

# Summary of Selected Victim Related Legislation Considered During the 2010 Session of the General Assembly

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## **Selected Victim Related Bills that PASSED During the 2010 Session of the General Assembly**

### ***HB 13 Presentence reports; available to counsel for convicted person.***

Amends §§ 9.1-177.1 and 19.2-299

*Summary:*

Provides that counsel representing a person who has been convicted of a crime for which a presentence report was prepared by a probation officer may be provided a copy of the report, without a court order, when the convicted person is pursuing a post-conviction remedy.

*Patron:* Marshall, R.G.

### ***HB 458 Attorney-issued summons; protective orders.***

Amends §8.01-407

*Summary:*

Eliminates the prohibition on attorney-issued summonses in cases involving the issuance of protective orders. This bill is identical to SB 721.

*Patrons:* Herring and Englin

### ***HB 913 Victims of crime; may visit perpetrator in prison facility.***

Amends §§19.2-11.4 and 53.1-30

*Summary:*

This bill requires the Department of Corrections (DOC) to develop a policy to assist victims of crimes committed by offenders incarcerated in any state correctional facility to visit with such offenders. The policy may include provisions necessary to preserve the safety and security of those at such visits and the good order of the facility, including consideration of offender security levels, crimes committed and institutional behavior. DOC is to make whatever arrangements are necessary to effectuate such visits. The provisions of this bill do not apply to juvenile victims.

*Patron:* Bell, Robert B.

**HB 930 Protective orders; allows petitioner to obtain extension of order for no more than two years.**

Amends §§ 16.1-279.1 and 19.2-152.10

*Summary:*

This bill allows a petitioner who has obtained a protective order under § 16.1-279.1 (cases of family abuse) or § 19.2-152.10 (stalking) to seek an extension of such order for a period of no more than two years. There is no limit on the number of extensions that may be requested. This bill is identical to SB468.

*Patrons:* Bell, Robert B., Athey, Comstock, Gilbert and Lingamfelter

**HB 931 Protective orders; coordination with other states.**

*Summary:*

This bill **requires** the Executive Secretary of the Supreme Court, on an annual basis, to consult with the appropriate judicial authorities of adjacent states and **allows** the Executive Secretary to consult with the appropriate judicial authorities of any other state concerning the forms used in connection with the issuance of protective orders under the laws of the Commonwealth and the other states. The Executive Secretary shall, to the extent feasible under the laws of the Commonwealth, coordinate the contents of such protective order forms with other states in order to facilitate the enforcement of foreign protective orders in the Commonwealth and the enforcement of Virginia protective orders in other states. This bill is identical to SB 467.

*Patrons:* Bell, Robert B., Athey, Gilbert, Iaquinto and Lingamfelter

**SB 88 Criminal Injuries Compensation Fund; Worker's Compensation Commission to adopt rates for payment.**

Amends § 19.2-368.3

*Summary:*

This bill requires health care providers serving crime victims, where claims may be filed with the Criminal Injuries Compensation Fund, to negotiate with the Virginia Workers' Compensation Commission, which administers the Fund, in order to establish agreements relating to rates for payment of claims for such services. The rates will discharge the obligation to the provider in full, except where the provider is an agency of the Commonwealth and the claimant receives a third party recovery in addition to the payment from the Fund.

*Patron:* Howell

## **Selected Victim Related Bills CARRIED OVER to the 2011 Session.**

(Note: Prior to the 2011 Session, most of these bills are likely to be studied by the Sexual and Domestic Violence Workgroup or the Virginia State Crime Commission)

### ***HB 164 Protective orders; authorizes judicial officer to require respondent be subject to GPS monitoring.***

Amends §§ 16.1-253.1, 16.1-253.4, 16.1-279.1, 18.2-60.3, 19.2-152.8, 19.2-152.9, 19.2-152.10, and 20-103

*Summary:*

Authorizes a judicial officer to require that a protective order respondent be subject to GPS monitoring.

*Patron:* Pogge

### ***HB 216 Assault and battery against a family or household member; protective order, penalty.***

Amends §§ 18.2-57.2, 19.2-151, and 37.2-506

*Summary:*

Provides that a person who commits an assault and battery against a person who is protected by the provisions of a protective order is guilty of a Class 1 misdemeanor and for a third offense, a Class 6 felony.

*Patrons:* McClellan, Herring, McQuinn and Ward

### ***HB 285 Companion animals; court may include in protective order provisions prohibiting harm.***

Amends §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, and 19.2-152.10

*Summary:*

Provides that a court may include in a protective order provisions prohibiting harm to a companion animal owned, possessed, leased, kept, or held by the petitioner, or his family or household members, when the harm to the companion animal is with the intent to threaten, coerce, intimidate, or harm the petitioner or his family or household members.

*Patrons:* Scott, J.M. and Herring

***HB 453 Protective orders; service of notice by law-enforcement officer.***

Amends § 16.1-264

*Summary:*

Provides that a law-enforcement officer may effect service of a protective order by personally serving the person subject to the order with either (i) a copy of the order or (ii) a notification of the issuance of the order, which shall be on a form approved by the Supreme Court of Virginia. The officer making service shall enter or cause to be entered the date and time of service and other appropriate information into the Virginia Criminal Information Network and make due return to the court.

*Patron:* Herring

***HB 656 Protective orders; authorizes judicial officer to require that respondent be subject to GPS monitoring.***

Amends §§ 16.1-253.1, 16.1-253.4, 16.1-279.1, 18.2-60.3, 19.2-152.8, 19.2-152.9, 19.2-152.10, and 20-103

*Summary:*

Authorizes a judicial officer to require that a protective order respondent be subject to GPS monitoring that notifies the person to be protected and law enforcement when the monitored person is in violation of the order. The cost of the monitoring is to be paid by the monitored person.

*Patron:* Armstrong

***HB 1156 Protective orders; minor may petition.***

Adds a section numbered §16.1-279.2

*Summary:*

Clarifies that a minor may petition for a protective order with or without the consent of a parent, legal guardian, or other person standing in loco parentis to the minor and who has care and control of the minor. The minor may participate in the court proceedings on his own behalf and a court shall appoint a guardian ad litem for the minor.

*Patron:* Oder

***SB 177 Juvenile court docket; cases of assault and battery against family or household member.***

Amends § 16.1-241

*Summary:*

Requires cases of assault and battery against a family or household member to be advanced on the docket and heard within 30 days of arrest or service of a summons or as soon thereafter as practicable.

*Patron:* McDougle

***SB 208 Family or household member; expands definition.***

Amends §16.1-228

*Summary:*

Includes within the definition of a person's "family or household member" any individual who is currently or was formerly involved in a substantive, intimate dating relationship with the person; the existence of such a substantive relationship shall be determined based on (i) the length of the relationship, (ii) the nature of the relationship, and (iii) the frequency of interaction between the persons involved in the relationship. A casual relationship or ordinary fraternization in a business or social context does not constitute a dating relationship. Expanding the definition of "family or household member" implicates crimes for which a family or household member is a victim (e.g., assault and battery against a family member) and protective orders under which a person may be protected (e.g., protective orders in cases of family abuse).

*Patron:* Barker

## **Selected Victim Related Bills that FAILED During the 2010 Session of the General Assembly**

### ***HB 218 Stalking; enhanced penalties.***

Amends §§ 18.2-60.3 and 18.2-308.1:4

#### *Summary:*

Provides that any person who commits a second or subsequent offense of stalking occurring within five years of a conviction of a prior offense is guilty of a Class 6 felony. Currently, the Class 6 felony applies for a third or subsequent offense. The bill also provides that any person who commits an offense of stalking when, at the time of the offense, there is in effect any court order prohibiting contact between the defendant and the victim or the victim's family or household member is guilty of a Class 6 felony.

*Patrons:* McClellan, Herring, McQuinn and Ward

### ***HB 288 Stalking; penalty.***

Amends § 18.2-60.3

#### *Summary:*

Clarifies the number of instances of stalking behavior necessary for conviction of multiple offenses of stalking, and provides that a person may be convicted of stalking for a singular instance of stalking behavior when the behavior is accompanied by verbal threats of sexual assault, bodily injury, or death. The measure also creates a felony offense of stalking for engaging in stalking behavior after having been previously convicted of a family assault and battery within five years prior to the stalking behavior. The measure also resets the time period within which a person may be convicted of felony stalking to be based upon the period during which the offenses were committed, rather than the period during which the convictions were had.

*Patron:* Griffith

### ***HB 935 Assault and battery; adult allows child to be present during assault, guilty of Class 6 felony.***

Amends § 18.2-57.2

#### *Summary:*

Makes it a Class 6 felony for an adult having a custodial relationship over a child under the age of 18 to knowingly allow the child to be present during the assault and battery of a family or household member.

*Patron:* Bell, Robert B.

## ***SB 436 Emergency protective and removal orders***

Amends §16.1-244

### *Summary:*

Provides that a party shall file in circuit court, which shall hear and determine, any petition for a preliminary protective/removal order if (i) the party previously filed in juvenile and domestic relations district court a petition for an emergency protective/removal order; (ii) the juvenile and domestic relations district court issued such order for the emergency protection/removal of a child; (iii) a timely appeal of the order was filed by the parent, guardian, legal custodian, or other person standing in loco parentis of the child; (iv) the circuit court set a hearing on the appeal for a date certain or on a motions docket to be heard within five days of the entry of the emergency protective/removal order; and (v) the purpose for which the party seeks a petition for a preliminary protective/removal order is for the protection/removal of the same child. The juvenile and domestic relations district courts shall be divested of the right to enter any preliminary protective/removal order that involves the same child if all of the conditions set forth in clauses (i) through (v) exist.

*Patron:* Edwards

## ***SB 462 Crime victims; no law-enforcement officer shall inquire into immigration status thereof.***

Adds a section numbered §19.2-11.02

### *Summary:*

Provides that no law-enforcement officer or other agent of state or local government shall, when investigating a crime, inquire into the immigration status of any person who reports that he is the victim of the crime or the parent or guardian of a minor victim, or is a cooperating witness in the criminal investigation or the parent or guardian of a minor witness. The bill does not prohibit a law-enforcement officer from inquiring into the immigration status of a victim or witness who has been arrested or charged with a criminal violation, or when such inquiry is required by federal law or is essential to the investigation or prosecution of the crime to which the person is a witness or of which the person is a victim.

*Patrons:* Howell and McEachin; *Delegates:* Griffith and Watts

## ***SB 679 Restorative justice programs; established for offenders and victims.***

Adds a section numbered §19.2-11.5

### *Summary:*

Establishes a restorative justice program for offenders and victims. Provisions address participation, court involvement, confidentiality, and immunity from civil liability.

*Patrons:* Hanger and Edwards



***SB 711 Freedom of Information Act; disclosure of criminal investigative records.***

Amends §§ 2.2-3706, 2.2-3711, and 15.2-1713.1

*Summary:*

Limits the exemption for criminal investigative or prosecution records to those investigations or prosecutions that are ongoing. As a result, criminal investigative and prosecution records would be open to the public after the ongoing criminal investigation or prosecution has become final or has been otherwise terminated, unless there is jeopardy to any other criminal investigation or prosecution. The bill contains technical amendments.

*Patron:* Edwards