secure benefits available under the Omnibus Crime Control and Safe  
119 Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and  
120 programs for strengthening and improving law enforcement, the administration of criminal justice, and  
121 delinquency prevention and control;

31.32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

32.33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

33.34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

34.35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

35.36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

36.37. Establish training standards and publish a model policy for law-enforcement personnel in the handling of family abuse, domestic violence, sexual assault and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in § 9.1-1301 and shall by December 1, 2009, submit a report on the status of implementation of these requirements to the chairmen of the House and Senate Courts of Justice Committees;

37.38. Establish training standards and publish a model policy for law-enforcement personnel in communicating with and facilitating the safe return of individuals diagnosed with Alzheimer's disease;

38.39. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39.40. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40.41. Publish and disseminate a model policy or guideline that may be used by state and local agencies to ensure that law-enforcement personnel are sensitive to and aware of cultural diversity and the potential for biased policing;

41. ~~[Expired.]~~

42. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

43. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

44. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School Safety pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant

183 state and federal laws, school and personal liability issues, security awareness in the school environment,  
184 mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics.  
185 The Department shall establish an advisory committee consisting of local school board representatives,  
186 principals, superintendents, and school security personnel to assist in the development of these standards  
187 and certification requirements;

188 45. Establish training standards and publish a model policy and protocols for local and regional  
189 sexual assault response teams;

190 46. License and regulate property bail bondsmen and surety bail bondsmen in accordance with  
191 Article 11 (§ 9.1-185 et seq.);

192 47. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

193 48. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal  
194 justice agencies regarding the investigation, registration, and dissemination of information requirements  
195 as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

196 49. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula,  
197 and (iii) certification requirements for campus security officers. Such training standards shall include, but  
198 not be limited to, the role and responsibility of campus security officers, relevant state and federal laws,  
199 school and personal liability issues, security awareness in the campus environment, and disaster and  
200 emergency response. The Department shall provide technical support and assistance to campus police  
201 departments and campus security departments on the establishment and implementation of policies and  
202 procedures, including but not limited to: the management of such departments, investigatory procedures,  
203 judicial referrals, the establishment and management of databases for campus safety and security  
204 information sharing, and development of uniform record keeping for disciplinary records and statistics,  
205 such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an  
206 advisory committee consisting of college administrators, college police chiefs, college security  
207 department chiefs, and local law-enforcement officials to assist in the development of the standards and  
208 certification requirements and training pursuant to this subdivision;

209 50. Establish compulsory training standards and publish a model policy for law-enforcement  
210 personnel regarding death notification;

211 51. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established  
212 pursuant to § 9.1-187;

213 52. Establish, publish, and disseminate a model policy or guideline for law-enforcement personnel for  
214 questioning individuals suspected of driving while intoxicated concerning the physical location of that  
215 individual's last consumption of an alcoholic beverage and for communicating that information to the  
216 Alcoholic Beverage Control Board;

217 53. Establish training standards and publish a model policy for law-enforcement personnel assigned  
218 to vehicle patrol duties that embody current best practices for pursuits and for responding to emergency  
219 calls;

220 54. Establish training standards and publish a model policy for law-enforcement personnel involved  
221 in criminal investigations that embody current best practices for conducting photographic and live  
222 lineups;

223 55. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and  
224 attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human  
225 trafficking offenses using the common law and existing criminal statutes in the Code of Virginia; and

226 56. Perform such other acts as may be necessary or convenient for the effective performance of its  
227 duties.

228 § 9.1-112. Committee on Training; membership.

229 There is created a permanent Committee on Training under the Board that shall be the policy-making  
230 body responsible to the Board for effecting the provisions of subdivisions 2 through 46 17 of § 9.1-102.  
231 The Committee on Training shall be composed of 14 members of the Board as follows: the  
232 Superintendent of the Department of State Police; the Director of the Department of Corrections; a  
233 member of the Private Security Services Advisory Board; the Executive Secretary of the Supreme Court  
234 of Virginia; two sheriffs representing the Virginia State Sheriffs Association; two representatives of the  
235 Chiefs of Police Association; the active-duty law-enforcement officer representing police and fraternal  
236 associations; the attorney for the Commonwealth representing the Association of Commonwealth's  
237 Attorneys; a representative of the Virginia Municipal League; a representative of the Virginia  
238 Association of Counties; a regional jail superintendent representing the Virginia Association of Regional  
239 Jails; and one member designated by the chairman of the Board from among the other appointments  
240 made by the Governor.

241 The Committee on Training shall annually elect its chairman from among its members.

242 § 15.2-1731. Establishment, etc., authorized; powers, authority and immunities generally.

243 A. Localities, for the further preservation of the public peace, safety and good order of the  
244 community, may establish, equip and maintain auxiliary police forces, the members of which when

called into service as hereinafter provided shall have all the powers and authority and all the immunities of constables at common law.

B. Localities also, for the further preservation of the public peace, safety, and good order of the community, may establish, equip, and maintain auxiliary police forces which have all the powers and authority and all the immunities of full-time law-enforcement officers, if all such forces have met the training requirements established by the Department of Criminal Justice Services under § 9.1-102.

*B. Notwithstanding any other provision of this section, an auxiliary officer employed prior to July 1, 1987 2012, shall be exempted from any initial training requirement established under § 9.1-102 until a date one year subsequent to the approval by the Criminal Justice Services Board of compulsory minimum training standards for auxiliary police officers, except that (i) any such officer shall not be permitted to carry or use a firearm while serving as an auxiliary police officer unless such officer has met the firearms training requirements established in accordance with in-service training standards for law-enforcement officers as prescribed by the Criminal Justice Services Board, and (ii) any such officer shall have one year following the approval by the Board to comply with the compulsory minimum training standards.*

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

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

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

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property;
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.

When the judge or magistrate considers the issuance of an emergency protective order pursuant to clause (i), 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

306 allegedly abused person.

307 E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day  
308 on which the order was issued, enter and transfer electronically to the Virginia Criminal Information  
309 Network the respondent's identifying information and the name, date of birth, sex, and race of each  
310 protected person provided to the court or magistrate. A copy of an emergency protective order issued  
311 pursuant to this section containing any such identifying information shall be forwarded forthwith to the  
312 primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of  
313 the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any  
314 modification as necessary to the identifying information and other appropriate information required by  
315 the Department of State Police into the Virginia Criminal Information Network established and  
316 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be  
317 served forthwith upon the respondent and due return made to the court. However, if the order is issued  
318 by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order  
319 containing the respondent's identifying information and the name, date of birth, sex, and race of each  
320 protected person provided to the court to the primary law-enforcement agency providing service and  
321 entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter  
322 the name of the person subject to the order and other appropriate information required by the  
323 Department of State Police into the Virginia Criminal Network established and maintained by the  
324 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith  
325 on the respondent. Upon service, the agency making service shall enter the date and time of service and  
326 other appropriate information required by the Department of State Police into the Virginia Criminal  
327 Information Network and make due return to the court. One copy of the order shall be given to the  
328 allegedly abused person when it is issued, and one copy shall be filed with the written report required  
329 by subsection D of § 19.2-81.3. The judge or magistrate who issues an oral order pursuant to an  
330 electronic request by a law-enforcement officer shall verify the written order to determine whether the  
331 officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy  
332 shall be filed with the clerk of the juvenile and domestic relations district court within five business  
333 days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or  
334 modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency  
335 responsible for service and entry of protective orders, and upon receipt of the order by the primary  
336 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the  
337 identifying information and other appropriate information required by the Department of State Police  
338 into the Virginia Criminal Information Network as described above and the order shall be served  
339 forthwith and due return made to the court. Upon request, the clerk shall provide the allegedly abused  
340 person with information regarding the date and time of service.

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

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

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

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

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

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

359 § 19.2-81.3. Arrest without a warrant authorized in cases of assault and battery against a family or  
360 household member and stalking and for violations of protective orders; procedure, etc.

361 A. Any law-enforcement officer, as defined in § 19.2-81, may arrest without a warrant for an alleged  
362 violation of § 18.2-57.2, 18.2-60.4, or 16.1-253.2 regardless of whether such violation was committed in  
363 his presence, if such arrest is based on probable cause or upon personal observations or the reasonable  
364 complaint of a person who observed the alleged offense or upon personal investigation.

365 B. A law-enforcement officer having probable cause to believe that a violation of § 18.2-57.2 or  
366 16.1-253.2 has occurred shall arrest and take into custody the person he has probable cause to believe,  
367 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: (i) who was the first aggressor, (ii) the protection of the health and safety of family and household members, (iii) prior complaints of family abuse by the allegedly abusing person involving the family or household members, (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.

C. A law-enforcement officer having probable cause to believe that a violation of § 18.2-60.4 has occurred that involves physical aggression 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: (i) who was the first aggressor, (ii) the protection of the health and safety of the person to whom the protective order was issued and the person's family and household members, (iii) prior acts of violence, force, or threat, as defined in § 19.2-152.7:1, by the person against whom the protective order was issued against the person protected by the order or the protected person's family or household members, (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.

D. Regardless of whether an arrest is made, the officer shall file a written report with his department, which shall state whether any arrests were made, and if so, the number of arrests, specifically including any incident in which he has probable cause to believe family abuse has occurred, and, where required, including a complete statement in writing that there are special circumstances that would dictate a course of action other than an arrest. The officer shall provide the allegedly abused person or the person protected by an order issued pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, both orally and in writing, information regarding the legal and community resources available to the allegedly abused person or person protected by the order. Upon request of the allegedly abused person or person protected by the order, the department shall make a summary of the report available to the allegedly abused person or person protected by the order.

E. In every case in which a law-enforcement officer makes an arrest under this section for a violation of § 18.2-57.2, he shall petition for an emergency protective order as authorized in § 16.1-253.4 when the person arrested and taken into custody is brought before the magistrate, except if the person arrested is a minor, a petition for an emergency protective order shall not be required. Regardless of whether an arrest is made, if the officer has probable cause to believe that a danger of acts of family abuse exists, the law-enforcement officer shall seek an emergency protective order under § 16.1-253.4, except if the suspected abuser is a minor, a petition for an emergency protective order shall not be required.

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

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

H. As used in this section, a "law-enforcement officer" means (i) any 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 this Commonwealth and (ii) any 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.

§ 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 or an alleged victim asserts under oath to a judge or magistrate that such person is being or has been subjected to an act of violence, force, or threat and on that assertion or other evidence the judge or magistrate finds that (i) there is probable danger of a further such act being committed by the respondent against the alleged victim or (ii) a petition or warrant for the arrest of the respondent has been issued for any criminal offense resulting from the commission of an act of violence, force, or threat, 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, force, or threat or criminal offenses resulting in injury to person or property;

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

432 3. Such other conditions as the judge or magistrate deems necessary to prevent (i) acts of violence,  
433 force, or threat, (ii) criminal offenses resulting in injury to person or property, or (iii) communication or  
434 other contact of any kind by the respondent.

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

441 D. A law-enforcement officer may request an emergency protective order pursuant to this section  
442 and, if the person in need of protection is physically or mentally incapable of filing a petition pursuant  
443 to § 19.2-152.9 or 19.2-152.10, may request the extension of an emergency protective order for an  
444 additional period of time not to exceed three days after expiration of the original order. The request for  
445 an emergency protective order or extension of an order may be made orally, in person or by electronic  
446 means, and the judge of a circuit court, general district court, or juvenile and domestic relations district  
447 court or a magistrate may issue an oral emergency protective order. An oral emergency protective order  
448 issued pursuant to this section shall be reduced to writing, by the law-enforcement officer requesting the  
449 order or the magistrate, on a preprinted form approved and provided by the Supreme Court of Virginia.  
450 The completed form shall include a statement of the grounds for the order asserted by the officer or the  
451 alleged victim of such crime.

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

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

486 G. As used in this section, a "law-enforcement officer" means any (i) person who is a full-time or  
487 part-time employee of a police department or sheriff's office which is part of or administered by the  
488 Commonwealth or any political subdivision thereof and who is responsible for the prevention and  
489 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth and  
490 (ii) member of an auxiliary police force established pursuant to ~~subsection B of~~ § 15.2-1731. Part-time



491 employees are compensated officers who are not full-time employees as defined by the employing police  
 492 department or sheriff's office.

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

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

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

500 § 53.1-31.1. Transportation of prisoners.

501 Notwithstanding any other provision of law, the Department shall provide all transportation to and  
 502 from court for any prisoner in connection with a crime committed within a state correctional facility, or  
 503 a facility operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.), unless the  
 504 affected sheriff and the Department agree on other transportation. Auxiliary police forces established  
 505 under § 15.2-1731 who have met the training requirements of § ~~9.1-101~~ 9.1-102, with the concurrence  
 506 of the sheriff or other chief law-enforcement officer as appropriate, are specifically authorized to provide  
 507 such transportation.

508 **2. That an emergency exists and this act is in force from its passage.**