

20101861D

## SENATE BILL NO. 574

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 16.1-253.1, 16.1-279.1, 19.2-152.9, and 19.2-152.10 of the Code of Virginia, relating to protective orders on behalf of incapacitated persons.

Patron—Mason

Referred to Committee on the Judiciary

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

**1. That §§ 16.1-253.1, 16.1-279.1, 19.2-152.9, and 19.2-152.10 of the Code of Virginia are amended and reenacted as follows:**

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

A. Upon the filing of a petition alleging that the petitioner *or, if a petition is filed pursuant to subsection D, an incapacitated person* is or has been, within a reasonable period of time, subjected to family abuse, the court may issue a preliminary protective order against an allegedly abusing person in order to protect the health and safety of the petitioner *or incapacitated person* or any family or household member of the petitioner *or incapacitated person*. 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. If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 16.1-253.4 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause. Evidence that the petitioner *or incapacitated person* has been subjected to family abuse within a reasonable time and evidence of immediate and present danger of family abuse may be established by a showing that (i) the allegedly abusing person is incarcerated and is to be released from incarceration within 30 days following the petition or has been released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly abusing person was convicted and incarcerated involved family abuse against the petitioner *or incapacitated person*, and (iii) the allegedly abusing person has made threatening contact with the petitioner *or incapacitated person* while he was incarcerated, exhibiting a renewed threat to the petitioner *or incapacitated person* of family abuse. *In the case of a petition filed pursuant to subsection D, the court shall only issue such order if the court finds by a preponderance of the evidence that the allegedly abused person is an incapacitated person, as defined in § 63.2-1603, and such person lacks the capacity to file such petition for himself.*

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

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property.
2. Prohibiting such contacts by the respondent with the petitioner *or incapacitated person* or family or household members of the petitioner *or incapacitated person* as the court deems necessary for the health or safety of such persons.
3. Granting the petitioner *or incapacitated person* possession of the premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.
4. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner *or incapacitated person* has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to such premises.
5. Granting the petitioner *or incapacitated person* and, where appropriate, any other family or household member of the petitioner *or incapacitated person*, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner *or incapacitated person*.
6. Granting the petitioner *or incapacitated person* temporary possession or use of a motor vehicle owned by the petitioner *or incapacitated person* alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.
7. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner

INTRODUCED

SB574

59 *or incapacitated person* and any other family or household member and, where appropriate, requiring  
60 the respondent to pay deposits to connect or restore necessary utility services in the alternative housing  
61 provided.

62 8. Granting the petitioner *or incapacitated person* the possession of any companion animal as defined  
63 in § 3.2-6500 if such petitioner *or incapacitated person* meets the definition of owner in § 3.2-6500.

64 9. Any other relief necessary for the protection of the petitioner *or incapacitated person* and family  
65 or household members of the petitioner *or incapacitated person*.

66 B. The court shall forthwith, but in all cases no later than the end of the business day on which the  
67 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the  
68 respondent's identifying information and the name, date of birth, sex, and race of each protected person  
69 provided to the court. A copy of a preliminary protective order containing any such identifying  
70 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service  
71 and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the  
72 agency shall forthwith verify and enter any modification as necessary to the identifying information and  
73 other appropriate information required by the Department of State Police into the Virginia Criminal  
74 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et  
75 seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as  
76 provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit  
77 court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the  
78 respondent's identifying information and the name, date of birth, sex, and race of each protected person  
79 provided to the court to the primary law-enforcement agency providing service and entry of protective  
80 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the  
81 person subject to the order and other appropriate information required by the Department of State Police  
82 into the Virginia Criminal Information Network established and maintained by the Department pursuant  
83 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly  
84 abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter  
85 the date and time of service and other appropriate information required by the Department of State  
86 Police into the Virginia Criminal Information Network and make due return to the court. The  
87 preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of  
88 the issuance of the preliminary order, unless the court is closed pursuant to § 16.1-69.35 or 17.1-207 and  
89 such closure prevents the hearing from being held within such time period, in which case the hearing  
90 shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is  
91 lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective  
92 order shall remain in full force and effect until it is dissolved by such court, until another preliminary  
93 protective order is entered, or until a protective order is entered. If the respondent fails to appear at this  
94 hearing because the respondent was not personally served, or if personally served was incarcerated and  
95 not transported to the hearing, the court may extend the protective order for a period not to exceed six  
96 months. The extended protective order shall be served forthwith on the respondent. However, upon  
97 motion of the respondent and for good cause shown, the court may continue the hearing. The  
98 preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the  
99 clerk shall provide the petitioner *or incapacitated person* with a copy of the order and information  
100 regarding the date and time of service. The order shall further specify that either party may at any time  
101 file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the  
102 motion shall be given precedence on the docket of the court.

103 Upon receipt of the return of service or other proof of service pursuant to subsection C of  
104 § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the  
105 primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as  
106 necessary into the Virginia Criminal Information Network as described above. If the order is later  
107 dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded  
108 forthwith to the primary law-enforcement agency responsible for service and entry of protective orders,  
109 and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify  
110 and enter any modification as necessary to the identifying information and other appropriate information  
111 required by the Department of State Police into the Virginia Criminal Information Network as described  
112 above and the order shall be served forthwith and due return made to the court.

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

115 D. *In the event that the allegedly abused person is an incapacitated person, as defined in*  
116 *§ 63.2-1603, an employee of a local department, as defined in § 63.2-100, may file a petition pursuant*  
117 *to subsection A on behalf of such person. In the petition, the employee of a local department shall state*  
118 *the conditions of the allegedly abused person's incapacity, the facts related to such person's inability to*  
119 *file a petition on his own behalf, and the details of any attempts to obtain consent from the allegedly*  
120 *abused person and the outcome of such attempts. If the court enters an order pursuant to subsection A*

on behalf of the incapacitated person, the court shall appoint a guardian ad litem to represent the interests of the incapacitated person in any hearing pursuant to this section and at a full hearing on the petition pursuant to § 16.1-279.1. The employee of a local department who filed the petition shall be allowed to testify in any hearing pursuant to this section and at any full hearing on the petition pursuant to § 16.1-279.1 on behalf of the incapacitated person.

E. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if the court finds that the petitioner or employee of a local department who filed the petition on behalf of an incapacitated person pursuant to subsection D has proven the allegation of family abuse by a preponderance of the evidence.

~~F.~~ 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.

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

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

~~H.~~ I. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner or incapacitated person information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

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

A. In cases of family abuse, including any case involving an incarcerated or recently incarcerated respondent against whom a preliminary protective order has been issued pursuant to § 16.1-253.1, the court may issue a protective order to protect the health and safety of the petitioner and family or household members of the petitioner or if a preliminary protective order has been issued on behalf of an incapacitated person pursuant to subsection D of § 16.1-253.1, to protect the health and safety of the incapacitated person and family or household members of the incapacitated person. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property;  
2. Prohibiting such contacts by the respondent with the petitioner or incapacitated person or family or household members of the petitioner or incapacitated person as the court deems necessary for the health or safety of such persons;

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

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

5. Granting the petitioner or incapacitated person and, where appropriate, any other family or household member of the petitioner or incapacitated person, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner or incapacitated person;

6. Granting the petitioner or incapacitated person temporary possession or use of a motor vehicle owned by the petitioner or incapacitated person alone or jointly owned by the parties to the exclusion of the respondent and enjoining the respondent from terminating any insurance, registration, or taxes on the motor vehicle and directing the respondent to maintain the insurance, registration, and taxes, as appropriate; however, no such grant of possession or use shall affect title to the vehicle;

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

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

9. Granting the petitioner or incapacitated person the possession of any companion animal as defined in § 3.2-6500 if such petitioner or incapacitated person meets the definition of owner in § 3.2-6500; and

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

182 A1. If a protective order is issued pursuant to subsection A, the court may also issue a temporary  
183 child support order for the support of any children of the petitioner *or incapacitated person* whom the  
184 respondent has a legal obligation to support. Such order shall terminate upon the determination of  
185 support pursuant to § 20-108.1.

186 B. The protective order may be issued for a specified period of time up to a maximum of two years.  
187 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  
188 of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner  
189 *or an employee of a local department that filed a petition on behalf of an incapacitated person pursuant*  
190 *to subsection D of § 16.1-253.1* may file a written motion requesting a hearing to extend the order.  
191 Proceedings to extend a protective order shall be given precedence on the docket of the court. If the  
192 petitioner *or incapacitated person* was a family or household member of the respondent at the time the  
193 initial protective order was issued, the court may extend the protective order for a period not longer than  
194 two years to protect the health and safety of the petitioner *or incapacitated person* or persons who are  
195 family or household members of the petitioner *or incapacitated person* at the time the request for an  
196 extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day  
197 specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein  
198 shall limit the number of extensions that may be requested or issued.

199 C. A copy of the protective order shall be served on the respondent and provided to the petitioner *or*  
200 *incapacitated person* as soon as possible. The court, including a circuit court if the circuit court issued  
201 the order, shall forthwith, but in all cases no later than the end of the business day on which the order  
202 was issued, enter and transfer electronically to the Virginia Criminal Information Network the  
203 respondent's identifying information and the name, date of birth, sex, and race of each protected person  
204 provided to the court and shall forthwith forward the attested copy of the protective order containing any  
205 such identifying information to the primary law-enforcement agency responsible for service and entry of  
206 protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall  
207 forthwith verify and enter any modification as necessary to the identifying information and other  
208 appropriate information required by the Department of State Police into the Virginia Criminal  
209 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et  
210 seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the  
211 court. Upon service, the agency making service shall enter the date and time of service and other  
212 appropriate information required by the Department of State Police into the Virginia Criminal  
213 Information Network and make due return to the court. If the order is later dissolved or modified, a  
214 copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary  
215 law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the  
216 order by the primary law-enforcement agency, the agency shall forthwith verify and enter any  
217 modification as necessary to the identifying information and other appropriate information required by  
218 the Department of State Police into the Virginia Criminal Information Network as described above and  
219 the order shall be served forthwith and due return made to the court.

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

222 E. The court may assess costs and ~~attorneys'~~ attorney fees against either party regardless of whether  
223 an order of protection has been issued as a result of a full hearing.

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

240 Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy  
241 available of any foreign order filed with that court. A law-enforcement officer may, in the performance  
242 of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been  
243 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 dissolve or modify a protective order shall be given precedence on the docket of the court.

H. As used in this section:

"Copy" includes a facsimile copy; and

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

I. 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.

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

K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner or incapacitated person information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

#### **§ 19.2-152.9. Preliminary protective orders.**

A. Upon the filing of a petition alleging that (i) the petitioner *or, if a petition is filed pursuant to subsection D, an incapacitated person* is or has been, within a reasonable period of time, subjected to an act of violence, force, or threat; or (ii) a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat, the court may issue a preliminary protective order against the alleged perpetrator in order to protect the health and safety of the petitioner *or, if a petition is filed pursuant to subsection D, an incapacitated person* or any family or household member of the petitioner *or incapacitated person*. 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. If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 19.2-152.8 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Immediate and present danger of any act of violence, force, or threat or evidence sufficient to establish probable cause that an act of violence, force, or threat has recently occurred shall constitute good cause. *In the case of a petition filed pursuant to subsection D, the court shall only grant such order if the court finds by a preponderance of the evidence that the allegedly abused person is an incapacitated person, as defined in § 63.2-1603, and such person lacks the capacity to file such petition for himself.*

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

1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to person or property;

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

3. Such other conditions as the court deems necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and

4. Granting the petitioner *or incapacitated person* the possession of any companion animal as defined in § 3.2-6500 if such petitioner *or incapacitated person* meets the definition of owner in § 3.2-6500.

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, unless the court is closed pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered, or until a protective order is entered. 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 *or incapacitated person* 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, a violation of the order shall constitute contempt of court.

D. *In the event that the allegedly abused person is an incapacitated person, as defined in § 63.2-1603, an employee of a local department, as defined in § 63.2-100, may file a petition pursuant to subsection A on behalf of such person. In the petition, the employee of a local department shall state the conditions of the allegedly abused person's incapacity, the facts related to such person's inability to file a petition on his own behalf, and the details of any attempts to obtain consent from the allegedly abused person and the outcome of such attempts. If the court enters an order pursuant to subsection A on behalf of the incapacitated person, the court shall appoint a guardian ad litem to represent the interests of the incapacitated person in any hearing pursuant to this section and at a full hearing on the petition pursuant to § 19.2-152.10. The employee of a local department who filed the petition shall be allowed to testify in any hearing pursuant to this section and at any full hearing on the petition pursuant to § 19.2-152.10 on behalf of the incapacitated person.*

E. 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 *or employee of a local department who filed the petition on behalf of an incapacitated person pursuant to subsection D* has proven the allegation that the petitioner *or incapacitated person* is or has been, within a reasonable period of time, subjected to an act of violence, force, or threat by a preponderance of the evidence.

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

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

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

~~H. I.~~ Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner *or incapacitated person* information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

#### **§ 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, *or if a preliminary protective order has*

been issued on behalf of an incapacitated person pursuant to subsection D of § 19.2-152.9, to protect the health and safety of the incapacitated person and family or household member of the incapacitated person upon (i) the issuance of a petition or warrant for, or a conviction of, any criminal offense resulting from the commission of an act of violence, force, or threat or (ii) a hearing held pursuant to subsection D of § 19.2-152.9. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to person or property;

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

3. Any other relief necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and

4. Granting the petitioner or incapacitated person the possession of any companion animal as defined in § 3.2-6500 if such petitioner or incapacitated person meets the definition of owner in § 3.2-6500.

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 or an employee of a local department that filed a petition on behalf of an incapacitated person pursuant to subsection D of § 19.2-152.9 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 incapacitated person or persons who are family or household members of the petitioner or incapacitated person 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 or incapacitated person as soon as possible. The court, including a circuit court if the circuit court issued the order, 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. 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' attorney 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

428 and consistent with federal law. A person entitled to protection under such a foreign order may file the  
429 order in any appropriate district court by filing with the court, an attested or exemplified copy of the  
430 order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary  
431 law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt,  
432 enter the name of the person subject to the order and other appropriate information required by the  
433 Department of State Police into the Virginia Criminal Information Network established and maintained  
434 by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may  
435 transfer information electronically to the Virginia Criminal Information Network.

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

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

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

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

450 J. As used in this section:

451 "Copy" includes a facsimile copy; and

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

453 K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner  
454 or *incapacitated person* information that is published by the Department of Criminal Justice Services for  
455 victims of domestic violence or for petitioners in protective order cases.

456 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
457 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**  
458 **necessary appropriation cannot be determined for periods of imprisonment in state adult**  
459 **correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia**  
460 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to**  
461 **§ 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be**  
462 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**