

SENATE BILL NO. 895

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on _____)

(Patron Prior to Substitute--Senator Surovell)

A BILL to amend and reenact §§ 16.1-279.1, 17.1-405, and 19.2-152.10 of the Code of Virginia, relating to appeals of certain interlocutory decrees or orders; report.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-279.1, 17.1-405, 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. The court

27 may enjoin the respondent from terminating a cellular telephone number or electronic device before the
28 expiration of the contract term with a third-party provider. The court may enjoin the respondent from
29 using a cellular telephone or other electronic device to locate the petitioner;

30 6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner
31 alone or jointly owned by the parties to the exclusion of the respondent and enjoining the respondent from
32 terminating any insurance, registration, or taxes on the motor vehicle and directing the respondent to
33 maintain the insurance, registration, and taxes, as appropriate; however, no such grant of possession or
34 use shall affect title to the vehicle;

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

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

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

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

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

47 B. The protective order may be issued for a specified period of time up to a maximum of two years.
48 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
49 the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may
50 file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order
51 shall be given precedence on the docket of the court. If the petitioner was a family or household member
52 of the respondent at the time the initial protective order was issued, the court may extend the protective
53 order for a period not longer than two years to protect the health and safety of the petitioner or persons

54 who are family or household members of the petitioner at the time the request for an extension is made.
55 The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m.
56 on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of
57 extensions that may be requested or issued.

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

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

80 E. The court may assess costs and attorneys' fees against either party regardless of whether an
81 order of protection has been issued as a result of a full hearing.

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

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

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

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

110 H. As used in this section:

111 "Copy" includes a facsimile copy; and

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

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

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

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

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

124 **§ 17.1-405. Appellate jurisdiction — Administrative agency, Virginia Workers'**
125 **Compensation Commission, and civil matter appeals.**

126 A. Unless otherwise provided by law, any aggrieved party may appeal to the Court of Appeals
127 from:

128 1. Any final decision of a circuit court on appeal from (i) a decision of an administrative agency,
129 or (ii) a grievance hearing decision issued pursuant to § 2.2-3005;

130 2. Any final decision of the Virginia Workers' Compensation Commission;

131 3. Except as provided in subsection B of § 17.1-406, any final judgment, order, or decree of a
132 circuit court in a civil matter;

133 4. Any interlocutory decree or order pursuant to § 8.01-267.8;

134 5. ~~Any~~ Except as provided in subsection B, any interlocutory decree or order involving an equitable
135 claim in which the decree or order (i) requires money to be paid or the possession or title of property to
136 be changed or (ii) adjudicates the principles of a cause; or

137 6. Any final judgment, order, or decree of a circuit court (i) involving an application for a concealed
138 weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2, (ii) involving
139 involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04, or (iii) for declaratory or
140 injunctive relief under § 57-2.02.

141 B. No interlocutory decree or order shall be appealed if such decree or order involves:

142 1. Affirmance or annulment of a marriage;

143 2. Divorce;

144 3. Custody of a minor child;

145 4. Spousal or child support;

146 5. Control or disposition of a minor child;

147 6. Any other domestic relations matter arising under Title 16.1 or 20; or

148 7. Any protective order other than a final protective order issued by a circuit court.

149 **§ 19.2-152.10. Protective order.**

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

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

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

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

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

165 B. Except as provided in subsection C, the protective order may be issued for a specified period of
166 time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified
167 or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the
168 protective order, a petitioner may file a written motion requesting a hearing to extend the order.
169 Proceedings to extend a protective order shall be given precedence on the docket of the court. The court
170 may extend the protective order for a period not longer than two years to protect the health and safety of
171 the petitioner or persons who are family or household members of the petitioner at the time the request for
172 an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day
173 specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein
174 shall limit the number of extensions that may be requested or issued.

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

185 D. A copy of the protective order shall be served on the respondent and provided to the petitioner
186 as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith,

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

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

207 F. The court may assess costs and attorneys' fees against either party regardless of whether an order
208 of protection has been issued as a result of a full hearing.

209 G. Any judgment, order or decree, whether permanent or temporary, issued by a court of
210 appropriate jurisdiction in another state, the United States or any of its territories, possessions or
211 Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose
212 of preventing violent or threatening acts or harassment against or contact or communication with or
213 physical proximity to another person, including any of the conditions specified in subsection A, shall be

214 accorded full faith and credit and enforced in the Commonwealth as if it were an order of the
215 Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing
216 jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such
217 person's due process rights and consistent with federal law. A person entitled to protection under such a
218 foreign order may file the order in any appropriate district court by filing with the court, an attested or
219 exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of
220 the order to the primary law-enforcement agency responsible for service and entry of protective orders
221 which shall, upon receipt, enter the name of the person subject to the order and other appropriate
222 information required by the Department of State Police into the Virginia Criminal Information Network
223 established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where
224 practical, the court may transfer information electronically to the Virginia Criminal Information Network.

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

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

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

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

242 K. As used in this section:

243 "Copy" includes a facsimile copy; and

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

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

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

250 **2. That the Virginia Family Law Coalition (the Coalition) shall conduct a study on appeals of**
251 **interlocutory decrees or orders involving domestic relations matters in the Commonwealth. The**
252 **Coalition shall report the findings of such study to the Chairmen of the Senate Committee on the**
253 **Judiciary and the House Committee for Courts of Justice by October 1, 2024.**

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