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HOUSE BILL NO. 1712**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee for Courts of Justice
on January 29, 2025)

(Patron Prior to Substitute—Delegate Watts)

A *BILL to amend and reenact § 19.2-81.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-81.7, relating to arrest of certain persons with or without a warrant not required.*

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-81.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-81.7 as follows:

§ 19.2-81.3. Arrest without a warrant authorized in cases of assault and battery against a family or household member and stalking and for violations of protective orders; procedure, etc.

A. Any law-enforcement officer with the powers of arrest may arrest without a warrant for an alleged violation of § 18.2-57.2, 18.2-60.4, or 16.1-253.2 regardless of whether such violation was committed in his presence, if such arrest is based on probable cause or upon personal observations or the reasonable complaint of a person who observed the alleged offense or upon personal investigation.

B. A law-enforcement officer having probable cause to believe that a violation of § 18.2-57.2 or 16.1-253.2 has occurred shall arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the predominant physical aggressor unless there are special circumstances which would dictate a course of action other than an arrest. The standards for determining who is the predominant physical aggressor shall be based on the following considerations: (i) who was the first aggressor, (ii) the protection of the health and safety of family and household members, (iii) prior complaints of family abuse by the allegedly abusing person involving the family or household members, (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.

C. A law-enforcement officer having probable cause to believe that a violation of § 18.2-60.4 has occurred that involves physical aggression shall arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the predominant physical aggressor unless there are special circumstances which would dictate a course of action other than an arrest. The standards for determining who is the predominant physical aggressor shall be based on the following considerations: (i) who was the first aggressor, (ii) the protection of the health and safety of the person to whom the protective order was issued and the person's family and household members, (iii) prior acts of violence, force, or threat, as defined in § 19.2-152.7:1, by the person against whom the protective order was issued against the person protected by the order or the protected person's family or household members, (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.

D. Regardless of whether an arrest is made, the officer shall file a written report with his department, which shall state whether any arrests were made, and if so, the number of arrests, specifically including any incident in which he has probable cause to believe family abuse has occurred, and, where required, including a complete statement in writing that there are special circumstances that would dictate a course of action other than an arrest. The officer shall provide the allegedly abused person or the person protected by an order issued pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, both orally and in writing, information regarding the legal and community resources available to the allegedly abused person or person protected by the order. Upon request of the allegedly abused person or person protected by the order, the department shall make a summary of the report available to the allegedly abused person or person protected by the order.

E. In every case in which a law-enforcement officer makes an arrest under this section for a violation of § 18.2-57.2, he shall petition for an emergency protective order as authorized in § 16.1-253.4 when the person arrested and taken into custody is brought before the magistrate, except if the person arrested is a minor, a petition for an emergency protective order shall not be required. Regardless of whether an arrest is made, if the officer has probable cause to believe that a danger of acts of family abuse exists, the law-enforcement officer shall seek an emergency protective order under § 16.1-253.4, except if the suspected abuser is a minor, a petition for an emergency protective order shall not be required.

F. A law-enforcement officer investigating any complaint of family abuse, including but not limited to assault and battery against a family or household member shall, upon request, transport, or arrange for the transportation of an abused person to a hospital or safe shelter, or to appear before a magistrate. Any local law-enforcement agency may adopt a policy requiring an officer to transport or arrange for transportation of an abused person as provided in this subsection.

G. The definition of "family or household member" in § 16.1-228 applies to this section.

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60 H. As used in this section, ~~"law enforcement:~~

61 *"Law-enforcement officer"* means (i) any full-time or part-time employee of a police department or
62 sheriff's office which is part of or administered by the Commonwealth or any political subdivision thereof,
63 and any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, and
64 who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or
65 highway laws of this Commonwealth; (ii) any member of an auxiliary police force established pursuant to §
66 15.2-1731; and (iii) any special conservator of the peace who meets the certification requirements for a
67 law-enforcement officer as set forth in § 15.2-1706. Part-time employees are compensated officers who are
68 not full-time employees as defined by the employing police department or sheriff's office.

69 *"Special circumstances"* include the existence of an emergency custody order pursuant to § 37.2-808, a
70 temporary detention order pursuant to § 37.2-809, or an involuntary admission pursuant to § 37.2-817.

71 **§ 19.2-81.7. Arrest of certain persons with or without a warrant not required.**

72 *Notwithstanding any provision of law to the contrary, no law-enforcement officer with the power to arrest*
73 *is required to arrest an individual who is currently subject to an emergency custody order pursuant to §*
74 *37.2-808, a temporary detention order pursuant to § 37.2-809, or an involuntary admission pursuant to §*
75 *37.2-817 (i) for an offense committed in his presence or (ii) based on probable cause, personal observations,*
76 *the reasonable complaint of a person who observed the alleged offense, or upon personal investigation.*

77 **2. That the Department of Criminal Justice Services, in conjunction with the Office of the Attorney**
78 **General, shall (i) provide and require in-person or virtual training to all law-enforcement agencies and**
79 **officers and (ii) provide information to advise attorneys for the Commonwealth on the provisions of §**
80 **19.2-81.7 of the Code of Virginia, as created by this act, and other existing statutes related to the arrest**
81 **and prosecution of persons with mental or behavioral health disorders by January 1, 2026. Any person**
82 **employed as a law-enforcement officer prior to January 1, 2026, shall complete the training required**
83 **by this act by July 1, 2026, and biennially thereafter. Any person employed as a law-enforcement**
84 **officer after January 1, 2026, shall complete the training within one year of his date of hire and**
85 **biennially thereafter.**

86 **3. That the Criminal Justice Services Board shall promulgate regulations pursuant to § 9.1-150.2 of the**
87 **Code of Virginia requiring in-person or virtual training to special conservators of the peace on the**
88 **provisions of § 19.2-81.7 of the Code of Virginia, as created by this act, and other existing statutes**
89 **related to the arrest and prosecution of persons with mental or behavioral health disorders by January**
90 **1, 2026. Any person appointed as a special conservator of the peace prior to January 1, 2026, shall**
91 **complete the training required by this act by July 1, 2026, and biennially thereafter. Any person**
92 **appointed as a special conservator of the peace after January 1, 2026, shall complete the training**
93 **within one year of his appointment and biennially thereafter.**