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HOUSE BILL NO. 2520

Offered January 13, 2025

Prefiled January 8, 2025

A *BILL to amend and reenact §§ 16.1-253.1 and 19.2-152.9 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 1 of Title 44 an article numbered 2.1, consisting of sections numbered 44-24.2 through 44-24.5, relating to Virginia military forces; Sexual Offense Prevention and Response Program established.*

Patrons—Cole, Delaney, Feggans, Glass, Thomas, Anthony, Askew, Bennett-Parker, Bulova, Callsen, Carr, Clark, Cohen, Convirs-Fowler, Cousins, Gardner, Hayes, Helmer, Henson, Hernandez, Herring, Hope, Keys-Gamarra, Krizek, Lopez, Maldonado, Martinez, McClure, McQuinn, Mundon King, Price, Rasoul, Reaser, Seibold, Sewell, Shin, Sickles, Simon, Simonds, Torian, Tran, Ward, Watts and Willett; Senators: Favola and Salim

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-253.1 and 19.2-152.9 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 44 an article numbered 2.1, consisting of sections numbered 44-24.2 through 44-24.5, 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 Virginia military protective order issued by the Sexual Offense Prevention and Response Officer pursuant to Article 2.1 (§ 44-24.2 et seq.) of Chapter 1 of Title 44 on behalf of a victim who has made a restricted report or an unrestricted report, as those terms are defined in § 44-24.2, shall constitute 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

55 device before the expiration of the contract term with a third-party provider. The court may enjoin the
56 respondent from using a cellular telephone or other electronic device to locate or surveille the petitioner.

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

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

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

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

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

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

116 C. The preliminary order is effective upon personal service on the allegedly abusing person. Except as

117 otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

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

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

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

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

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

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

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

139 **§ 19.2-152.9. Preliminary protective orders.**

140 A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of
 141 time, subjected to an act of violence, force, or threat, or (ii) a petition or warrant has been issued for the arrest
 142 of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force,
 143 or threat, or the filing of a written motion requesting a hearing to extend a protective order pursuant to §
 144 19.2-152.10 without alleging that the petitioner is or has been, within a reasonable period of time, subject to
 145 an act of violence, force, or threat, or that a petition or warrant has been issued for the arrest of the alleged
 146 perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat, the
 147 court may issue a preliminary protective order against the alleged perpetrator in order to protect the health
 148 and safety of the petitioner or any family or household member of the petitioner. The order may be issued in
 149 an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn
 150 testimony before the judge or intake officer or upon the filing of a written motion requesting a hearing to
 151 extend a protective order pursuant to § 19.2-152.10. If an ex parte order is issued without an affidavit or a
 152 completed form as prescribed by subsection D of § 19.2-152.8 being presented, the court, in its order, shall
 153 state the basis upon which the order was entered, including a summary of the allegations made and the court's
 154 findings. Immediate and present danger of any act of violence, force, or threat or evidence sufficient to
 155 establish probable cause that an act of violence, force, or threat has recently occurred shall constitute good
 156 cause. *A Virginia military protective order issued by the Sexual Offense Prevention and Response Officer*
 157 *pursuant to Article 2.1 (§ 44-24.2 et seq.) of Chapter 1 of Title 44 on behalf of a victim who has made a*
 158 *restricted report or an unrestricted report, as those terms are defined in § 44-24.2, shall constitute good*
 159 *cause for the court to find there is an immediate and present danger of any act of violence, force, or threat*
 160 *thereof to the petitioner.*

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

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

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

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

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

172 B. The court shall forthwith, but in all cases no later than the end of the business day on which the order
 173 was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's
 174 identifying information and the name, date of birth, sex, and race of each protected person provided to the
 175 court. A copy of a preliminary protective order containing any such identifying information shall be
 176 forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective
 177 orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify

178 and enter any modification as necessary to the identifying information and other appropriate information
179 required by the Department of State Police into the Virginia Criminal Information Network established and
180 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served
181 forthwith on the alleged perpetrator in person as provided in § 16.1-264, and due return made to the court.
182 However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an
183 attested copy of the order containing the respondent's identifying information and the name, date of birth, sex,
184 and race of each protected person provided to the court to the primary law-enforcement agency providing
185 service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency
186 shall enter the name of the person subject to the order and other appropriate information required by the
187 Department of State Police into the Virginia Criminal Information Network established and maintained by
188 the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on
189 the alleged perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall
190 enter the date and time of service and other appropriate information required by the Department of State
191 Police into the Virginia Criminal Information Network and make due return to the court. The preliminary
192 order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the
193 preliminary order, unless the hearing has been continued pursuant to this subsection or the court is closed
194 pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time
195 period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day
196 on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the
197 preliminary protective order shall remain in full force and effect until it is dissolved by such court, until
198 another preliminary protective order is entered, or until a protective order is entered. If the respondent fails to
199 appear at this hearing because the respondent was not personally served, the court may extend the protective
200 order for a period not to exceed six months. The extended protective order shall be served as soon as possible
201 on the respondent. However, where the respondent shows good cause, the court may continue the hearing.
202 The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk
203 shall provide the petitioner with a copy of the order and information regarding the date and time of service.
204 The order shall further specify that either party may at any time file a motion with the court requesting a
205 hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of
206 the court. Upon petitioner's motion to dissolve the preliminary protective order, a dissolution order may be
207 issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the
208 court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such
209 dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

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

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

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

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

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

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

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

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

Sexual Offense Prevention and Response.

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§ 44-24.2. Definitions.

For the purposes of this article, unless the context requires a different meaning:

"Criminal sexual assault" means a violation of any offense enumerated in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2.

"Department" means the Department of Military Affairs established pursuant to § 44-11.

"Virginia military protective order" means a protective order issued by the Officer on behalf of a victim of an offense of criminal sexual assault in response to a restricted report or an unrestricted report made (i) by a member of the Virginia military forces or (ii) against a member of the Virginia military forces.

"Officer" means the Sexual Offense Prevention and Response Officer.

"Program" means the Sexual Offense Prevention and Response Program.

"Restricted report" means a reporting option in which the victim of criminal sexual assault may confidentially, and without initiating an investigation, disclose such offense to the Officer so that such victim may receive emergency care, medical treatment, and counseling. Such restricted report shall not be referred to law enforcement without the victim's consent.

"Unrestricted report" means a reporting option in which the victim of criminal sexual assault may disclose, without requesting confidentiality or a restricted report, such offense to the Officer.

"Virginia military forces" means the Virginia National Guard, which shall include the Virginia Army National Guard and the Virginia Air National Guard, and the Virginia Defense Force.

§ 44-24.3. Sexual Offense Prevention and Response Program created; Sexual Offense Prevention and Response Officer.

A. There is created within the Department of Military Affairs the Sexual Offense Prevention and Response Program and there is established within the Program a Sexual Offense Prevention and Response Officer. The Program and Officer shall exercise the authority granted by this article independently from the chain of command within the Department.

B. The Officer shall:

1. Perform victim advocacy services for victims of criminal sexual assault, including helping victims to understand the available reporting options and to receive the appropriate medical treatment and counseling;

2. Accept reports for alleged criminal sexual assault made (i) by a person who is a member of the Virginia military forces or (ii) against a person who is a member of the Virginia military forces;

3. Provide any victim who makes a report pursuant to this section with information regarding compensation for victims of crime pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of Title 19.2; and

4. Upon the request and with the consent of a victim of a criminal sexual assault who has made a restricted report or unrestricted report, file a petition for a protective order on behalf of such victim consistent with the provisions of §§ 16.1-253.1, 16.1-253.4, and 16.1-279.1 and Chapter 9.1 (§ 19.2-152.7:1 et seq.) of Title 19.2.

C. A victim of criminal sexual assault who is a member of the Virginia military forces shall be able to (i) file with the Officer either a restricted or an unrestricted report and, if such victim files a restricted report, be allowed to change such restricted report to an unrestricted report at any time; (ii) participate in the U.S. Department of Defense Catch a Serial Offender program; and (iii) receive notice when the Officer is made aware that the accused person has been subsequently accused of an offense of criminal sexual assault by a member of the Virginia military forces or any other person.

§ 44-24.4. Investigation of unrestricted reports.

A. Upon the filing of an unrestricted report, the Officer shall refer such unrestricted report to the State Police or to a local law-enforcement agency, whichever is appropriate, for the initial collection of evidence.

B. A local law-enforcement agency responsible for such initial collection of evidence in accordance with subsection A shall provide to the State Police, upon request of the State Police, any such evidence collected or other information relevant to the unrestricted report.

§ 44-24.5. Annual report.

A. The Adjutant General, in coordination with the Officer, shall submit a report regarding the Program annually to the Governor, the Lieutenant Governor, the Speaker of the House of Delegates, and the chairmen of both the House and Senate Committees for Courts of Justice.

B. Using data collected by the Officer, the annual report shall include:

1. The policies and procedures of the Program implemented by the Officer and the Adjutant General designed to prevent and respond to criminal sexual assault incidents, including procedures for making and filing restricted and unrestricted reports;

2. An assessment of the implementation and effectiveness of such policies and procedures, including oversight of and the Commonwealth's response to restricted and unrestricted reports;

3. An analysis of the number of reports of criminal sexual assault offenses involving members of the Virginia military forces; and

4. Any areas of improvement or deficiencies in the Department's training of the Officer.

C. Any information included in the annual report regarding a restricted report shall be limited to

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HB2520

302 *aggregated statistical data and shall not include any identifying information. Any information in the annual*
303 *report regarding unrestricted reports shall include:*
304 *1. Types of criminal sexual assault offenses reported;*
305 *2. Information relating to victims and persons accused;*
306 *3. The status of investigations and prosecutions initiated in accordance with this article; and*
307 *4. The status of any administrative action taken by the Department against members of Virginia military*
308 *forces who are on state active duty pursuant to § 44-75.1.*