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HOUSE BILL NO. 2123
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee for Courts of Justice
on _____)
(Patron Prior to Substitute—Delegate Maldonado)

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.

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

31 any insurance, registration, or taxes on the motor vehicle and directing the respondent to maintain the
32 insurance, registration, and taxes, as appropriate; however, no such grant of possession or use shall affect title
33 to the vehicle;

34 7. Requiring that the respondent provide suitable alternative housing for the petitioner and, if appropriate,
35 any other family or household member and where appropriate, requiring the respondent to pay deposits to
36 connect or restore necessary utility services in the alternative housing provided;

37 8. Ordering the respondent to participate in treatment, counseling or other programs as the court deems
38 appropriate;

39 9. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such
40 petitioner meets the definition of owner in § 3.2-6500; and

41 10. Any other relief necessary for the protection of the petitioner and family or household members of the
42 petitioner, including a provision for temporary custody or visitation of a minor child.

43 A1. If a protective order is issued pursuant to subsection A, the court may also issue a temporary child
44 support order for the support of any children of the petitioner whom the respondent has a legal obligation to
45 support. Such temporary child support order shall terminate upon the determination of support pursuant to §
46 20-108.1 or upon the termination of such protective order, whichever occurs first.

47 B. 1. The protective order may be issued for a specified period of time up to a maximum of two years.
48 *However, if the court finds, based upon evidence presented, that the respondent has been subject to a*
49 *previous order issued pursuant to this section or § 19.2-152.10, the protective order may be issued for a*
50 *specified period of time up to a maximum of four years.* The protective order shall expire at 11:59 p.m. on the
51 last day specified or at 11:59 p.m. on the last day of the two-year *or four-year* period if no date is specified.
52 Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to
53 extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the
54 court. A written motion requesting a hearing to extend the protective order shall be served as soon as possible
55 on the respondent.

56 If the petitioner was a family or household member of the respondent at the time the initial protective
57 order was issued, the court may extend the protective order for a period not longer than two years, *regardless*
58 *of whether such order was initially issued for a period of time up to a maximum of two years or four years,* to
59 protect the health and safety of the petitioner or persons who are family or household members of the

60 petitioner at the time the request for an extension is made. The extension of the protective order shall expire
61 at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is
62 specified. Nothing herein shall limit the number of extensions that may be requested or issued.

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

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

89 responsible for service and entry of protective orders, and upon receipt of the order by the primary
90 law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the
91 identifying information and other appropriate information required by the Department of State Police into the
92 Virginia Criminal Information Network as described above and the order shall be served forthwith and due
93 return made to the court.

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

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

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

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

118 remains in effect.

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

125 H. As used in this section:

126 "Copy" includes a facsimile copy.

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

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

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

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

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

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

143 **§ 19.2-152.10. Protective order.**

144 A. The court may issue a protective order pursuant to this chapter to protect the health and safety of the
145 petitioner and family or household members of a petitioner upon (i) the issuance of a petition or warrant for,
146 or a conviction of, any criminal offense resulting from the commission of an act of violence, force, or threat

147 or (ii) a hearing held pursuant to subsection D of § 19.2-152.9. A protective order issued under this section
148 may include any one or more of the following conditions to be imposed on the respondent:

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

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

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

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

158 B. 1. Except as provided in subsection C, the protective order may be issued for a specified period of time
159 up to a maximum of two years. *However, if the court finds, based upon evidence presented, that the*
160 *respondent has been subject to a previous order issued pursuant to § 16.1-279.1 or this section, the*
161 *protective order may be issued for a specified period of time up to a maximum of four years.* The protective
162 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 *or*
163 *four-year* period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a
164 written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be
165 given precedence on the docket of the court. A written motion requesting a hearing to extend the protective
166 order shall be served as soon as possible on the respondent.

167 The court may extend the protective order for a period not longer than two years, *regardless of whether*
168 *such order was initially issued for a period of time up to a maximum of two years or four years,* to protect the
169 health and safety of the petitioner or persons who are family or household members of the petitioner at the
170 time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on
171 the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing
172 herein shall limit the number of extensions that may be requested or issued.

173 2. Upon the filing of a written motion requesting a hearing to extend the protective order, the court may
174 issue an ex parte protective order pursuant to § 19.2-152.9 until the extension hearing. The ex parte
175 preliminary protective order shall specify a date for the extension hearing, which shall be held within 15 days

176 of the issuance of the ex parte preliminary protective order and may be held after the expiration of the
177 protective order. If the respondent fails to appear at the extension hearing because the respondent was not
178 personally served, the court shall schedule a new date for the extension hearing and may extend the ex parte
179 protective order until such new date. The extended ex parte protective order shall be served as soon as
180 possible on the respondent. If the respondent was personally served, where the petitioner shows by clear and
181 convincing evidence that a continuance is necessary to meet the ends of justice or the respondent shows good
182 cause, the court may continue the extension hearing and such ex parte protective order shall remain in effect
183 until the extension hearing.

184 C. Upon conviction for an act of violence as defined in § 19.2-297.1 and upon the request of the victim or
185 of the attorney for the Commonwealth on behalf of the victim, the court may issue a protective order to the
186 victim pursuant to this chapter to protect the health and safety of the victim. The protective order may be
187 issued for any reasonable period of time, including up to the lifetime of the defendant, that the court deems
188 necessary to protect the health and safety of the victim. The protective order shall expire at 11:59 p.m. on the
189 last day specified in the protective order, if any. Upon a conviction for violation of a protective order issued
190 pursuant to this subsection, the court that issued the original protective order may extend the protective order
191 as the court deems necessary to protect the health and safety of the victim. The extension of the protective
192 order shall expire at 11:59 p.m. on the last day specified, if any. Nothing herein shall limit the number of
193 extensions that may be issued.

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

205 to the court. Upon service, the agency making service shall enter the date and time of service and other
206 appropriate information required into the Virginia Criminal Information Network and make due return to the
207 court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be
208 attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of
209 protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall
210 forthwith verify and enter any modification as necessary to the identifying information and other appropriate
211 information required by the Department of State Police into the Virginia Criminal Information Network as
212 described above and the order shall be served forthwith and due return made to the court.

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

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

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

233 Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy

234 available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his
235 duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to
236 him by any source and may also rely upon the statement of any person protected by the order that the order
237 remains in effect.

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

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

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

250 K. As used in this section:

251 "Copy" includes a facsimile copy.

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

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

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

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

262 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**

263 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
264 appropriation is _____ for periods of imprisonment in state adult correctional facilities; therefore,
265 Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing
266 Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of
267 Virginia, the estimated amount of the necessary appropriation is _____ for periods of commitment to
268 the custody of the Department of Juvenile Justice.