

25101052D

HOUSE BILL NO. 1882

Offered January 13, 2025

Prefiled January 6, 2025

A *BILL to amend and reenact §§ 16.1-253.1, 16.1-253.2, 18.2-60.4, and 19.2-152.9 of the Code of Virginia, relating to protective orders; military protective orders.*

Patron—Sewell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-253.1, 16.1-253.2, 18.2-60.4, and 19.2-152.9 of the Code of Virginia are amended and reenacted as follows:

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

A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to family abuse, or the filing of a written motion requesting a hearing to extend a protective order pursuant to § 16.1-279.1 without alleging that the petitioner is or has been, within a reasonable period of time, subject to family abuse, the court may issue a preliminary protective order against an allegedly abusing person in order to protect the health and safety of the petitioner or 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 or upon the filing of a written motion requesting a hearing to extend a protective order pursuant to § 16.1-279.1 without alleging that the petitioner is or has been, within a reasonable period of time, subject to family abuse. If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 16.1-253.4 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause. Evidence that the petitioner has been subjected to family abuse within a reasonable time and evidence of immediate and present danger of family abuse may be established by a showing that (i) the allegedly abusing person is incarcerated and is to be released from incarceration within 30 days following the petition or has been released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly abusing person was convicted and incarcerated involved family abuse against the petitioner, 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. *A Military Protective Order issued by a commanding officer in the Armed Forces of the United States, the Virginia National Guard, or the National Guard of any other state against a person under such officer's command to a protected person because such person was a reported victim of an offense of family abuse constitutes good cause for the court to find there is an immediate and present danger of family abuse to the petitioner.*

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

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property.
2. Prohibiting such contacts by the respondent with the petitioner or 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 and the password to such 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 or surveille 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

59 connect or restore necessary utility services in the alternative housing provided.

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

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

64 B. The court shall forthwith, but in all cases no later than the end of the business day on which the order
65 was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's
66 identifying information and the name, date of birth, sex, and race of each protected person provided to the
67 court. A copy of a preliminary protective order containing any such identifying information shall be
68 forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective
69 orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify
70 and enter any modification as necessary to the identifying information and other appropriate information
71 required by the Department of State Police into the Virginia Criminal Information Network established and
72 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served
73 forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the
74 court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward
75 an attested copy of the order containing the respondent's identifying information and the name, date of birth,
76 sex, and race of each protected person provided to the court to the primary law-enforcement agency providing
77 service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency
78 shall enter the name of the person subject to the order and other appropriate information required by the
79 Department of State Police into the Virginia Criminal Information Network established and maintained by
80 the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on
81 the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service
82 shall enter the date and time of service and other appropriate information required by the Department of State
83 Police into the Virginia Criminal Information Network and make due return to the court. The preliminary
84 order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the
85 preliminary order, unless the hearing has been continued pursuant to this subsection or court is closed
86 pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time
87 period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day
88 on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the
89 preliminary protective order shall remain in full force and effect until it is dissolved by such court, until
90 another preliminary protective order is entered, or until a protective order is entered. If the respondent fails to
91 appear at this hearing because the respondent was not personally served, or if personally served was
92 incarcerated and not transported to the hearing, the court may extend the protective order for a period not to
93 exceed six months. The extended protective order shall be served forthwith on the respondent. However,
94 where the respondent shows good cause, the court may continue the hearing. The preliminary order shall
95 remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner
96 with a copy of the order and information regarding the date and time of service. The order shall further
97 specify that either party may at any time file a motion with the court requesting a hearing to dissolve or
98 modify the order. The hearing on the motion shall be given precedence on the docket of the court. Upon
99 petitioner's motion to dissolve the preliminary protective order, a dissolution order may be issued ex parte by
100 the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as
101 practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on
102 respondent in conformity with §§ 8.01-286.1 and 8.01-296.

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

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

115 D. In the event that the allegedly abused person is a minor and an emergency protective order was issued
116 pursuant to § 16.1-253.4 for the protection of such minor and the respondent is a parent, guardian, or person
117 standing in loco parentis, the attorney for the Commonwealth or a law-enforcement officer may file a petition
118 on behalf of such minor as his next friend before such emergency protective order expires or within 24 hours
119 of the expiration of such emergency protective order.

120 E. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if the

121 court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.

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

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

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

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

132 J. The respondent may be required to notify the court in writing within seven days of any change of
133 residence while the preliminary protective order is in effect, provided that the respondent has been served a
134 copy of such order in accordance with the provisions of this section. Any failure of a respondent to make
135 such required notification shall be punishable by contempt.

136 **§ 16.1-253.2. Violation of provisions of protective orders; penalty.**

137 A. In addition to any other penalty provided by law, any person who violates any provision of a protective
138 order issued pursuant to § 16.1-253.1, 16.1-253.4, 16.1-278.14, or 16.1-279.1 or subsection B of § 20-103,
139 when such violation involves a provision of the protective order that prohibits such person from (i) going or
140 remaining upon land, buildings, or premises; (ii) further acts of family abuse; or (iii) committing a criminal
141 offense, or which prohibits contacts by the respondent with the allegedly abused person or family or
142 household members of the allegedly abused person as the court deems appropriate, is guilty of a Class 1
143 misdemeanor. The punishment for any person convicted of a second offense of violating a protective order,
144 when the offense is committed within five years of the prior conviction and when either the instant or prior
145 offense was based on an act or threat of violence, shall include a mandatory minimum term of confinement of
146 60 days. Any person convicted of a third or subsequent offense of violating a protective order, when the
147 offense is committed within 20 years of the first conviction and when either the instant or one of the prior
148 offenses was based on an act or threat of violence is guilty of a Class 6 felony and the punishment shall
149 include a mandatory minimum term of confinement of six months. The mandatory minimum terms of
150 confinement prescribed for violations of this section shall be served consecutively with any other sentence.

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

155 C. If the respondent commits an assault and battery upon any party protected by the protective order
156 resulting in bodily injury to the party or stalks any party protected by the protective order in violation of §
157 18.2-60.3, he is guilty of a Class 6 felony. Any person who violates such a protective order by furtively
158 entering the home of any protected party while the party is present, or by entering and remaining in the home
159 of the protected party until the party arrives, is guilty of a Class 6 felony, in addition to any other penalty
160 provided by law.

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

165 E. A violation of this section may be prosecuted in the jurisdiction where the protective order was issued,
166 in any county, city, or town where any act constituting the violation of the protective order occurred, or in the
167 jurisdiction where the party protected by the protective order resided at the time of such violation.

168 *F. If a law-enforcement officer determines a Military Protective Order registered in the National Crime
169 Information Center Systems (NCIC), maintained by the Federal Bureau of Investigation, has been issued
170 against any person who violates any provision of a protective order issued pursuant to § 16.1-253.1,
171 16.1-253.4, 16.1-278.14, or 16.1-279.1 or subsection B of § 20-103, who is a member of, or otherwise
172 associated with, the Armed Forces of the United States, such officer shall notify the law-enforcement agency t
173 hat entered the Military Protective Order into NCIC that the law-enforcement officer has probable cause to
174 believe the person has violated the Military Protective Order. "Military Protective Order" means a protective
175 order issued by a commanding officer in the Armed Forces of the United States, the Virginia National Guard,
176 or the National Guard of any other state against a person under such officer's command.*

177 **§ 18.2-60.4. Violation of protective orders; penalty.**

178 A. Any person who violates any provision of a protective order issued pursuant to § 19.2-152.8,
179 19.2-152.9, or 19.2-152.10 is guilty of a Class 1 misdemeanor. Conviction hereunder shall bar a finding of
180 contempt for the same act. The punishment for any person convicted of a second offense of violating a
181 protective order, other than a protective order issued pursuant to subsection C of § 19.2-152.10, when the

182 offense is committed within five years of the prior conviction and when either the instant or prior offense was
 183 based on an act or threat of violence, shall include a mandatory minimum term of confinement of 60 days.
 184 Any person convicted of a third or subsequent offense of violating a protective order, other than a protective
 185 order issued pursuant to subsection C of § 19.2-152.10, when the offense is committed within 20 years of the
 186 first conviction and when either the instant or one of the prior offenses was based on an act or threat of
 187 violence, is guilty of a Class 6 felony and the punishment shall include a mandatory minimum term of
 188 confinement of six months. The mandatory minimum terms of confinement prescribed for violations of this
 189 section shall be served consecutively with any other sentence.

190 B. In addition to any other penalty provided by law, any person who, while knowingly armed with a
 191 firearm or other deadly weapon, violates any provision of a protective order with which he has been served
 192 issued pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, other than a protective order issued pursuant to
 193 subsection C of § 19.2-152.10, is guilty of a Class 6 felony.

194 C. If the respondent commits an assault and battery upon any party protected by the protective order, other
 195 than a protective order issued pursuant to subsection C of § 19.2-152.10, resulting in bodily injury to the
 196 party or stalks any party protected by the protective order in violation of § 18.2-60.3, he is guilty of a Class 6
 197 felony. Any person who violates such a protective order, other than a protective order issued pursuant to
 198 subsection C of § 19.2-152.10, by furtively entering the home of any protected party while the party is
 199 present, or by entering and remaining in the home of the protected party until the party arrives, is guilty of a
 200 Class 6 felony, in addition to any other penalty provided by law.

201 D. Upon conviction of any offense hereunder for which a mandatory minimum term of confinement is not
 202 specified, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed
 203 be suspended.

204 E. Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order pursuant
 205 to § 19.2-152.10 for a specified period not exceeding two years from the date of conviction.

206 F. A violation of this section may be prosecuted in the jurisdiction where the protective order was issued,
 207 in any county, city, or town where any act constituting the violation of the protective order occurred, or in the
 208 jurisdiction where the party protected by the protective order resided at the time of such violation.

209 *G. If a law-enforcement officer determines a Military Protective Order registered in the National Crime
 210 Information Center Systems (NCIC), maintained by the Federal Bureau of Investigation, has been issued
 211 against any person who violates any provision of a protective order issued pursuant to § 19.2-152.8,
 212 19.2-152.9, or 19.2-152.10, who is a member of, or otherwise associated with, the Armed Forces of the
 213 United States, such officer shall notify the law-enforcement agency that entered the Military Protective Order
 214 into NCIC that the law-enforcement officer has probable cause to believe the person has violated the Military
 215 Protective Order. "Military Protective Order" means a protective order issued by a commanding officer in
 216 the Armed Forces of the United States, the Virginia National Guard, or the National Guard of any other state
 217 against a person under such officer's command.*

218 **§ 19.2-152.9. Preliminary protective orders.**

219 A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of
 220 time, subjected to an act of violence, force, or threat, or (ii) a petition or warrant has been issued for the arrest
 221 of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force,
 222 or threat, or the filing of a written motion requesting a hearing to extend a protective order pursuant to §
 223 19.2-152.10 without alleging that the petitioner is or has been, within a reasonable period of time, subject to
 224 an act of violence, force, or threat, or that a petition or warrant has been issued for the arrest of the alleged
 225 perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat, the
 226 court may issue a preliminary protective order against the alleged perpetrator in order to protect the health
 227 and safety of the petitioner or any family or household member of the petitioner. The order may be issued in
 228 an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn
 229 testimony before the judge or intake officer or upon the filing of a written motion requesting a hearing to
 230 extend a protective order pursuant to § 19.2-152.10. If an ex parte order is issued without an affidavit or a
 231 completed form as prescribed by subsection D of § 19.2-152.8 being presented, the court, in its order, shall
 232 state the basis upon which the order was entered, including a summary of the allegations made and the court's
 233 findings. Immediate and present danger of any act of violence, force, or threat or evidence sufficient to
 234 establish probable cause that an act of violence, force, or threat has recently occurred shall constitute good
 235 cause. *A Military Protective Order issued by a commanding officer in the Armed Forces of the United States,
 236 the Virginia National Guard, or the National Guard of any other state against a person under such officer's
 237 command to a protected person because such person was a reported victim of an offense of an act of
 238 violence, force, or threat thereof constitutes good cause for the court to find there is an immediate and
 239 present danger of any act of violence, force, or threat thereof to the petitioner.*

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

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

243 property;

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

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

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

251 B. The court shall forthwith, but in all cases no later than the end of the business day on which the order
252 was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's
253 identifying information and the name, date of birth, sex, and race of each protected person provided to the
254 court. A copy of a preliminary protective order containing any such identifying information shall be
255 forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective
256 orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify
257 and enter any modification as necessary to the identifying information and other appropriate information
258 required by the Department of State Police into the Virginia Criminal Information Network established and
259 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served
260 forthwith on the alleged perpetrator in person as provided in § 16.1-264, and due return made to the court.
261 However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an
262 attested copy of the order containing the respondent's identifying information and the name, date of birth, sex,
263 and race of each protected person provided to the court to the primary law-enforcement agency providing
264 service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency
265 shall enter the name of the person subject to the order and other appropriate information required by the
266 Department of State Police into the Virginia Criminal Information Network established and maintained by
267 the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on
268 the alleged perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall
269 enter the date and time of service and other appropriate information required by the Department of State
270 Police into the Virginia Criminal Information Network and make due return to the court. The preliminary
271 order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the
272 preliminary order, unless the hearing has been continued pursuant to this subsection or the court is closed
273 pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time
274 period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day
275 on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the
276 preliminary protective order shall remain in full force and effect until it is dissolved by such court, until
277 another preliminary protective order is entered, or until a protective order is entered. If the respondent fails to
278 appear at this hearing because the respondent was not personally served, the court may extend the protective
279 order for a period not to exceed six months. The extended protective order shall be served as soon as possible
280 on the respondent. However, where the respondent shows good cause, the court may continue the hearing.
281 The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk
282 shall provide the petitioner with a copy of the order and information regarding the date and time of service.
283 The order shall further specify that either party may at any time file a motion with the court requesting a
284 hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of
285 the court. Upon petitioner's motion to dissolve the preliminary protective order, a dissolution order may be
286 issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the
287 court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such
288 dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

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

299 C. The preliminary order is effective upon personal service on the alleged perpetrator. Except as otherwise
300 provided, a violation of the order shall constitute contempt of court.

301 D. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10 if the
302 court finds that the petitioner has proven the allegation that the petitioner is or has been, within a reasonable
303 period of time, subjected to an act of violence, force, or threat by a preponderance of the evidence.

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

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

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

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

314 I. The respondent may be required to notify the court in writing within seven days of any change of
315 residence while the preliminary protective order is in effect, provided that the respondent has been served a
316 copy of such order in accordance with the provisions of this section. Any failure of a respondent to make
317 such required notification shall be punishable by contempt.