

Summary of Domestic Violence Related Legislation Enacted by Year 2007-2011

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2011

HB1757 Victims of domestic violence; expands Address Confidentiality Program to all jurisdictions in State.

An Act to amend and reenact § 2.2-515.2 of the Code of Virginia, to amend and reenact the second enactment of Chapter 599 of the Acts of Assembly of 2007, as amended by Chapter 649 of the Acts of Assembly of 2008, and to repeal the third enactment of Chapter 599 of the Acts of Assembly of 2007, as amended by Chapter 649 of the Acts of Assembly of 2008, relating to address confidentiality for victims of domestic violence.

Summary:

Address Confidentiality Program. Expands the Address Confidentiality Program for victims of domestic violence to all jurisdictions within the Commonwealth. The bill also provides that the Office of the Attorney General will prepare an evaluation of the statewide implementation of the program by December 31, 2012, and repeals the enactment clause that conditioned the continuation of the program upon an appropriation for that purpose. The bill is identical to SB 1199.

Chief patron: Wilt

HB 1779 Protective orders, preliminary; prohibition on purchase & transport of firearms for certain persons.

An Act to amend and reenact §18.2-308.1:4 of the Code of Virginia, relating to the purchase or transportation of firearms by persons subject to preliminary protective orders; penalty.

Summary:

Preliminary protective orders. Makes the prohibition on purchasing and transporting a firearm applicable to persons subject to preliminary protective orders where a petition alleging abuse or neglect has been filed. Under current law, persons subject to a preliminary protective order are prohibited from purchasing or transporting a firearm regardless of any allegation. This bill is identical to SB 754.

Chief patron: Gilbert

HB2063 Protective orders; expands class of persons eligible to obtain.

An Act to amend and reenact §§ 16.1-69.55, 16.1-228, 16.1-253.1, 16.1-253.4, 16.1-279.1, 17.1-213, 17.1-272, 18.2-60.4, 19.2-81.3, 19.2-120, 19.2-152.8, 19.2-152.9, and 19.2-152.10 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 9.1 of Title 19.2 a section numbered 19.2-152.7:1, relating to protective orders; availability; penalty.

Summary:

Protective orders; availability; penalty. Renames "protective orders for stalking" as "protective orders" and expands the class of persons that is eligible to obtain a protective order by enlarging the types of conduct that permit the issuance of a protective order from certain specified criminal acts to any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or

bodily injury. Such protective orders are available based on such conduct, regardless of the relationship of the parties involved. The bill also makes several amendments to make protective orders and family abuse protective orders more consistent, including amending the definition of “family abuse” to be consistent with the conduct that would allow for the issuance of a “protective order” and providing that a family abuse protective order may include a condition prohibiting the allegedly abusing person from committing a criminal offense that results in injury to person or property. The bill also makes the penalties for violating a protective order consistent with the penalties for violating a family abuse protective order: (i) any person convicted of a second violation of a protective order, when the offense is committed within five years of a conviction for a prior offense and when either the instant or prior offense was based on an act or threat of violence, shall be sentenced to a mandatory minimum term of confinement of 60 days; (ii) any person convicted of a third or subsequent offense, when such offense is committed within 20 years of the first conviction and when either the instant or any of the prior offenses was based on an act or threat of violence, is guilty of a Class 6 felony and punishment shall include a mandatory minimum term of confinement of six months; (iii) any person who commits an assault and battery resulting in serious bodily injury upon a person protected by a protective order is guilty of a Class 6 felony; and (iv) any person who violates a protective order by furtively entering the home of the protected party while such party is present or enters and remains in such home until the protected party arrives is guilty of a Class 6 felony. This bill incorporates HB 1716, HB 1876, HB 2340, and HB 2422. This bill is identical to SB 1222.

Patron: Bell, Robert B.

HB2089 Emergency protective orders; law-enforcement officer may serve notice.

An Act to amend and reenact § 16.1-264 of the Code of Virginia, relating to service of notice of emergency protective order.

Summary:

Service of notice of emergency protective orders. Provides that a law-enforcement officer may effect service of an emergency protective order by personally serving the person subject to the order with 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

HB2106 Global Positioning System (GPS); tracking for person on bond or as a condition of probation.

An Act to amend and reenact §§ 19.2-123 and 19.2-303 of the Code of Virginia, relating to GPS tracking for persons on bond or probation.

Summary:

Bond; GPS tracking. Allows GPS (Global Positioning System) tracking for persons on secured bond or as a condition of probation or suspended sentence. This bill is identical to SB 925.

Patron: Armstrong

SB 906 Family life education; SOL objectives related to dating violence, etc., to be taught in school.

An Act to require awareness of teen dating violence to be taught as prescribed by the Board of Education's family life education guidelines.

Summary:

Family life education; dating violence. Provides that any family life education curriculum offered by a local school division shall require the Standards of Learning objectives related to dating violence and the characteristics of abusive relationships to be taught at least once during middle school and at least twice during high school.

Chief patron: Deeds

2010

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.

Patron: Herring

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.

Patron: Bell

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.

Patron: Bell

HB 1842 Emergency protective order; authority of magistrate or judge to issue in cases of sexual battery.

An Act to amend and reenact §§ 19.2-152.8, 19.2-152.9, and 19.2-152.10 of the Code of Virginia, relating to authority of a magistrate or judge to issue an emergency protective order.

Summary as passed House:

Protective orders; sexual battery. Expands the authority of a magistrate or judge to issue any stalking protective order to include issuance when a warrant is issued for sexual battery or aggravated sexual battery. Currently, issuance of such an order predicated on a criminal act is limited to criminal offenses resulting in serious bodily injury or stalking.

Patron: Griffith

HB 1857 Protective orders; issuance upon conviction in cases of family abuse.

An Act to amend and reenact §§ 16.1-253.1 and 16.1-279.1 of the Code of Virginia, relating to protective orders; issuance upon conviction of certain crimes.

Summary as passed:

Protective orders; issuance to incarcerated persons. Provides that a court may issue a preliminary protective order upon a showing by the petitioner 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. If an incarcerated defendant is personally served and not transported to the hearing, the court may extend the protective order for a period not to exceed six months. If a preliminary protective order is issued the court may issue a permanent (two-year) protective order.

Patron: Shannon

HB 1874 Magistrates; issuance of felony arrest warrants.

An Act to amend and reenact §§ 19.2-45, 19.2-71, and 19.2-72 of the Code of Virginia, relating to power of magistrates to issue felony arrest warrants.

Summary as passed:

Power of magistrates to issue felony arrest warrants. Provides that a magistrate may not issue an arrest warrant for a felony offense upon the basis of a complaint by a person other than a law-enforcement officer without prior consultation by the magistrate with the attorney for the Commonwealth or, if no attorney for the Commonwealth is available, without prior consultation with a law-enforcement agency. The bill also provides

that a written complaint shall be required whenever practicable if the complainant is not a law-enforcement officer. (Identical to SB1426)

Patron: Cosgrove

HB 1908 Assault and battery of family/household member; court to order person to obtain certain services.

An Act to amend and reenact § 18.2-57.3 of the Code of Virginia, relating to assault and battery against a family or household member; deferred disposition.

Summary as passed House:

Assault and battery of family or household member; deferred disposition. Rewrites the existing statute for clarity and allows the court to order the person to obtain services from a local community-based probation services agency if the services are available or from an alternative service provider. The bill also requires the court to order the person to be of good behavior for at least two years following deferral of proceedings. This bill is a recommendation of the Committee on District Courts. This bill is identical to SB 1300.

Patron: Armstrong

HB 2328 Adult abuse, suspected; requires local departments to take photographs, etc., thereof.

An Act to amend and reenact § 63.2-1605 of the Code of Virginia, relating to suspected adult abuse; photographing of injuries.

Summary as passed:

Suspected adult abuse; photographing of injuries. Requires local departments to take or cause to be taken photographs, video recordings, or appropriate medical imaging of a suspected victim of adult neglect, abuse, or exploitation. This bill also provides that, if the adult is determined to be incapable of making an informed decision and of giving informed consent and either has no legal representative, or the legal representative is the suspected perpetrator of the neglect, abuse, or exploitation, consent may be given by an agent appointed under an advanced medical directive or medical power of attorney or other authorized person. In the event no agent or authorized representative is immediately available then consent shall be deemed to be given.

Patron: Athey

SB 1439 Protective orders; removes provision to contain identifying information.

An Act to amend and reenact §§ 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 of the Code of Virginia, relating to protective orders; identifying information; expiration.

Summary as introduced:

Protective orders. Removes a provision added in 2008 allowing an addendum to the protective order to

contain identifying information, so that the identifying information will return to the front page of the order. The bill also specifies identifying information to be added and transmitted to the Virginia Criminal Information Network (VCIN) regarding the protected person and provides that orders will expire at 11:59 p.m. on the date specified.

Patron: Edwards

2008

HB 713 Protective orders, preliminary; court to extend if respondent fails to appear at hearing.

Amends § 19.2-152.9

Allows the court to extend a preliminary protective order for a period of up to six months if the respondent fails to appear at the hearing. Language mirrors subsection B of § 16.1-253.1, relating to preliminary protective orders in family abuse cases.

Patron: Janis

HB 753 Virginia Criminal Information Network (VCIN); protective order information sent thereto, expiration.

Amends § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, 19.2-152.10, and 19.2-390

Provides that when a protective order is issued, the district court must, no later than the end of the business day on which the order was issued, enter identifying information in the Virginia Criminal Information Network (VCIN) system. If the order is issued by the circuit court, the primary law-enforcement agency to whom the order was forwarded by the clerk of the court must enter the name of the person subject to the order and other appropriate information into VCIN. Upon entry of the order, a copy of the order and an addendum containing identifying information must be forwarded forthwith to the primary law-enforcement agency responsible for service. Upon effecting service, the agency must enter the date and time of service into VCIN. If an entering agency determines that any identifying information is incorrect, it must enter the corrected information into VCIN. The bill also establishes the precise time when protective orders expire so that they can automatically be cleared from VCIN. The bill also requires, with some exceptions, that clerks make electronic reports of certain proceedings or adjudications to the Central Criminal Records Exchange and defines the term "electronic report." This bill is identical to SB 540.

Patron: Peace

HB 1179 Assault & battery; admission to bail person committing second or subsequent offense against family.

Amends § 19.2-120

Adds a presumption, subject to rebuttal, against admitting to bail any person who is arrested for felony assault and battery against a family or household member.

Patron: Lingamfelter

SB 173 Domestic violence cases; retention of records.

Amends §§ 16.1-69.55 and 17.1-213

Provides that records in cases involving misdemeanor convictions for (i) assault and battery against a family or household member, or (ii) violating a protective order shall be retained for 20 years. A third conviction for these crimes within 20 years is a felony, however, currently, such records are only required to be retained for 10 years.

Patron: Blevins

SB 764 Address confidentiality for victims of domestic violence; program expanded.

Amends § 2.2-515.2

Expands the address confidentiality for victims of domestic violence program currently implemented in the County of Arlington to the Counties of Albemarle, Augusta, Dickenson, Fairfax, Henry, Lee, Rockbridge, Russell, Scott, Washington, and Wise as well as the Cities of Buena Vista, Charlottesville, Lexington, Martinsville, Norfolk, and Roanoke. The bill also provides that an applicant to the program may apply in person at a domestic violence program, which is defined as a public and not-for-profit agency the primary mission of which is to provide services to victims of sexual or domestic violence. Currently, such applications are made directly to the Office of the Attorney General.

Patron: Ticer

2007

HB 1738 Domestic assault warrants; issuance of emergency protective orders.

A BILL to amend and reenact § 16.1-253.4

Summary:

The bill creates the presumption of further family abuse when there already exists, or there is issued, a warrant for domestic assault. Such presumption may be rebutted by the alleged abused person.

Patron: Fralin

HB 1916 Family life education; requires Bd. of Education to incorporate instruction on dating violence, etc.

An Act to amend and reenact § 22.1-207.1

Summary:

Requires the Board of Education to incorporate instruction on dating violence and the characteristics of abusive relationships into its curriculum guidelines for family life education.

Patron: Ward

HB 1982 Protective orders; increases penalty for second offense for violation thereof.

Amends and reenacts §§ 16.1-253.2 and 19.2-120

Summary:

Provides that the punishment for any person convicted of a second violation of a protective order, when the offense is committed within five years of a conviction for a prior offense and when either the instant or prior offense was based on an act or threat of violence, shall include a mandatory minimum term of confinement of 60 days. The bill also provides that any person convicted of a third offense, when the third such offense is committed within 20 years of the first conviction and when either the instant or any of the prior offenses was based on an act or threat or violence, is guilty of a Class 6 felony, and punishment shall include a mandatory minimum term of confinement of six months. The bill also provides that there is a rebuttable presumption that bail should be denied to any person convicted of a second or subsequent violation of a protective order. This bill is similar to SB 1237.

Patron: Lohr

HB 2364 Magistrates; required to deliver copy of any criminal warrant issued at request of citizen to State.

Amends and reenacts § 19.2-45

Summary:

Requires magistrates to deliver a copy of any criminal warrant issued at the request of a citizen to the attorney for the Commonwealth, if requested by the attorney for the Commonwealth. This bill is identical to SB 997.

Patron: Scott, E.T.

HB 2576 Protective orders; extension by court.

Amends and reenacts §§ 16.1-253.1 and 20-103

Summary:

Provides that a court may extend a preliminary protective order where the party subject to the order fails to attend the hearing because he was not personally served. The extended protective order must be served as soon as possible and the extension period is limited to six months. The bill also amends provisions relating to protective orders issued pending suit for divorce, custody or visitation to provide that if the party subject to the order fails to appear at the hearing the court may extend the order for a period not to exceed six months.

Patron: Shannon

HB 2646 Emergency protective orders; issuance thereof & judge to provide protected person with forms, etc.

Amends and reenacts § 16.1-253.4

Summary:

Provides that when an emergency protective order is issued, the judge or magistrate shall provide the protected person or the law-enforcement officer seeking the emergency protective order with the form used to file a petition for a preliminary protective order and written information regarding protective orders that shall include the telephone numbers of domestic violence agencies and legal referral sources on a form prepared by the Supreme Court. If the forms are provided to a law-enforcement officer the officer shall provide the forms to the person who is the subject of the protective order.

Patron: Marsden

SB 938 Address Confidentiality Program; created.

Amends and reenacts § 2.2-515.1 of the Code of Virginia and amends the Code of Virginia by adding a section numbered 2.2-515.2

Summary:

Requires the Statewide Facilitator for Victims of Domestic Violence in the Office of the Attorney General to establish the "Address Confidentiality Program" to protect victims of domestic violence by authorizing the use of designated addresses for such victims. The bill limits its application to Arlington County with a report from the Office of The Attorney General on evaluation of the program by December 31, 2007.

Patron: Ticer

SB 1237 Protective orders; increases penalty for second offense for violation thereof.

Amends and reenacts §§ 16.1-253.2 and 19.2-120

Summary:

Violation of provisions of protective orders; penalty. Provides that the punishment for any person convicted of a second violation of a protective order, when the offense is committed within five years of a conviction for a prior offense and when either the instant or prior offense was based on an act or threat of violence, shall include a mandatory minimum term of confinement of 60 days. The bill also provides that any person convicted of a third offense, when the third such offense is committed within 20 years of the first conviction and when either the instant or any of the prior offenses was based on an act or threat or violence, is guilty of a Class 6 felony, and punishment shall include a mandatory minimum term of confinement of six months. The bill also provides that there is a rebuttable presumption that bail should be denied to any person convicted of a second or subsequent violation of a protective order. This bill is similar to HB 1982.

Patron: Obenshain