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SENATE BILL NO. 174

Offered January 12, 2022

Prefiled January 10, 2022

A BILL to amend and reenact § 19.2-152.10 of the Code of Virginia, relating to permanent protective orders; contact between petitioner and respondent.

Patron—Peake

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-152.10 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-152.10. Protective order.

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

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

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

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

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

5. 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.

B. Except as provided in subsection C, the protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. The court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

C. Upon conviction for an act of violence as defined in § 19.2-297.1 and upon the request of the victim or of the attorney for the Commonwealth on behalf of the victim, the court may issue a protective order to the victim pursuant to this chapter to protect the health and safety of the victim. The protective order may be issued for any reasonable period of time, including up to the lifetime of the defendant, that the court deems necessary to protect the health and safety of the victim. The protective order shall expire at 11:59 p.m. on the last day specified in the protective order, if any. Upon a conviction for violation of a protective order issued pursuant to this subsection, the court that issued the original protective order may extend the protective order as the court deems necessary to protect the health and safety of the victim. The extension of the protective order shall expire at 11:59 p.m. on the last day specified, if any. Nothing herein shall limit the number of extensions that may be issued.

D. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order and containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate

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59 information required by the Department of State Police into the Virginia Criminal Information Network
60 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and
61 the order shall be served forthwith upon the respondent and due return made to the court. Upon service,
62 the agency making service shall enter the date and time of service and other appropriate information
63 required into the Virginia Criminal Information Network and make due return to the court. If the order
64 is later dissolved or modified, a copy of the dissolution or modification order shall also be attested,
65 forwarded forthwith to the primary law-enforcement agency responsible for service and entry of
66 protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall
67 forthwith verify and enter any modification as necessary to the identifying information and other
68 appropriate information required by the Department of State Police into the Virginia Criminal
69 Information Network as described above and the order shall be served forthwith and due return made to
70 the court.

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

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

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

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

96 H. Either party may at any time file a written motion with the court requesting a hearing to dissolve
97 or modify the order. Proceedings to modify or dissolve a protective order shall be given precedence on
98 the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order
99 may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be
100 heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a
101 copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

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

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

108 K. As used in this section:

109 "Copy" includes a facsimile copy; and

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

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

114 M. An appeal of a protective order issued pursuant to this section shall be given expedited review by
115 the Court of Appeals.