

20101071D

SENATE BILL NO. 550

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact §§ 16.1-228, 16.1-243, 16.1-253.1, 16.1-253.2, 16.1-253.4, 16.1-260, 16.1-266.2, 16.1-279.1, 16.1-296, 16.1-298, 18.2-57.2, 19.2-11.2, and 19.2-81.3 of the Code of Virginia, relating to dating relationship abuse; penalty.*

Patrons—Bell and Ebbin

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228, 16.1-243, 16.1-253.1, 16.1-253.2, 16.1-253.4, 16.1-260, 16.1-266.2, 16.1-279.1, 16.1-296, 16.1-298, 18.2-57.2, 19.2-11.2, and 19.2-81.3 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-228. Definitions.

When used in this chapter, unless the context otherwise requires:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a delinquent act which would be a felony if committed by an adult.

"Boot camp" means a short term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor,

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59 education and rigid discipline, and no less than six months of intensive aftercare.

60 "Child," "juvenile," or "minor" means a person less than 18 years of age.

61 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or results
62 in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14
63 whose behavior, conduct or condition presents or results in a serious threat to the well-being and
64 physical safety of another person; however, no child who in good faith is under treatment solely by
65 spiritual means through prayer in accordance with the tenets and practices of a recognized church or
66 religious denomination shall for that reason alone be considered to be a child in need of services, nor
67 shall any child who habitually remains away from or habitually deserts or abandons his family as a
68 result of what the court or the local child protective services unit determines to be incidents of physical,
69 emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

70 However, to find that a child falls within these provisions, (i) the conduct complained of must
71 present a clear and substantial danger to the child's life or health or to the life or health of another
72 person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being
73 received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or
74 services needed by the child or his family.

75 "Child in need of supervision" means:

76 1. A child who, while subject to compulsory school attendance, is habitually and without justification
77 absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of
78 any and all educational services and programs that are required to be provided by law and which meet
79 the child's particular educational needs, (ii) the school system from which the child is absent or other
80 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,
81 and (iii) the school system has provided documentation that it has complied with the provisions of
82 § 22.1-258; or

83 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or
84 placement authority, remains away from or deserts or abandons his family or lawful custodian on more
85 than one occasion or escapes or remains away without proper authority from a residential care facility in
86 which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to
87 the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not
88 presently being received, and (iii) the intervention of the court is essential to provide the treatment,
89 rehabilitation or services needed by the child or his family.

90 "Child welfare agency" means a child-placing agency, child-caring institution or independent foster
91 home as defined in § 63.2-100.

92 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile
93 and domestic relations district court of each county or city.

94 *"Dating relationship" means a relationship between two persons who are currently or were formerly
95 involved in a continuing relationship of a romantic or intimate nature. The existence of such a
96 relationship shall be determined based on the following considerations: (i) the length of the relationship,
97 (ii) the nature of the relationship, and (iii) the frequency and type of interaction between the persons
98 involved in the relationship.*

99 *"Dating relationship abuse" means any act involving violence, force, or threat, including but not
100 limited to any forceful detention, that results in bodily injury or places one in reasonable apprehension
101 of bodily injury and that is committed by a person in a dating relationship against the other person in
102 the dating relationship.*

103 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an
104 ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of
105 § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an
106 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if
107 committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to
108 take a breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town.

109 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed
110 a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been
111 terminated under the provisions of § 16.1-269.6.

112 "Department" means the Department of Juvenile Justice and "Director" means the administrative head
113 in charge thereof or such of his assistants and subordinates as are designated by him to discharge the
114 duties imposed upon him under this law.

115 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or
116 places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by
117 a person against such person's family or household member. Such act includes, but is not limited to, any
118 forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of
119 Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable
120 apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of

the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

§ 16.1-243. Venue.

A. Original venue:

1. Cases involving children, other than support or where protective order issued: Proceedings with respect to children under this law, except support proceedings as provided in subdivision 2 or family abuse or dating relationship abuse proceedings as provided in subdivision 3, shall:

a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts constituting the alleged delinquency occurred or they may, with the written consent of the child and the attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the child resides;

b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the city or county which, in order of priority, (i) is the home of the child at the time of the filing of the petition, or had been the home of the child within six months before the filing of the petition and the child is absent from the city or county because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as a parent continues to live in the city or county; (ii) has significant connection with the child and in which there is substantial evidence concerning the child's present or future care, protection, training and personal relationships; (iii) is where the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or (iv) it is in the best interest of the child for the court to assume

jurisdiction as no other city or county is an appropriate venue under the preceding provisions of this subdivision;

c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241, 63.2-1233, and 63.2-1237, be commenced in any city or county, provided, however, that diligent efforts shall first be made to commence such hearings (i) in the city or county where the child to be adopted was born, (ii) in the city or county where the birth parent(s) reside, or (iii) in the city or county where the prospective adoptive parent(s) reside. In cases in which a hearing is commenced in a city or county other than one described in clause (i), (ii), or (iii), the petitioner shall certify in writing to the court that diligent efforts to commence a hearing in such city or county have been made but have proven ineffective;

d. Abuse and neglect: In cases involving an allegedly abused or neglected child, be commenced (i) in the city or county where the child resides, (ii) in the city or county where the child is present when the proceedings are commenced, or (iii) in the city or county where the alleged abuse or neglect occurred; and

e. All other cases: In all other proceedings, be commenced in the city or county where the child resides or in the city or county where the child is present when the proceedings are commenced.

2. Support: Proceedings that involve child or spousal support or child and spousal support, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, shall be commenced in the city or county where either party resides or in the city or county where the respondent is present when the proceeding commences.

3. Family abuse: Proceedings in which an order of protection is sought as a result of family abuse *or dating relationship abuse* shall be commenced where (i) either party has his or her principal residence (ii) the abuse occurred or (iii) a protective order was issued if at the time the proceeding is commenced the order is in effect to protect the petitioner or a family or household member of the petitioner.

B. Transfer of venue:

1. Generally: Except in custody, visitation and support cases, if the child resides in a city or county of the Commonwealth and the proceeding is commenced in a court of another city or county, that court may at any time, on its own motion or a motion of a party for good cause shown, transfer the proceeding to the city or county of the child's residence for such further action or proceedings as the court receiving the transfer may deem proper. However, such transfer may occur in delinquency proceedings only after adjudication, which shall include, for the purposes of this section, a finding of facts sufficient to justify a finding of delinquency.

2. Custody and visitation: In custody and visitation cases, if venue lies in one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of venue. In the consideration of the motion, the best interests of the child shall determine the most appropriate forum.

3. Support: In support proceedings, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, if the respondent resides in a city or county in the Commonwealth and the proceeding is commenced in a court of another city or county, that court may, at any time on its own motion or a motion of a party for good cause shown or by agreement of the parties, transfer the proceeding to the city or county of the respondent's residence for such further action or proceedings as the court receiving the transfer may deem proper. For the purposes of determining venue of cases involving support, the respondent's residence shall include any city or county in which the respondent has resided within the last six months prior to the commencement of the proceeding or in which the respondent is residing at the time that the motion for transfer of venue is made. If venue is transferable to one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of such venue.

When the support proceeding is a companion case to a child custody or visitation proceeding, the provisions governing venue in the proceeding involving the child's custody or visitation shall govern.

4. Subsequent transfers: Any court receiving a transferred proceeding as provided in this section may in its discretion transfer such proceeding to a court in an appropriate venue for good cause shown based either upon changes in circumstances or mistakes of fact or upon agreement of the parties. In any transfer of venue in cases involving children, the best interests of the child shall be considered in deciding if and to which court a transfer of venue would be appropriate.

5. Enforcement of orders for support, maintenance and custody: Any juvenile and domestic relations district court to which a suit is transferred for enforcement of orders pertaining to support, maintenance, care or custody pursuant to § 20-79 (c) may transfer the case as provided in this section.

C. Records: Originals of all legal and social records pertaining to the case shall accompany the transfer of venue. Records imaged from the original documents shall be considered original documents for purposes of the transfer of venue. The transferor court may, in its discretion, retain copies as it deems appropriate.

§ 16.1-253.1. Preliminary protective orders in cases of family abuse or dating relationship

abuse; confidentiality.

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

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

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

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

3. Granting the petitioner possession of the 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 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 and, where appropriate, any other family or household member of the petitioner, 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.

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.

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

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

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

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying 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 allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order 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 allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order, 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, or if personally served was incarcerated and not transported to the hearing, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served forthwith on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

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

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

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

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

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

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

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

§ 16.1-253.2. Violation of provisions of protective orders; penalty.

A. In addition to any other penalty provided by law, any person who violates any provision of a protective order issued pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, or 16.1-279.1 or subsection B of § 20-103, when such violation involves a provision of the protective order that prohibits such person from (i) going or remaining upon land, buildings, or premises; (ii) further acts of family abuse *or dating relationship abuse*; or (iii) committing a criminal offense, or which prohibits contacts by the respondent with the allegedly abused person or family or household members of the allegedly abused person as the court deems appropriate, is guilty of a Class 1 misdemeanor. 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

428 include a mandatory minimum term of confinement of six months. The mandatory minimum terms of
429 confinement prescribed for violations of this section shall be served consecutively with any other
430 sentence.

431 B. In addition to any other penalty provided by law, any person who, while knowingly armed with a
432 firearm or other deadly weapon, violates any provision of a protective order with which he has been
433 served issued pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, or 16.1-279.1 or subsection B
434 of § 20-103 is guilty of a Class 6 felony.

435 C. If the respondent commits an assault and battery upon any party protected by the protective order
436 resulting in bodily injury to the party or stalks any party protected by the protective order in violation of
437 § 18.2-60.3, he is guilty of a Class 6 felony. Any person who violates such a protective order by
438 furtively entering the home of any protected party while the party is present, or by entering and
439 remaining in the home of the protected party until the party arrives, is guilty of a Class 6 felony, in
440 addition to any other penalty provided by law.

441 D. Upon conviction of any offense hereunder for which a mandatory minimum term of confinement
442 is not specified, the person shall be sentenced to a term of confinement and in no case shall the entire
443 term imposed be suspended. Upon conviction, the court shall, in addition to the sentence imposed, enter
444 a protective order pursuant to § 16.1-279.1 for a specified period not exceeding two years from the date
445 of conviction.

446 **§ 16.1-253.4. Emergency protective orders authorized in certain cases; penalty.**

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

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

460 1. Prohibiting acts of family abuse *or dating relationship abuse* or criminal offenses that result in
461 injury to person or property;

462 2. Prohibiting such contacts by the respondent with the allegedly abused person or family or
463 household members of the allegedly abused person, including prohibiting the respondent from being in
464 the physical presence of the allegedly abused person or family or household members of the allegedly
465 abused person, as the judge or magistrate deems necessary to protect the safety of such persons;

466 3. Granting the family or household member possession of the premises occupied by the parties to
467 the exclusion of the respondent; however, no such grant of possession shall affect title to any real or
468 personal property; and

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

471 When the judge or magistrate considers the issuance of an emergency protective order pursuant to
472 clause (i), he shall presume that there is probable danger of further acts of family abuse against a family
473 or household member *or person in a dating relationship* by the respondent unless the presumption is
474 rebutted by the allegedly abused person.

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

487 D. A law-enforcement officer may request an emergency protective order pursuant to this section
488 and, if the person in need of protection is physically or mentally incapable of filing a petition pursuant
489 to § 16.1-253.1 or 16.1-279.1, may request the extension of an emergency protective order for an

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

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

F. The availability of an emergency protective order shall not be affected by the fact that the family or household member *or person in a dating relationship* left the premises to avoid the danger of family abuse *or dating relationship abuse* by the respondent.

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

H. As used in this section, "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 the Commonwealth; (ii) any member of an auxiliary police force established pursuant to § 15.2-1731; and (iii) any special conservator of the peace who meets the certification requirements for a law-enforcement officer as set forth in § 15.2-1706. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's 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. As used in this section:

551 "Copy" includes a facsimile copy.

552 "Physical presence" includes (i) intentionally maintaining direct visual contact with the petitioner or
553 (ii) unreasonably being within 100 feet from the petitioner's residence or place of employment.

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

555 L. Except as provided in § 16.1-253.2, a violation of a protective order issued under this section shall
556 constitute contempt of court.

557 M. Upon issuance of an emergency protective order, the clerk of court shall make available to the
558 petitioner information that is published by the Department of Criminal Justice Services for victims of
559 domestic violence or for petitioners in protective order cases.

560 **§ 16.1-260. Intake; petition; investigation.**

561 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of
562 a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition
563 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the
564 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,
565 and the processing of petitions to initiate a case shall be the responsibility of the intake officer.
566 However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own
567 motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may
568 complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement
569 of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated
570 nonattorney employees of a local department of social services may complete, sign, and file with the
571 clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions
572 for permanency planning hearings, petitions to establish paternity, motions to establish or modify
573 support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any
574 attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject
575 of the petition is a child alleged to be in need of services, in need of supervision, or delinquent.
576 Complaints alleging abuse or neglect of a child shall be referred initially to the local department of
577 social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2.
578 Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake
579 officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is
580 receiving child support services or public assistance. No individual who is receiving support services or
581 public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an
582 order for support of a child. If the petitioner is seeking or receiving child support services or public
583 assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together
584 with notice of the court date, to the Division of Child Support Enforcement.

585 B. The appearance of a child before an intake officer may be by (i) personal appearance before the
586 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
587 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
588 communications and proceedings shall be conducted in the same manner as if the appearance were in
589 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served
590 or executed by the officer or person to whom sent, and returned in the same manner, and with the same
591 force, effect, authority, and liability as an original document. All signatures thereon shall be treated as
592 original signatures. Any two-way electronic video and audio communication system used for an
593 appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

594 When the court service unit of any court receives a complaint alleging facts which may be sufficient
595 to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may
596 proceed informally to make such adjustment as is practicable without the filing of a petition or may
597 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to
598 establish probable cause for the issuance of the petition.

599 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
600 need of supervision, or delinquent only if the juvenile (i) is not alleged to have committed a violent
601 juvenile felony or (ii) has not previously been proceeded against informally or adjudicated delinquent for
602 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile
603 committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is
604 delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if
605 the juvenile had previously been proceeded against informally by intake or had been adjudicated
606 delinquent for an offense that would be a felony if committed by an adult.

607 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and
608 the attendance officer has provided documentation to the intake officer that the relevant school division
609 has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the
610 court. The intake officer may defer filing the complaint for 90 days and proceed informally by
611 developing a truancy plan, provided that (a) the juvenile has not previously been proceeded against
612 informally or adjudicated in need of supervision on more than two occasions for failure to comply with

compulsory school attendance as provided in § 22.1-254 and (b) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (1) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (2) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (3) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 will result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse or dating relationship abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a

674 status offense, or a misdemeanor other than Class 1, his decision is final.

675 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the
676 intake officer shall accept and file a petition founded upon the warrant.

677 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
678 which alleges facts of an offense which would be a felony if committed by an adult.

679 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a
680 report with the division superintendent of the school division in which any student who is the subject of
681 a petition alleging that such student who is a juvenile has committed an act, wherever committed, which
682 would be a crime if committed by an adult, or that such student who is an adult has committed a crime
683 and is alleged to be within the jurisdiction of the court. The report shall notify the division
684 superintendent of the filing of the petition and the nature of the offense, if the violation involves:

685 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299
686 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

687 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

688 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
689 Title 18.2;

690 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

691 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
692 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

693 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter
694 7 of Title 18.2;

695 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

696 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

697 9. Robbery pursuant to § 18.2-58;

698 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

699 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

700 12. An act of violence by a mob pursuant to § 18.2-42.1;

701 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

702 14. A threat pursuant to § 18.2-60.

703 The failure to provide information regarding the school in which the student who is the subject of
704 the petition may be enrolled shall not be grounds for refusing to file a petition.

705 The information provided to a division superintendent pursuant to this section may be disclosed only
706 as provided in § 16.1-305.2.

707 H. The filing of a petition shall not be necessary:

708 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and
709 other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating
710 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.
711 In such cases the court may proceed on a summons issued by the officer investigating the violation in
712 the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle
713 accident may, at the scene of the accident or at any other location where a juvenile who is involved in
714 such an accident may be located, proceed on a summons in lieu of filing a petition.

715 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H
716 of § 16.1-241.

717 3. In the case of a misdemeanor violation of § 18.2-250.1, 18.2-266, 18.2-266.1, or 29.1-738, or the
718 commission of any other alcohol-related offense, provided the juvenile is released to the custody of a
719 parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of
720 a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons
721 requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the
722 charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so
723 charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a
724 sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to
725 §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed
726 except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be
727 served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to
728 the court in which the violation is to be tried. When a violation of § 18.2-250.1 is charged by summons,
729 the juvenile shall be entitled to have the charge referred to intake for consideration of informal
730 proceedings pursuant to subsection B, provided such right is exercised by written notification to the
731 clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 18.2-250.1
732 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge
733 referred to intake on a form approved by the Supreme Court and make return of such service to the
734 court. If the officer fails to make such service or return, the court shall dismiss the summons without
735 prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-266.2. Appointment of pro bono counsel by judges of the First and Second Judicial District in certain cases.

The judges of the juvenile and domestic relations district court of the First and Second Judicial District are authorized to appoint pro bono counsel for alleged victims in family abuse or dating relationship abuse cases in which the court is authorized to issue a preliminary protective order under § 16.1-253.1, or an emergency protective order under § 16.1-253.4. Such counsel shall have no prosecutorial authority except as granted in writing by the attorney for the Commonwealth for the jurisdiction in which the representation is to occur.

Any attorney appointed under the provisions of this section shall be a volunteer and serve without compensation and shall be subject to any rules adopted by the court and approved by the Virginia Supreme Court providing for the establishment and conduct of a project providing pro bono services to victims of family abuse or dating relationship abuse.

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

A. In cases of family abuse or dating relationship 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. 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 dating relationship abuse or criminal offenses that result in injury to person or property;

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

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

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

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, 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;

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the 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 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 the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500; and

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

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

B. The protective order may be issued for a specified period 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

797 order shall be given precedence on the docket of the court. If the petitioner was a family or household
798 member of the respondent *or in a dating relationship with the respondent* at the time the initial
799 protective order was issued, the court may extend the protective order for a period not longer than two
800 years to protect the health and safety of the petitioner or persons who are family or household members
801 of the petitioner at the time the request for an extension is made. The extension of the protective order
802 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
803 period if no date is specified. Nothing herein shall limit the number of extensions that may be requested
804 or issued.

805 C. A copy of the protective order shall be served on the respondent and provided to the petitioner as
806 soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith,
807 but in all cases no later than the end of the business day on which the order was issued, enter and
808 transfer electronically to the Virginia Criminal Information Network the respondent's identifying
809 information and the name, date of birth, sex, and race of each protected person provided to the court
810 and shall forthwith forward the attested copy of the protective order containing any such identifying
811 information to the primary law-enforcement agency responsible for service and entry of protective
812 orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith
813 verify and enter any modification as necessary to the identifying information and other appropriate
814 information required by the Department of State Police into the Virginia Criminal Information Network
815 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and
816 the order shall be served forthwith upon the respondent and due return made to the court. Upon service,
817 the agency making service shall enter the date and time of service and other appropriate information
818 required by the Department of State Police into the Virginia Criminal Information Network and make
819 due return to the court. If the order is later dissolved or modified, a copy of the dissolution or
820 modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency
821 responsible for service and entry of protective orders, and upon receipt of the order by the primary
822 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the
823 identifying information and other appropriate information required by the Department of State Police
824 into the Virginia Criminal Information Network as described above and the order shall be served
825 forthwith and due return made to the court.

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

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

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

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

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

854 H. As used in this section:

855 "Copy" includes a facsimile copy; and

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

857 I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's
858 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 information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

§ 16.1-296. Jurisdiction of appeals; procedure.

A. From any final order or judgment of the juvenile court affecting the rights or interests of any person coming within its jurisdiction, an appeal may be taken to the circuit court within 10 days from the entry of a final judgment, order or conviction and shall be heard de novo. However, in a case arising under the Uniform Interstate Family Support Act (§ 20-88.32 et seq.), a party may take an appeal pursuant to this section within 30 days from entry of a final order or judgment. Protective orders issued pursuant to § 16.1-279.1 in cases of family abuse or *dating relationship abuse* and orders entered pursuant to § 16.1-278.2 are final orders from which an appeal may be taken.

B. Upon receipt of notice of such appeal the juvenile court shall forthwith transmit to the attorney for the Commonwealth a report incorporating the results of any investigation conducted pursuant to § 16.1-273, which shall be confidential in nature and made available only to the court and the attorney for the defendant (i) after the guilt or innocence of the accused has been determined or (ii) after the court has made its findings on the issues subject to appeal. After final determination of the case, the report and all copies thereof shall be forthwith returned to such juvenile court.

C. Where an appeal is taken by a child on a finding that he or she is delinquent and on a disposition pursuant to § 16.1-278.8, trial by jury on the issue of guilt or innocence of the alleged delinquent act may be had on motion of the child, the attorney for the Commonwealth or the circuit court judge. If the alleged delinquent act is one which, if committed by an adult, would constitute a felony, the child shall be entitled to a jury of 12 persons. In all other cases, the jury shall consist of seven persons. If the jury in such a trial finds the child guilty, disposition shall be by the judge pursuant to the provisions of § 16.1-278.8 after taking into consideration the report of any investigation made pursuant to § 16.1-237 or 16.1-273.

C1. In any hearing held upon an appeal taken by a child on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8, the provisions of § 16.1-302 shall apply mutatis mutandis, except in the case of trial by jury which shall be open. If proceedings in the circuit court are closed pursuant to this subsection, any records or portions thereof relating to such closed proceedings shall remain confidential.

C2. Where an appeal is taken by a juvenile on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8 and the juvenile is in a secure facility pending the appeal, the circuit court, when practicable, shall hold a hearing on the merits of the case within 45 days of the filing of the appeal. Upon receipt of the notice of appeal from the juvenile court, the circuit court shall provide a copy of the order and a copy of the notice of appeal to the attorney for the Commonwealth within seven days after receipt of notice of an appeal. The time limitations shall be tolled during any period in which the juvenile has escaped from custody. A juvenile held continuously in secure detention shall be released from confinement if there is no hearing on the merits of his case within 45 days of the filing of the appeal. The circuit court may extend the time limitations for a reasonable period of time based upon good cause shown, provided the basis for such extension is recorded in writing and filed among the papers of the proceedings.

D. When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within 90 days of the perfecting of the appeal. An appeal of the case to the Court of Appeals shall take precedence on the docket of the Court.

E. Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; however, where an appeal is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in prosecutions under Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In all other cases on appeal, proceedings in the circuit court shall be heard without a jury; however, hearing of an issue by an advisory jury may be allowed, in the discretion of the judge, upon the motion of any party. An appeal from an order of protection issued pursuant to § 16.1-279.1 shall be given precedence on the docket of the court over other civil appeals taken to the circuit court from the district courts and shall be assigned a case number within two business days of receipt of such appeal.

G. Costs, taxes and fees on appealed cases shall be assessed only in those cases in which a trial fee could have been assessed in the juvenile and domestic relations court and shall be collected in the

920 circuit court, except that the appeal to circuit court of any case in which a fee either was or could have
921 been assessed pursuant to § 16.1-69.48:5 shall also be in accordance with § 16.1-296.2.

922 H. No appeal bond shall be required of a party appealing from an order of a juvenile and domestic
923 relations district court except for that portion of any order or judgment establishing a support arrearage
924 or suspending payment of support during pendency of an appeal. In cases involving support, no appeal
925 shall be allowed until the party applying for the same or someone for him gives bond, in an amount and
926 with sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment
927 as may be rendered on appeal if the appeal is perfected or, if not perfected, then to satisfy the judgment
928 of the court in which it was rendered. Upon appeal from a conviction for failure to support or from a
929 finding of civil or criminal contempt involving a failure to support, the juvenile and domestic relations
930 district court may require the party applying for the appeal or someone for him to give bond, with or
931 without surety, to insure his appearance and may also require bond in an amount and with sufficient
932 surety to secure the payment of prospective support accruing during the pendency of the appeal. An
933 appeal will not be perfected unless such appeal bond as may be required is filed within 30 days from
934 the entry of the final judgment or order. However, no appeal bond shall be required of the
935 Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict or
936 an insane person, or the interest of a county, city or town.

937 If bond is furnished by or on behalf of any party against whom judgment has been rendered for
938 money, the bond shall be conditioned for the performance and satisfaction of such judgment or order as
939 may be entered against the party on appeal, and for the payment of all damages which may be awarded
940 against him in the appellate court. If the appeal is by a party against whom there is no recovery, the
941 bond shall be conditioned for the payment of any damages as may be awarded against him on the
942 appeal. The provisions of § 16.1-109 shall apply to bonds required pursuant to this subsection.

943 This subsection shall not apply to release on bail pursuant to other subsections of this section or
944 § 16.1-298.

945 I. In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers
946 and authority granted by the chapter to the juvenile and domestic relations district court. Unless
947 otherwise specifically provided by this Code, the circuit court judge shall have the authority to appoint
948 counsel for the parties and compensate such counsel in accordance with the provisions of Article 6
949 (§ 16.1-266 et seq.) of this chapter.

950 J. In any case which has been referred or transferred from a circuit court to a juvenile court and an
951 appeal is taken from an order or judgment of the juvenile court, the appeal shall be taken to the circuit
952 court in the same locality as the juvenile court to which the case had been referred or transferred.

953 **§ 16.1-298. Effect of petition for or pendency of appeal; bail.**

954 A. Except as provided herein, a petition for or the pendency of an appeal or writ of error shall not
955 suspend any judgment, order or decree of the juvenile court nor operate to discharge any child
956 concerned or involved in the case from the custody of the court or other person, institution or agency to
957 which the child has been committed unless so ordered by the judge of the juvenile court, the judge of a
958 circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court or a
959 judge or justice thereof.

960 B. The judgment, order or decree of the juvenile court shall be suspended upon a petition for or the
961 pendency of an appeal or writ of error:

962 1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision 8,
963 9, 10, 12, 14, or 15 of § 16.1-278.8.

964 2. In cases involving a child and any local ordinance.

965 3. In cases involving any person over the age of 18 years.

966 Such suspension as is provided for in this subsection shall not apply to (i) an order for support of a
967 spouse, parent or child or to a preliminary protective order issued pursuant to § 16.1-253, (ii) an order
968 disposing of a motion to reconsider relating to participation in continuing programs pursuant to
969 § 16.1-289.1, (iii) a protective order in cases of family abuse or *dating relationship abuse* issued
970 pursuant to § 16.1-279.1, including a protective order required by § 16.1-253.2, or a protective order
971 entered in conjunction with a disposition pursuant to § 16.1-278.2, 16.1-278.4, 16.1-278.5, 16.1-278.6,
972 16.1-278.8, or 16.1-278.14, (iv) a protective order issued pursuant to § 19.2-152.10, including a
973 protective order required by § 18.2-60.4, or (v) an order pertaining to the custody, visitation, or
974 placement of a minor child, unless so ordered by the judge of a circuit court or directed in a writ of
975 supersedeas by the Court of Appeals or the Supreme Court.

976 C. In cases where the order of the juvenile court is suspended pursuant to subsection B hereof or by
977 order of the juvenile court or the circuit court, bail may be required as provided for in § 16.1-135.

978 D. If an appeal to the circuit court is withdrawn in accordance with § 16.1-106.1, the judgment,
979 order, or decree rendered by the juvenile court shall have the same legal effect as if no appeal had been
980 noted, except as to the disposition of any bond in circuit court or as modified by the circuit court
981 pursuant to subsection F of § 16.1-106.1. If an appeal is withdrawn, any court-appointed counsel or

court-appointed guardian ad litem shall, absent further order of the court, be relieved of any further obligation respecting the matter for which they were appointed.

E. Except as to matters pending on the docket of a circuit court as of July 1, 2008, all orders that were entered by a juvenile and domestic relations district court prior to July 1, 2008, and appealed to a circuit court, where the appeal was withdrawn, shall have the same effect as if no appeal had been noted.

§ 18.2-57.2. Assault and battery against a family or household member or person in a dating relationship; penalty.

A. Any person who commits an assault and battery against a family or household member *or a person in a dating relationship with the alleged offender* is guilty of a Class 1 misdemeanor.

B. Upon a conviction for assault and battery against a family or household member *or a person in a dating relationship*, where it is alleged in the warrant, petition, information, or indictment on which a person is convicted, that such person has been previously convicted of two offenses against a family or household member *or a person in a dating relationship* of (i) assault and battery against a family or household member *or a person in a dating relationship* in violation of this section, (ii) malicious wounding or unlawful wounding in violation of § 18.2-51, (iii) aggravated malicious wounding in violation of § 18.2-51.2, (iv) malicious bodily injury by means of a substance in violation of § 18.2-52, (v) strangulation in violation of § 18.2-51.6, or (vi) an offense under the law of any other jurisdiction which has the same elements of any of the above offenses, in any combination, all of which occurred within a period of 20 years, and each of which occurred on a different date, such person is guilty of a Class 6 felony.

C. Whenever a warrant for a violation of this section is issued, the magistrate shall issue an emergency protective order as authorized by § 16.1-253.4, except if the defendant is a minor, an emergency protective order shall not be required.

D. The ~~definition~~ definitions of "*dating relationship*" and "family or household member" in § 16.1-228 ~~applies~~ apply to this section.

§ 19.2-11.2. Crime victim's right to nondisclosure of certain information; exceptions; testimonial privilege.

Upon request of any witness in a criminal prosecution under § 18.2-46.2, 18.2-46.3, or 18.2-248 or of any violent felony as defined by subsection C of § 17.1-805, or any crime victim, neither a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor the Department of Corrections, nor any employee of any of them, may disclose, except among themselves, the residential address, any telephone number, email address, or place of employment of the witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good cause.

Except with the written consent of the victim of any crime involving any sexual assault, sexual abuse, ~~or~~ family abuse, *or dating relationship abuse* or the victim's next of kin if the victim is a minor and the victim's death results from any crime, a law-enforcement agency may not disclose to the public information that directly or indirectly identifies the victim of such crime except to the extent that disclosure is (a) of the site of the crime, (b) required by law, (c) necessary for law-enforcement purposes, or (d) permitted by the court for good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or sexual abuse, no appellate decision shall contain the first or last name of the victim.

Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the conduct of any criminal proceeding.

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

A. Any law-enforcement officer with the powers of arrest 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: (i) who was the first aggressor, (ii) the protection of the health and safety of family and household

members *or person in a dating relationship*, (iii) prior complaints of family abuse *or dating relationship abuse* by the allegedly abusing person involving the family or household members *or person in a dating relationship*, (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 *or dating relationship 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 *or dating relationship 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 *or dating relationship abuse*, including but not limited to assault and battery against a family or household member *or person in a dating relationship* 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~~ definitions of "*dating relationship*," "*dating relationship abuse*," and "family or household member" in § 16.1-228 ~~applies~~ apply to this section.

H. As used in this section, "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 any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of this Commonwealth; (ii) any member of an auxiliary police force established pursuant to § 15.2-1731; and (iii) any special conservator of the peace who meets the certification requirements for a law-enforcement officer as set forth in § 15.2-1706. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

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 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.