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HOUSE BILL NO. 2123

Offered January 13, 2025

Prefiled January 7, 2025

A BILL to amend and reenact §§ 16.1-279.1 and 19.2-152.10 of the Code of Virginia, relating to protective orders; maximum time valid.

Patron—Maldonado

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-279.1 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 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 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 temporary child support order shall terminate upon the determination of support pursuant to § 20-108.1 or upon the termination of such protective order, whichever occurs first.

B. 1. The protective order may be issued for a specified period of time up to a maximum of ~~two~~ seven 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~~ seven-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. A written motion requesting a hearing to extend the protective order shall be served as soon as possible on the respondent.

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~~ seven 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

59 at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the ~~two-year~~ seven-year period if no
60 date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

61 2. Upon the filing of a written motion requesting a hearing to extend the protective order, the court may
62 issue an ex parte preliminary protective order pursuant to § 16.1-253.1 until the extension hearing. The ex
63 parte preliminary protective order shall specify a date for the extension hearing, which shall be held within 15
64 days of the issuance of the ex parte preliminary protective order and may be held after the expiration of the
65 protective order. If the respondent fails to appear at the extension hearing because the respondent was not
66 personally served, the court shall schedule a new date for the extension hearing and may extend the ex parte
67 preliminary protective order until such new date. The extended ex parte preliminary protective order shall be
68 served as soon as possible on the respondent. If the respondent was personally served, where the petitioner
69 shows by clear and convincing evidence that a continuance is necessary to meet the ends of justice or the
70 respondent shows good cause, the court may continue the extension hearing and such ex parte preliminary
71 protective order shall remain in effect until the extension hearing.

72 C. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon
73 as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all
74 cases no later than the end of the business day on which the order was issued, enter and transfer electronically
75 to the Virginia Criminal Information Network the respondent's identifying information and the name, date of
76 birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested
77 copy of the protective order containing any such identifying information to the primary law-enforcement
78 agency responsible for service and entry of protective orders. Upon receipt of the order by the primary
79 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the
80 identifying information and other appropriate information required by the Department of State Police into the
81 Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2
82 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made
83 to the court. Upon service, the agency making service shall enter the date and time of service and other
84 appropriate information required by the Department of State Police into the Virginia Criminal Information
85 Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution
86 or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency
87 responsible for service and entry of protective orders, and upon receipt of the order by the primary
88 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the
89 identifying information and other appropriate information required by the Department of State Police into the
90 Virginia Criminal Information Network as described above and the order shall be served forthwith and due
91 return made to the court.

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

94 E. The court may assess costs and attorney fees against either party regardless of whether an order of
95 protection has been issued as a result of a full hearing.

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

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

117 G. Either party may at any time file a written motion with the court requesting a hearing to dissolve or
118 modify the order. Proceedings to dissolve or modify a protective order shall be given precedence on the
119 docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be

120 issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the
 121 court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such
 122 dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

123 H. As used in this section:

124 "Copy" includes a facsimile copy.

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

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

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

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

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

137 M. The respondent shall be required to notify the court in writing within seven days of any change of
 138 residence while the protective order is in effect, provided that the respondent has been served a copy of such
 139 order in accordance with the provisions of this section. A violation of this subsection shall be punishable by
 140 contempt.

141 **§ 19.2-152.10. Protective order.**

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

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

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

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

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

156 B. 1. Except as provided in subsection C, the protective order may be issued for a specified period of time
 157 up to a maximum of ~~two~~ seven years. The protective order shall expire at 11:59 p.m. on the last day specified
 158 or at 11:59 p.m. on the last day of the ~~two-year~~ seven-year period if no date is specified. Prior to the
 159 expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the
 160 order. Proceedings to extend a protective order shall be given precedence on the docket of the court. A
 161 written motion requesting a hearing to extend the protective order shall be served as soon as possible on the
 162 respondent.

163 The court may extend the protective order for a period not longer than ~~two~~ seven years to protect the
 164 health and safety of the petitioner or persons who are family or household members of the petitioner at the
 165 time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on
 166 the last day specified or at 11:59 p.m. on the last day of the ~~two-year~~ seven-year period if no date is specified.
 167 Nothing herein shall limit the number of extensions that may be requested or issued.

168 2. Upon the filing of a written motion requesting a hearing to extend the protective order, the court may
 169 issue an ex parte protective order pursuant to § 19.2-152.9 until the extension hearing. The ex parte
 170 preliminary protective order shall specify a date for the extension hearing, which shall be held within 15 days
 171 of the issuance of the ex parte preliminary protective order and may be held after the expiration of the
 172 protective order. If the respondent fails to appear at the extension hearing because the respondent was not
 173 personally served, the court shall schedule a new date for the extension hearing and may extend the ex parte
 174 protective order until such new date. The extended ex parte protective order shall be served as soon as
 175 possible on the respondent. If the respondent was personally served, where the petitioner shows by clear and
 176 convincing evidence that a continuance is necessary to meet the ends of justice or the respondent shows good
 177 cause, the court may continue the extension hearing and such ex parte protective order shall remain in effect
 178 until the extension hearing.

179 C. Upon conviction for an act of violence as defined in § 19.2-297.1 and upon the request of the victim or
 180 of the attorney for the Commonwealth on behalf of the victim, the court may issue a protective order to the

181 victim pursuant to this chapter to protect the health and safety of the victim. The protective order may be
182 issued for any reasonable period of time, including up to the lifetime of the defendant, that the court deems
183 necessary to protect the health and safety of the victim. The protective order shall expire at 11:59 p.m. on the
184 last day specified in the protective order, if any. Upon a conviction for violation of a protective order issued
185 pursuant to this subsection, the court that issued the original protective order may extend the protective order
186 as the court deems necessary to protect the health and safety of the victim. The extension of the protective
187 order shall expire at 11:59 p.m. on the last day specified, if any. Nothing herein shall limit the number of
188 extensions that may be issued.

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

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

210 F. The court may assess costs and attorney fees against either party regardless of whether an order of
211 protection has been issued as a result of a full hearing.

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

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

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

239 I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office,
240 nor any employee of them, may disclose, except among themselves, the residential address, telephone
241 number, or place of employment of the person protected by the order or that of the family of such person,

242 except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for
243 law-enforcement purposes, or (iii) permitted by the court for good cause.

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

245 K. As used in this section:

246 "Copy" includes a facsimile copy.

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

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

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

253 N. The respondent shall be required to notify the court in writing within seven days of any change of
254 residence while the protective order is in effect, provided that the respondent has been served a copy of such
255 order in accordance with the provisions of this section. A violation of this subsection shall be punishable by
256 contempt.

257 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
258 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
259 **appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;**
260 **therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal**
261 **Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the**
262 **Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for**
263 **periods of commitment to the custody of the Department of Juvenile Justice.**

INTRODUCED

HB2123