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SENATE BILL NO. 895

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary
on January 25, 2023)

(Patron Prior to Substitute—Senator Surovell)

*A BILL to amend and reenact §§ 16.1-279.1, 17.1-405, and 19.2-152.10 of the Code of Virginia, relating to appeals of certain interlocutory decrees or orders; report.***Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-279.1, 17.1-405, and 19.2-152.10 of the Code of Virginia are amended and reenacted as follows:****§ 16.1-279.1. Protective order in cases of family abuse.**

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

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property;
2. Prohibiting such contacts by the respondent with the petitioner or 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 order shall be given precedence on the docket of the court. If the petitioner was a family or household member of the respondent at the time the initial protective order was issued, the court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

C. A copy of the protective order shall be served on the respondent and provided to the petitioner as

60 soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith,
61 but in all cases no later than the end of the business day on which the order was issued, enter and
62 transfer electronically to the Virginia Criminal Information Network the respondent's identifying
63 information and the name, date of birth, sex, and race of each protected person provided to the court
64 and shall forthwith forward the attested copy of the protective order containing any such identifying
65 information to the primary law-enforcement agency responsible for service and entry of protective
66 orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith
67 verify and enter any modification as necessary to the identifying information and other appropriate
68 information required by the Department of State Police into the Virginia Criminal Information Network
69 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and
70 the order shall be served forthwith upon the respondent and due return made to the court. Upon service,
71 the agency making service shall enter the date and time of service and other appropriate information
72 required by the Department of State Police into the Virginia Criminal Information Network and make
73 due return to the court. If the order is later dissolved or modified, a copy of the dissolution or
74 modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency
75 responsible for service and entry of protective orders, and upon receipt of the order by the primary
76 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the
77 identifying information and other appropriate information required by the Department of State Police
78 into the Virginia Criminal Information Network as described above and the order shall be served
79 forthwith and due return made to the court.

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

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

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

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

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

111 H. As used in this section:

112 "Copy" includes a facsimile copy; and

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

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

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

120 K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner
121 information that is published by the Department of Criminal Justice Services for victims of domestic

violence or for petitioners in protective order cases.

L. An appeal of *final* protective order issued by a circuit court pursuant to this section shall be given expedited review by the Court of Appeals.

§ 17.1-405. Appellate jurisdiction — Administrative agency, Virginia Workers' Compensation Commission, and civil matter appeals.

A. Unless otherwise provided by law, any aggrieved party may appeal to the Court of Appeals from:

1. Any final decision of a circuit court on appeal from (i) a decision of an administrative agency, or (ii) a grievance hearing decision issued pursuant to § 2.2-3005;

2. Any final decision of the Virginia Workers' Compensation Commission;

3. Except as provided in subsection B of § 17.1-406, any final judgment, order, or decree of a circuit court in a civil matter;

4. Any interlocutory decree or order pursuant to § 8.01-267.8;

5. ~~Any~~ Except as provided in subsection B, any interlocutory decree or order involving an equitable claim in which the decree or order (i) requires money to be paid or the possession or title of property to be changed or (ii) adjudicates the principles of a cause; or

6. Any final judgment, order, or decree of a circuit court (i) involving an application for a concealed weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2, (ii) involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04, or (iii) for declaratory or injunctive relief under § 57-2.02.

B. No interlocutory decree or order shall be appealed if such decree or order involves:

1. Affirmance or annulment of a marriage;

2. Divorce;

3. Custody of a minor child;

4. Spousal or child support;

5. Control or disposition of a minor child;

6. Any other domestic relations matter arising under Title 16.1 or 20; or

7. Any protective order other than a final protective order issued by a circuit court.

§ 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:

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

4. Granting the petitioner 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

183 health and safety of the victim. The extension of the protective order shall expire at 11:59 p.m. on the
184 last day specified, if any. Nothing herein shall limit the number of extensions that may be issued.

185 D. A copy of the protective order shall be served on the respondent and provided to the petitioner as
186 soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith,
187 but in all cases no later than the end of the business day on which the order was issued, enter and
188 transfer electronically to the Virginia Criminal Information Network the respondent's identifying
189 information and the name, date of birth, sex, and race of each protected person provided to the court
190 and shall forthwith forward the attested copy of the protective order and containing any such identifying
191 information to the primary law-enforcement agency responsible for service and entry of protective
192 orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith
193 verify and enter any modification as necessary to the identifying information and other appropriate
194 information required by the Department of State Police into the Virginia Criminal Information Network
195 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and
196 the order shall be served forthwith upon the respondent and due return made to the court. Upon service,
197 the agency making service shall enter the date and time of service and other appropriate information
198 required into the Virginia Criminal Information Network and make due return to the court. If the order
199 is later dissolved or modified, a copy of the dissolution or modification order shall also be attested,
200 forwarded forthwith to the primary law-enforcement agency responsible for service and entry of
201 protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall
202 forthwith verify and enter any modification as necessary to the identifying information and other
203 appropriate information required by the Department of State Police into the Virginia Criminal
204 Information Network as described above and the order shall be served forthwith and due return made to
205 the court.

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

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

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

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

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

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

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

243 K. As used in this section:

244 "Copy" includes a facsimile copy; and

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

L. 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.

M. An appeal of a *final* protective order issued *by a circuit court* pursuant to this section shall be given expedited review by the Court of Appeals.

2. That the Virginia Family Law Coalition (the Coalition) shall conduct a study on appeals of interlocutory decrees or orders involving domestic relations matters in the Commonwealth. The Coalition shall report the findings of such study to the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by October 1, 2024.