

## Chapter 8 - Protective Orders

### Family Abuse and Criminal Cases

#### Emergency Protective Orders

An emergency protective order under this section may be requested in person by a petitioner or a law enforcement officer or by telephone by a law enforcement officer of any circuit, general district or juvenile and domestic relations district court judge or by a magistrate. [Va. Code § 16.1-253.4](#). An officer requesting an order by telephone writes the request on the form, reads it to the judge, and writes the judge's response in the order portion of the form.

An emergency protective order under this section, if granted, provides protection to "family and household members" by prohibiting acts of family abuse, prohibiting such contacts by respondent with family or household members as the judge or the magistrate deems necessary to protect the safety of such person and/or granting the family or household member possession of the premises occupied by the parties to the exclusion of the respondent. A grant of possession does not affect title to any real or personal property.

Under [Va. Code § 16.1-253.4](#), when a warrant for domestic assault is issued, there exists a presumption that further family abuse will occur, therefore, requiring the issuance of an Emergency Protective Order, unless rebutted by the victim.

[Virginia Code § 16.1-264](#) provides that a law-enforcement officer may affect service of an emergency protective order by personally serving the respondent with a notification of the issuance of the order. The notice, district court form DC-633, NOTICE OF ISSUANCE OF EMERGENCY PROTECTIVE ORDER-FAMILY ABUSE, must contain the necessary information and the requirements of the emergency protective order. The officer making service shall enter or cause to be entered the information into the Virginia Criminal Information Network (VCIN) and make due return to the court.

## Emergency Protective Order – Family Abuse Procedures

STEP	DESCRIPTION
<b>1</b>	<p><b>Magistrate issued EPO:</b> The Clerk receives district court form DC-626, EMERGENCY PROTECTIVE ORDER-FAMILY ABUSE. The case is indexed in JCMS using the following codes:</p> <p><b>CASE TYPE:</b> PE-Emergency Protective Order  <b>CHARGE:</b> EPO/Family Abuse  <b>OFFENSE DATE:</b> Date request for district court form DC-626, EMERGENCY PROTECTIVE ORDER-FAMILY ABUSE is signed.  <b>HEARING DATE:</b> Date of filing with the court.  <b>HEARING TYPE:</b> DS (recommended)</p>
<b>2</b>	<ul style="list-style-type: none"> <li>• The order is not docketed for hearing by the court.</li> <li>• Finalize the case using <b>GR</b>-Granted.</li> <li>• VCIN entry is not required for magistrate issued EPO'S.</li> </ul>
<b>3</b>	<p><b>Judge issued EPO:</b> The victim asserts under oath that he/she is being subjected to an act of violence, force or threat. Upon issuance of a judge issued emergency protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases. The case is indexed in JCMS using the following codes:</p> <p><b>CASE TYPE:</b> PE-Emergency Protective Order  <b>CHARGE:</b> EPO/Family Abuse  <b>OFFENSE DATE:</b> Date request for district court form DC-626, EMERGENCY PROTECTIVE ORDER-FAMILY ABUSE is signed.  <b>HEARING DATE:</b> Date of filing with the court.  <b>HEARING TYPE:</b> DS (recommended)</p>
<b>4</b>	<ul style="list-style-type: none"> <li>• The order is docketed for hearing by the court.</li> <li>• Finalize the case using <b>GR</b>-Granted or <b>D</b>-Denied/Dismissed</li> <li>• <b>VCIN entry is required for judge issued EPO's.</b></li> <li>• PO Type-E</li> <li>• Time Issued: Judge will note time issued and expiration time (required for PO type E. PO type E will write back to the service index with notice type of EPO.</li> </ul> <p><b>COMMENTS:</b> If the court receives the district court form DC-373, NOTICE OF ISSUANCE OF EMERGENCY PROTECTIVE ORDER, the document is filed with the case. The notice is not indexed in the system. No further action is required on the notice.</p>

## Family Abuse Protective Orders

The petitioner may initiate an action in which he or she seeks a protective order to prevent the abusing adult from further abusing the victim and other family or household members by filing a district court form DC-611, PETITION FOR PROTECTIVE ORDER – FAMILY ABUSE *with the intake officer* or, if the petitioner is represented by counsel, counsel may file the petition with the clerk of the juvenile and domestic relations district court. When a petition is filed with the intake office, the person seeking a protective order shall be provided an information sheet that includes an explanation of the conditions, procedures and time limits applicable to various protective orders. The petitioner may request a preliminary protective order or a protective order be issued.

If the party seeking protection is a juvenile, the case should be styled as “\_\_\_\_\_, a minor, by his/her next friend, \_\_\_\_\_ v. \_\_\_\_\_” (E.g. “Suzy Q Smith, a minor, by her next friend, Steve Smith v. Bobby Brown”). The juvenile's name should appear first, followed by an indication that it is being filed by a next friend, then followed by the next friend's name. The names of the parents of any minor (petitioner by next friend or respondent), need to be provided, along with addresses, by the intake office, as notice to the parents is required. The information for service may be provided on the petition or another addendum.

**Note:** The testimony of any child witness who is fourteen years of age or under at the time of the trial may be taken by closed-circuit television, upon proper application and order of the court. Va. Code § 63.2-1521.

## Servicemembers Civil Relief Act Requirements for Default Judgment

A default judgment may not be entered until the plaintiff files an affidavit (i) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or (ii) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service. The district court form DC-418, AFFIDAVIT – DEFAULT JUDGMENT SERVICEMEMBERS CIVIL RELIEF ACT is available for use by plaintiffs. Failure to file the affidavit is not grounds to set aside an otherwise valid default judgment against a defendant who was not, at the time of service of process or entry of the default judgment, a service member. However, case law indicates that failure to comply with the affidavit requirement in a case involving a defendant who is a service member and whose military service interfered with his ability to respond to a suit creates a voidable default judgment. See *Flynn v. Great Atlantic Management Co.*, 246 Va. 93; *Matthews v. Allstate Ins. Co.*, 194 F. Supp. 459 (E.D. Va. 1961). If the defendant is believed to be in military service and is unaware of the action, the court must appoint an attorney to represent the defendant prior to entry of a default judgment. The court must grant a stay of not less than ninety days upon request by appointed counsel or upon its own motion if the court believes that (i) there may be a defense that requires the defendant's presence or (ii) counsel has been unable to contact

the defendant or otherwise determine if a meritorious defense exists after due diligence. If the service member cannot be contacted within the first ninety-day stay period, a default judgment may be entered, but the service member may attack the judgment and the attorney's actions shall not bind him. If the service member is believed to be in military service and has been provided notice of the action, the court may grant a stay of ninety days or more upon its own motion, and shall grant a stay upon application of a service member with notice, if such service member provides (i) a letter setting forth the reasons why his military duties materially affect his ability to appear, and a date on or after which he could appear and (ii) a letter from his commanding officer stating that his service precludes his ability to appear and that he is not authorized to take leave. Active duty status alone, even in another state, does not necessarily "materially affect" one's ability to appear. Application for this stay does not constitute a waiver of jurisdictional defenses. A service member may apply for additional stays, but the court need not grant them. If the court refuses to grant an additional stay after the first ninety-day stay and the service member still cannot appear by reason of his military service, then the court must appoint an attorney to represent him before entering default judgment. If appointment of counsel is required, the court may assess attorneys' fees and costs against any party, as the court deems appropriate, and shall direct in its order which of the parties shall pay. Such fees and costs shall not be assessed against the Commonwealth unless it is the party that obtains the judgment. The Servicemembers Civil Relief Act covers National Guard members who are in Title 10 status. Title 10 status means they are paid and under the direct control of the federal government. Members who are in a Title 32 status, paid and trained by the United States Armed Forces but under control of the respective state governors, are covered by the Servicemembers Civil Relief Act if they are in that status pursuant to a contingency mission specified by the President or Secretary of Defense. Members who are paid by and under the command of their states' governors are not covered under this Act. A service member who did not have notice of an action that resulted in a default judgment may petition the court to reopen a case within ninety days of his release from service. The court shall rehear the matter and allow the service member to defend the action only if (i) the service member was materially affected in making a timely defense by reason of military service and (ii) the service member has a meritorious or legal defense to the action or some part thereof.

Upon issuance of a protective order pursuant to § [16.1-279.1](#) or [19.2-152.10](#), the court shall order the person who is subject to the protective order to within 24 hours after being served with a protective order, surrender any firearm possessed by such person to a designated local law-enforcement agency, sell or transfer any firearm possessed by such person to a dealer, sell or transfer any firearm possessed by such person to any person who is not otherwise prohibited by law from possessing such firearm and within 48 hours after being served with a protective order certify in writing, that the person does not possess any firearms or that all firearms possessed by the person have been surrendered, sold, or transferred and file such certification with the clerk of the court that entered the protective order.

The willful failure of any person to certify in writing that all firearms possessed have been surrendered, sold, or transferred or that they do not possess any firearms shall constitute contempt of court.

## Initial Petition Procedures

STEP	DESCRIPTION
1	<p>The petitioner, or his/her attorney, files the district court form DC-611, PETITION FOR PROTECTIVE ORDER - FAMILY ABUSE along with the district court form DC-621, <a href="#">Non-Disclosure Addendum</a>. This non-disclosure provision is automatic and the protected person does NOT have to file the district court form DC-301, <a href="#">Request for Confidentiality by Crime Victim</a> to prevent disclosure.</p> <p>If children are to be a part of the protective order, the district court form DC-620, <a href="#">Affidavit</a> (UCCJEA) will be filed. <b>CAUTION:</b> Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone numbers, email addresses or place of employment of the person protected by the order or his family except as required by law, as necessary for law-enforcement purposes, or by order for good cause shown.</p> <p>Petition must be attested or an affidavit attached only if the petitioner is requesting the issuance of an <i>ex parte</i> preliminary protective order. There are no fees for filing a district court form DC-611, PETITION FOR PROTECTIVE ORDER - FAMILY ABUSE.</p> <p>The clerk, upon receiving the district court form DC-611, PETITION FOR PROTECTIVE ORDER – FAMILY ABUSE, and the district court form DC-621, <a href="#">Non-Disclosure Addendum</a>, should inquire as to whether a preliminary order of protection is being sought. If such an order is sought, an <i>ex parte</i> hearing is scheduled the same day.</p>
2	<p>Clerk sets up case in the Adult division with a Case Type <b>FP-Family Abuse Protective Order</b>. The clerk should utilize the functions of the interface with DJJ-Court Services Unit to bring forward information already entered into the system. See JCMS User's Guide for instructions.</p> <p><b>CHARGE:</b> PPO/Family abuse <a href="#">Va. Code § 16.1-253.1</a></p> <p><b>OFFENSE DATE:</b> Date of petition.</p> <p><b>HEARING TYPE:</b> PR</p>
3	<p><i>Ex parte</i> hearing is held, and Judge grants or denies preliminary protective order.</p> <p>If PPO denied, update the disposition as <b>D-Dismissed</b>.</p> <p>If granted, a preliminary protective order is issued, using the district court form DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE. This order will</p>

STEP	DESCRIPTION
	<p>include any conditions and limitations being placed upon the respondent, and will state date of full hearing. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.</p> <p>Date of next hearing must be within fifteen days. Update the case using the continuance code of <b>PPO-Preliminary Protective Issued</b> and a hearing type of <b>DS</b>.</p> <p>If the Preliminary Protective Order is denied but the case is continued to the 15-day hearing, update the case using the continuance code of <b>NPP-No Preliminary Protective Order Issued</b> and a hearing type of <b>DS</b>.</p>
4	<p>For instruction on entering PPO into VCIN via the interface, refer to JCMS User's Guide. Entry into VCIN is required <b>forthwith</b> but in all cases no later than the end of the business day on the day the order is issued <b>only</b> if the order has not expired. Data is sent electronically (through JCMS) to the Virginia Criminal Information Network (VCIN) system.</p>
5	<p>When the district court form DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE is issued, the clerk shall have the petitioner served with a copy of the petition, affidavit and the PPO.</p>
6	<p>Clerk forwards copy of the district court form DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE issued by the court along with the petition and a copy of the affidavit to the local law enforcement agency to be served <b>forthwith</b> on the alleged abusing adult.</p> <p>A copy of the front and back of the district court form DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE may be faxed to the local law enforcement agency. The hard copy of the district court form DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE shall be sent <b>forthwith</b> but in all cases no later than the end of the business day on the day the order is issued to local law enforcement agency for review and further entry of additional information into VCIN.</p> <p>The district court form DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE becomes <b>effective upon service</b> on the allegedly abusing person.</p> <p>There is no fee for service of this order.</p>

STEP	DESCRIPTION
7	<p>Upon motion of the respondent and for good cause shown, the court may continue the hearing.</p> <p>If the court does not find good cause and does not continue the “15 day hearing,” the district court form DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE shall remain in effect until the hearing.</p> <p>Upon granting the respondent’s request for a continuance, the Court should reissue the district court form DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE with a new expiration date reflecting the continuance. The conditions of the initial district court form DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE will be reflected in the subsequent order. This subsequent order must be served on the parties, entered into VCIN by the clerk as described above, and forwarded to the local law enforcement agency <b>forthwith</b> but in all cases no later than the end of the business day on the day the order is issued.</p> <p>If the respondent fails to appear at this hearing because the respondent was not personally served, or if personally served was incarcerated and not transported to the hearing, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served <b>forthwith</b> on the respondent.</p> <p>The clerk shall attach a copy of district court form DC-621, <a href="#">Non-Disclosure Addendum</a> Petitioner’s copy ONLY for service, at which time the serving officer will destroy the copy.</p> <p>At the judge’s discretion, a preliminary protective order may be issued for up to another fifteen days OR, with the consent of the respondent or his/her counsel, a protective order is issued until the subsequent hearing date and time beyond the fifteen-day limitation for preliminary protective orders.</p>
8	<p>If a hearing is not requested earlier, or a continuance has not been granted, a full hearing must be held within fifteen days. At this hearing, the court may issue a DC-650, PROTECTIVE ORDER - FAMILY ABUSE protective order if the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.</p> <p>If petition for a Protective Order - Family Abuse is denied, case is updated on the hearing update tab, as <b>D-Denied</b>. If granted, update the disposition as <b>GR-Granted</b>.</p> <p>District court form DC-650, PROTECTIVE ORDER-FAMILY ABUSE ( which will include the DC-649, PROTECTIVE ORDER FIREARM CERTIFICATION) is used and will include any</p>

STEP	DESCRIPTION
	<p>condition or limitations being placed on the respondent, and will state the amount of time the protective order is valid, not to exceed two years. Entry into VCIN is required <b>forthwith</b> but in all cases no later than the end of the business day on the day the order is issued.</p> <p>The clerk should serve a copy of the Protective Order on the petitioner. If the respondent is present, serve a copy of the Protective Order with the attached copy of the DC-649, Protective Order Firearm Certification before leaving court.</p> <p>If the respondent returns the completed firearm certification upon service of the protective order, scan and file the document with the protective order.</p> <p>If the firearm certification is not returned at the protective order hearing, set an administrative hearing the following week on the same day as the issuance of the order. (If issued on Tuesday, set an administration hearing for the following Tuesday) to track the return of the completed firearm certification.</p> <p>The district court form DC-650, PROTECTIVE ORDER - FAMILY ABUSE shall be sent to local law enforcement <b>forthwith</b> but in all cases no later than the end of the business day on the day the order is issued for service.</p> <p>A temporary child support order may be issued for the support of any children of the petitioner whom the respondent is obligated to support. Use the 2nd page of the district court form DC-650, PROTECTIVE ORDER - FAMILY ABUSE. This temporary support order terminates upon determination of support pursuant to <a href="#">Va. Code § 20-108.1</a>.</p> <p>The court may assess costs and attorney's fees against either party, regardless of whether an Order of Protection has been issued.</p>
9	<p>Respondent must surrender concealed carry weapons permit immediately, clerk will retain permit until the expiration date entered by the judge or magistrate.</p> <p>Concealed handgun permit is to be returned, upon request, upon expiration of protective order. It is recommended that the court require the respondent to appear in person with identification for the permit to be returned.</p>

STEP	DESCRIPTION
<b>10</b>	If on the administrative hearing date, the DC-649, PROTECTIVE ORDER FIREARM CERTIFICATION has not been completed and returned to the court by the respondent, the judge may request the issuance of a show cause for contempt of court. The judge may utilize the bottom portion of the DC-649, PROTECTIVE ORDER FIREARM CERTIFICATION to order the show cause. The judge should indicate whether the show cause will be issued as civil or criminal and provide the appropriate statute. If the show cause is issued, enter as a subsequent action to the protective order with the case type of ' <b>SC</b> '. Enter the Complainant as ' <b>Upon Court's Motion</b> ', using the Business Option.
<b>11</b>	Although indexed as an Adult (criminal) case, the proceedings, and subsequently the appeal, are civil in nature. Appeal should be noted on district court form DC-475, NOTICE OF APPEAL - CIVIL. See appendix on "Appeals" for step-by-step procedures.

## Forms

DC-475	NOTICE OF APPEAL - CIVIL
DC-611	PETITION FOR PROTECTIVE ORDER – FAMILY ABUSE
DC-621	<a href="#">NON-DISCLOSURE ADDENDUM</a>
DC-626	EMERGENCY PROTECTIVE ORDER – FAMILY ABUSE
DC-627	PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE
DC-649	PROTECTIVE ORDER FIREARM CERTIFICATION
DC-650	PROTECTIVE ORDER – FAMILY ABUSE
DC-652	ORDER DISSOLVING PROTECTIVE ORDER
DC-684	<a href="#">FILING OF FOREIGN PROTECTIVE ORDER</a>

## References

<a href="#">§ 16.1-253</a>	Preliminary protective order.
<a href="#">§ 16.1-253.1</a>	Preliminary protective orders in cases of family abuse; confidentiality.
<a href="#">§ 16.1-253.4</a>	Emergency protective orders authorized in certain cases; penalty.
<a href="#">§ 16.1-279.1</a>	Protective order in cases of family abuse.

**Protective Orders ([§ 19.2-152.9](#))****Emergency Protective Orders**

Any judge of a circuit court, general district court, juvenile and domestic relations district court or magistrate may issue a written or oral *ex parte* emergency protective order

pursuant to this section in order to protect the health or safety of any person. See district court form DC-382, EMERGENCY PROTECTIVE ORDER

An emergency protective order should be issued when a law-enforcement officer or an alleged victim asserts under oath to a judge or magistrate that such person is being or has been subjected to an act of violence, force or threat and on that assertion or other evidence the judge or magistrate finds that (i) there is probable danger of a further such act being committed by the respondent against the alleged victim or (ii) a petition or warrant for the arrest of the respondent has been issued for any criminal offense resulting from the commission of an act of violence, force or threat. A law enforcement officer may request an emergency protective order orally, in person or by electronic means.

[Virginia Code § 16.1-264](#) provides that a law-enforcement officer may affect service of an emergency protective order by personally serving the respondent with a notification of the issuance of the order. The notice, district court form DC-373 Notice of Issuance of Emergency Protective Order, must contain the necessary information and the requirements of the emergency protective order. The officer making service shall enter or cause to be entered the information into the Virginia Criminal Information Network (VCIN) and make due return to the court.

### Procedure - Emergency Protective Order

STEP	DESCRIPTION
<b>1</b>	<p><b>Magistrate issued EPO:</b>  The Clerk receives district court form DC-382, EMERGENCY PROTECTIVE ORDER.  The case is indexed in JCMS using the following codes:</p> <p><b>CASE TYPE:</b> PE-Emergency Protective Order  <b>CHARGE:</b> EPO  <b>OFFENSE DATE:</b> Date request for district court form DC-382, EMERGENCY PROTECTIVE ORDER is signed.  <b>HEARING DATE:</b> Date of filing with the court.  <b>HEARING TYPE:</b> DS</p>
<b>2</b>	<p>The order is not docketed for hearing by the court.  Finalize the case using <b>GR-Granted</b>.  <b>VCIN entry is not required for magistrate issued EPO'S.</b></p>

STEP	DESCRIPTION
<b>3</b>	<p><b>Judge issued EPO:</b></p> <p>The victim asserts under oath that he/she is being subjected to an act of violence, force or threat. Upon issuance of a judge issued emergency protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases. The case is indexed in JCMS using the following codes:</p> <p><b>CASE TYPE:</b> PE-Emergency Protective Order</p> <p><b>CHARGE:</b> EPO</p> <p><b>OFFENSE DATE:</b> Date request for district court form DC-382, EMERGENCY PROTECTIVE ORDER is signed.</p> <p><b>HEARING DATE:</b> Date of filing with the court.</p> <p><b>HEARING TYPE:</b> DS</p>
<b>4</b>	<ul style="list-style-type: none"> <li>• The request is docketed for hearing by the court.</li> <li>• Finalize the case using <b>GR</b>-Granted or <b>D</b>-Denied/Dismissed</li> <li>• <b>VCIN entry is required for judge issued EPO'S.</b></li> <li>• PO Type-E</li> <li>• Time Issued: Judge will note time issued and expiration time (required for PO type E. PO type E will write back to the service index with notice type of EPO.</li> </ul>

### Preliminary Protective Orders and Protective Orders

If the person involved comes within the jurisdiction of the juvenile court, a district court form DC-383, PETITION FOR PROTECTIVE ORDER may be filed. If the party seeking protection is a juvenile, the case should be styled as “\_\_\_\_\_, a minor, by his/her next friend, \_\_\_\_\_ v. \_\_\_\_\_” (E.g. “Suzy Q Smith, a minor, by her next friend, Steve Smith v. Bobby Brown”). The juvenile's name should appear first, followed by an indication that it is being filed by a next friend, then followed by the next friend's name. The names of the parents of any minor (petitioner by next friend or respondent), need to be provided, along with addresses, by the intake office, as notice to the parents is required. The information for service may be provided on the DC-511 or another addendum.

Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force or threat, or (ii) a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force or threat, the court may issue a preliminary protective order against the alleged perpetrator in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an *ex parte* proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer.

Immediate and present danger of any act of violence, force or threat or evidence sufficient to establish probable cause that an act of violence, force or threat has recently occurred shall constitute good cause.

This order is entered using district court form DC-384, PRELIMINARY PROTECTIVE ORDER. It is essential that these tasks be undertaken promptly so that there will be no lapse in the protection to be afforded the petitioner.

At a full hearing on the petition, the court may issue a protective order pursuant to § [19.2-152.10](#) if the court finds that the petitioner has proven the allegation that the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force or threat by a preponderance of the evidence. This order is entered using district court form DC-385, PROTECTIVE ORDER.

**Note:** If the court is closed pursuant to §§ 16.1-69.35 or 17.1-207 and the closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to §§ 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered or until a protective order is entered.

A criminal conviction of stalking/sexual battery pursuant to [Va. Code § 18.2-60.3](#) will REQUIRE the court to issue an order prohibiting contact between the defendant and the victim, victim's family, or household member.

### Procedure – Preliminary Protective Order and Protective Order

The following procedures should be followed when processing a Preliminary Protective Order (PPO) or Protective Order (PO).

STEP	DESCRIPTION
1	<p>Alleged victim requests a Preliminary or Protective Order by filing a district court form DC-383, PETITION FOR PROTECTIVE ORDER along with DC-621, <a href="#">Non-Disclosure Addendum</a>.</p> <p><b>NOTE:</b> No fees shall be charged for filing the petition.</p> <p>Upon filing of the petition and the district court form DC-621, <a href="#">Non-Disclosure Addendum</a> the clerk should inquire as to whether a preliminary order of protection is being sought. If so, an <i>ex parte</i> hearing is scheduled the same day the petition is filed.</p> <p>Petition must be attested or an affidavit attached only if the petitioner is requesting the issuance of an <i>ex parte</i> preliminary protective order.</p> <p>This non-disclosure provision is automatic and the protected person does NOT have to file the district court form DC-301, <a href="#">Request for Confidentiality by Crime Victim</a> to prevent disclosure.</p> <p><b>CAUTION:</b> Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone numbers, email addresses or place of employment of the person protected by the order or his family except as required by law, as necessary for law-enforcement purposes, or by order for good cause shown.</p> <p>The petitioner alleges that (i) the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force or threat, or (ii) a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force or threat. Upon issuance of a preliminary or final protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.</p>
2	Clerk closes case in JCMS with Disposition Code of <b>GR</b> -Granted.

- 3** For adults, although indexed as an Adult (criminal) case, the proceedings, and subsequently the appeal are civil in nature.

Appeal should be noted on district court form DC-475, NOTICE OF APPEAL – CIVIL, if the respondent is an adult. For step-by-step procedures, See appendix on “Appeals”.

For cases in which the respondent is a juvenile, utilize appeal form DC-581- NOTICE OF APPEAL – JUVENILE CIVIL APPEALS.

- 4** For cases involving an adult respondent, the clerk sets up the case in the Adult Division with a Case Type **AP**. The juvenile’s name should not be entered in the complainant name field. Enter the complainant as “juvenile”.

For cases involving a juvenile respondent, the clerk sets up the case in the Juvenile Civil Division with a Case Type of **AP**.

In cases involving a juvenile respondent and/or victim, the court may appoint a Guardian *ad litem* to represent the best interests of the minor.

**NOTE:** If a Guardian *ad litem* is appointed to represent a juvenile, the assessment of the GAL fee only applies in cases arising under [Va. Code § 16.1-241\(a\)](#). No GAL fee should be assessed to the parent of a juvenile when appointed to cases involving protective orders.

Charge PPO [Va. Code § 19.2-152.10](#).

5	<p>If PPO requested, <i>ex parte</i> hearing is held.</p> <p>At the hearing, a preliminary protective order may be issued, <a href="#">Va. Code § 19.2-152.9</a>, using the district court form DC-384, PRELIMINARY PROTECTIVE ORDER.</p> <p>This order will include any conditions and limitations being placed upon the respondent and will state the date of full hearing.</p> <p>This order is valid for fifteen days.</p> <p>Order shall state date of next full hearing.</p> <p>The clerk should have the petitioner and parents, if applicable, served with a copy of the petition and the PPO. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases. The clerk should forward to law enforcement a copy of the order, petition and affidavit to be served on the respondent, and separate documents to be served on the parents, if a minor.</p>
6	<p>The clerk shall <b>forthwith</b> but in all cases no later than the end of the business day on the day the order is issued send a copy of the district court form DC-384, PRELIMINARY PROTECTIVE ORDER to the appropriate law enforcement agency for their review and further entry of information into VCIN.</p>
7	<p>If a hearing is not requested earlier, or a continuance has been granted, a full hearing must be held within fifteen days. The court may issue a protective order pursuant to this chapter to protect the health and safety of the petitioner and family or household members of a petitioner upon (i) the issuance of a petition or warrant, or a conviction of, any criminal offense resulting from the commission of an act of an act of violence, force or threat or (ii) a hearing held pursuant to subsection D of § <a href="#">19.2-152.9</a>.</p> <p><b>NOTE:</b> If the court is closed pursuant to §§ 16.1-69.35 or 17.1-207 and the closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to §§ 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered or until a protective order is entered.</p>
8	<p>Hearing for Protective Order is set within fifteen days of issuance of Preliminary Protective Order.</p> <p>Hearing type <b>DS</b>.</p>

- 9 At the full hearing on the petition, the court may issue district court form DC-385, PROTECTIVE ORDER, pursuant to [Va. Code § 19.2-152.10](#) ( which will include the DC-649, PROTECTIVE ORDER FIREARM CERTIFICATION).

The order will impose conditions of behavior and prohibit contact between the respondent and petitioner/ defendant as deemed necessary.

Serve the petitioner with the DC-385, PROTECTIVE ORDER. Serve the respondent with the DC-385, PROTECTIVE ORDER and the DC-649, PROTECTIVE ORDER FIREARM CERTIFICATION.

The clerk should serve copy on the petitioner and respondent, and parents if applicable, before leaving court, if at all possible.

If the respondent returns the completed firearm certification upon service of the protective order, scan and file the document with the protective order.

If the firearm certification is not returned at the protective order hearing, set an administrative hearing the following week on the same day as the issuance of the order. (If issued on Tuesday, set administration hearing for the following Tuesday) to track the return of the completed firearm certification.

Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases. If service is not obtainable by the clerk, the district court form DC-385, PROTECTIVE ORDER shall be sent **forthwith** but, in all cases, no later than the end of the day on the day the order is issued to local law enforcement agency for service. The order may be issued for a period of up to two years.

- 10 The clerk shall **forthwith** but in all cases no later than the end of the business day on the day the order is issued send a copy of the district court form DC-385, PROTECTIVE ORDER to the appropriate law enforcement agency for their review and further entry of information into VCIN.

- 11 Respondent will surrender concealed carry weapons permit, if any, clerk will retain permit until the expiration date entered by the judge or magistrate.

Concealed carry weapons permit is to be returned, upon request, upon expiration of protective order. It is recommended that the respondent be required to appear in person with identification for the return of the permit.

- 12** If on the administrative hearing date, the DC-649, PROTECTIVE ORDER FIREARM CERTIFICATION has not been completed and returned to the court by the respondent, the judge may request the issuance of a show cause for contempt of court. The judge may utilize the bottom portion of the DC-649, PROTECTIVE ORDER FIREARM CERTIFICATION to order the show cause. The judge should indicate whether the show cause will be issued as civil or criminal and provide the appropriate statute. If the show cause is issued, enter as a subsequent action to the protective order with the case type of '**SC**'. Enter the Complainant as '**Upon Court's Motion**', using the Business option.

#### Forms

- DC-382 EMERGENCY PROTECTIVE ORDER
- DC-383 PETITION FOR PROTECTIVE ORDER
- DC-384 PRELIMINARY PROTECTIVE ORDER
- DC-385 PROTECTIVE ORDER
- DC-621 [NON-DISCLOSURE ADDENDUM](#)
- DC-649 PROTECTIVE ORDER FIREARM CERTIFICATION
- DC-651 [ADDENDUM-PROTECTIVE ORDER](#)
- DC-652 ORDER DISSOLVING PROTECTIVE ORDER

#### References

- [§ 18.2-60.3](#) Stalking; penalty.
- [§ 19.2-152.8](#) Emergency protective orders authorized in cases of acts of violence, force or threat.
- [§ 19.2-152.9](#) Preliminary protective orders in cases of acts of violence, force or threat.
- [§ 19.2-152.10](#) Protective order in cases of acts of violence, force or threat.

### Extension of Preliminary Protective Orders

If the respondent fails to appear at the 15-day hearing because the respondent was not personally served, or if personally served was incarcerated and not transported to the hearing, the court may extend the preliminary protective order for a period not to exceed six months. The extended preliminary protective order shall be served **forthwith** on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing.

### Extension of Protective Orders

A petitioner who has obtained a protective order under Va. Code §16.1-279.1 or § 19.2-152.10 may file a motion requesting a hearing to extend the order. The petitioner will complete the DC-630, Motion to Amend or Review Order. Proceedings to extend a

protective order shall be given precedence on the docket. The court may grant an extension for a period not to exceed two years if the respondent continues to pose a threat to the health or safety of the petitioner, petitioner's family and household members. The extension may include family or household members identified in the original order, even though they may no longer be considered family or household members. The extension shall expire at 11:59 p.m. on the last day specified or on the last day of the two-year period if no date is specified. There is no limit on the number of extensions that may be requested or issued. The request may be made on an original or modified order. The motion is entered as a subsequent action of the original protective order with the case type of MP-Motion to Modify Protective Order. If the motion is granted, a new protective order will be issued. Update the motion with a final disposition of OE-Protective Order Extended. Entry into VCIN is required **forthwith** but in all cases no later than the end of the business day on the day the order is issued. The clerk shall **forthwith** but in all cases no later than the end of the business day on the day the order is issued send a copy of the protective order to the appropriate law enforcement agency for their review and further entry of information into VCIN.

### Protective Orders Issued from Criminal Case

If a protective order is issued on district court form DC-650, PROTECTIVE ORDER-FAMILY ABUSE, pursuant to [§ 16.1-279.1](#) as part of a disposition of a criminal matter pursuant to [§ 16.1-278.14](#), the protective order should receive a subsequent number from the criminal case. It is necessary to number and enter the protective order for tracking purposes. The clerk will enter the case as a subsequent action number of underlying offense using case type **PC**. Entry into VCIN is required **forthwith** but in all cases no later than the end of the business day on the day the order is issued. The clerk shall **forthwith** but in all cases no later than the end of the business day on the day the order is issued send a copy of the protective order to the appropriate law enforcement agency for their review and further entry of information into VCIN. If the criminal case is appealed, the protective order is appealed as well since it is part of the disposition of which the defendant is appealing. It is not necessary to complete an appeal notice for the protective order. A protective order issued in cases of family abuse pursuant to [§ 16.1-279.1](#), shall remain in effect upon petition for or the pendency of an appeal or writ of error unless ordered suspended by the judge of a circuit or so directed in a writ of supersedeas by the Court of Appeals or the Supreme Court.

If a protective order is issued on district court form DC-385, PROTECTIVE ORDER, pursuant to [§ 19.2-152.10](#) as part of a disposition of a conviction of Va. Code [§ 18.2-60.3](#), the protective order should receive a subsequent number from the criminal case. It is necessary to number and enter the protective order for tracking purposes. The clerk will enter the case as a subsequent action number of underlying offense using case type **PC**. Entry into VCIN required **forthwith** but in all cases no later than the end of the business day on the day the order is issued. The clerk shall **forthwith** but in all cases no later than the end of the

business day on the day the order is issued send a copy of the protective order to the appropriate law enforcement agency for their review and further entry of information into VCIN. If the criminal case is appealed, the protective order is appealed as well since it is part of the disposition of which the defendant is appealing. It is not necessary to complete an appeal notice for the protective order. A protective order issued pursuant to [§ 19.2-152.10](#), including a protective order required by [§ 18.2-60.4](#), shall remain in effect upon petition for or pendency of an appeal or writ of error unless ordered suspended by the judge of a circuit or so directed in a writ of supersedeas by the Court of Appeals or the Supreme Court.

### Modifications and Dissolutions of Protective Orders

Either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket. Upon motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on the parties in conformity with [§§ 8.01-286.1 and 8.01-296](#).

The court should use district court form DC-652, ORDER DISSOLVING PROTECTIVE ORDER if the order is dissolved.

If the underlying, original protective order is finalized, the motion to amend and review is indexed as a sub-action and the newly modified order or order to dissolve is issued using the sub-action number. When the order is sent to law enforcement, it is recommended a copy of the original order is sent for reference. This should be marked as 'copy' to help law enforcement associate it with the correct VCIN entry.

If the underlying, original protective order case is still pending, the motion to amend and review is indexed as a sub-action, however, the newly modified order or order to dissolve is issued using the original case number.

The motion should be placed on the docket using the case type of **MP**. If the motion is granted and the order dissolved, update the disposition on the motion with: **OD**-Protective Order Dissolved. If the order is modified, update the disposition as **PM**-Protective Order Modified. If modified, the court should issue a new DC-650, PROTECTIVE ORDER – FAMILY ABUSE or DC-385, PROTECTIVE ORDER.

If the order is dissolved or modified, a copy of such shall be sent **forthwith** but, in all cases, no later than the end of the business day on the day the order is issued to the local law enforcement agency for entry into VCIN.

## Confidentiality Considerations

Certain locating information about the person (or people) and family protected by any protective order for family abuse or acts of violence, force or threat must not be disclosed, except under certain conditions. The residential address, telephone numbers, email addresses and place of employment of the person (or people) and family protected by a protective order shall not be disclosed unless that information is required by law enforcement purposes, required by a Rule of the Supreme Court or permitted by the court for good cause. District court form DC-621, [NON-DISCLOSURE ADDENDUM](#), is used to protect the information. See [Va. Code §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 17.1-272, 19.2-152.8](#).

**Note:** Protective orders have had the sensitive information removed from the order and placed on a non-disclosure addendum (Form district court form DC-621) that will be used for service purposes but otherwise maintained in a confidential area.

## Child Protective Orders

Upon the motion of any person or upon the court's own motion, the court may issue a preliminary protective order after a hearing, if necessary to protect a child's life, health, safety or normal development pending the final determination of any matter before the court. The preliminary protective order may require a child's parents, guardian, legal custodian, other person standing *in loco parentis* or other family or household member of the child to observe reasonable conditions of behavior for a specified length of time.

A preliminary protective order may be issued *ex parte* upon motion of any person or the court's own motion in any matter before the court, or upon petition.

**If a petition does not allege abuse and neglect** the courts receives the petition and sets an *ex parte* hearing the same day the petition is filed. The case is entered in the juvenile civil division using the **ST** case type. The child is appointed a guardian *ad litem*. If a preliminary child protective order is issued, DC-545, PRELIMINARY CHILD PROTECTIVE ORDER, the court sets the matter for a hearing within 5 days. The court must **forthwith** but in all cases no later than the end of the business day on the day the order was issued, enter the information into the VCIN system and **forthwith** forward a copy of the order and the district court form DC-621, NON-DISCLOSURE ADDENDUM to the primary law enforcement agency responsible for service of the order on the respondent and further entry of conditions into VCIN. The court provides a copy of the order to the petitioner.

If the judge denies the preliminary protective order no further action is required.

At the 5-day hearing, if the judge enters a protective order, district court form DC-546, CHILD PROTECTIVE ORDER, the court provides a copy of the order to the petitioner and respondent. The final disposition is updated as **GR**. The court must **forthwith** but in all cases no later than the

end of the business day on the day the order was issued, enter the information into the VCIN system and **forthwith** forward a copy of the order and the district court form DC-621, NON-DISCLOSURE ADDENDUM to the primary law enforcement agency for further entry on conditions into VCIN.

If the judge denies the protective order, update JCMS. No further action is required. Update JCMS with a final disposition of **D**.

**If a petition alleging abuse and neglect** of a child has been filed, and a preliminary protective order is issued, district court form DC-527, PRELIMINARY CHILD PROTECTIVE ORDER-ABUSE AND NEGLECT, the order shall remain in full force and effect pending the adjudicatory hearing of the underlying abuse and neglect case.

If a preliminary child protective order, DC-527, PRELIMINARY CHILD PROTECTIVE ORDER-ABUSE AND NEGLECT or protective order, district court form DC-532, CHILD PROTECTIVE ORDER-ABUSE AND NEGLECT is issued the court must **forthwith** but in all cases no later than the end of the business day on the day the order was issued, enter the information into the VCIN system and **forthwith** forward a copy of the order to the primary law enforcement agency responsible for service.

For more information on child protective orders, See “Juvenile Civil Procedures- Abuse, Neglect, Relief of Custody, Entrustment, Foster Care, and Termination of Parental Rights”.

## Foreign Protective Order (Issued by Other States)

### State Provisions

A foreign protective order is entitled to full faith and credit in Virginia and shall be enforced in the Commonwealth as if it were an order of the Commonwealth. Under [Va. Code § 16.1-279.1 \(F\)](#), the petitioner or other person entitled to protection under a “foreign” protective order” (a protective order issued by the court of another state) issued for family abuse may file the order with any juvenile and domestic relations district court. This filing may be accomplished by completing district court form DC-684, [FILING OF FOREIGN PROTECTIVE ORDER](#) and attaching an attested copy of the foreign protective order. The clerk should index the order in the Adult Division of JCMS using the ‘NC’ case type. Finalize the case with a disposition of ‘OT’, enter an expungement date of 10 years and file the order in the closed files.

The clerk shall complete the Certification of Filing on the district court form DC-684, enter the protective order in VCIN and forward a copy **forthwith** to the appropriate local law enforcement agency.

If so requested, the clerk shall make a copy of the filed order available to any law enforcement officer. Foreign protective orders prohibiting stalking are also eligible to be

filed with the appropriate district court. [Va. Code § 19.2-152.10](#). If the foreign protective order does not contain an expiration date, enter the expiration date as two years from the date of the order. The local VCIN operators have a “foreign protective order field” to indicate the order is from another state and no expiration date is noted in the order.

## Federal Provisions

The federal Violence Against Women Act of 1994 (VAWA), 18 U.S.C. § 2265, provides that protection orders issued by a state or Indian tribe shall be afforded full faith and credit by the court of another state or Indian tribe and enforced as if it were the order of the enforcing state or tribe if:

- The issuing jurisdiction had jurisdiction over the parties and over the subject matter
- Reasonable notice and opportunity to be heard was given to the person against whom the order is sought “sufficient to protect that person’s right to due process.”
- If the issuing jurisdiction has entered an *ex parte* order of protection, the notice and opportunity to be heard was provided within the time required by law of the issuing court’s jurisdiction “and in any event within a reasonable time after the order is issued, sufficient to protect the respondent’s due process rights.”

This law further provides that a protection order issued against the person who filed a petition for protection against her/his spouse or intimate partner (otherwise known as mutual protection order) is not entitled to full faith and credit if:

- No cross or counter petition, complaint or written pleading was filed Seeking such relief, or
- No cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

Definitions applicable to the federal law are:

- “Spouse or intimate partner” – a spouse, former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse, and any other person similarly situated to a spouse

who is protected by the domestic or family violence laws of the state in which the injury occurred or where the victim resides.

- “Protection orders” – include any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with, or physical proximity to, another person.

Any order entered in response to a complaint, petition or motion filed by or on behalf of a person seeking protection, whether it is civil or criminal, temporary or final, is entitled to full faith and credit under VAWA.

Under VAWA, registration of the protective order or notification of the appropriate law enforcement agency is not required. When enforcing a foreign protective order, the enforcement mechanisms available to the court, such as mandatory arrest or whether it is handled in a criminal or civil forum, are determined by the law of the enforcing state while the substantive provisions and relief granted in the order, such as duration, person eligible for relief, use of property included in the order, are determined by the issuing jurisdiction.

### Extension of Foreign Protective Order

If an extension of a foreign protective order is granted by the foreign entity, a new petition to register the extension should be filed. The registration of the extension would be processed in the same manner as if it were being registered for the first time. This filing may be accomplished by completing district court form DC-684, [FILING OF FOREIGN PROTECTIVE ORDER](#) and attaching an attested copy of the foreign protective order. The clerk should index the order in the Adult Division of JCMS using the ‘NC’ case type. The case would be given a new whole number. Finalize the case with a disposition of ‘OT’, enter an expungement date of 10 years and file the order in the closed files.

The clerk shall complete the Certification of Filing on the district court form DC-684 and forward a copy **forthwith** to the appropriate local law enforcement agency. If so requested, the clerk shall make a copy of the filed order available to any law enforcement officer. Foreign protective orders prohibiting stalking are also eligible to be filed with the appropriate district court. [Va. Code § 19.2-152.10](#).

### Violations of Protective Orders

#### Violation of Family Abuse Protective Order

Except as otherwise provided in [Va. Code § 16.1-253.2](#) (see below), violation of the terms of a protective order, whether it be an emergency protective order, a preliminary protective order, an order of protection or an order issued pursuant to [Va. Code § 20-103 \(B\)](#) shall constitute contempt of court. The case type is **PS-Show Cause for Violation Family Abuse Protective Order**.

Violations of a protective order when the order prohibits the abusing adult from going on or remaining upon land, buildings, or premises shall constitute trespass, a class 1 misdemeanor under [Va. Code § 18.2-119](#).

In addition to that sanction, violations of a protective order that prohibits the abusing adult from going on or remaining upon land, buildings or premises, further acts of family abuse or which prohibits contact between the respondent and the respondent's family or household member shall constitute a class 1 misdemeanor. [Va. Code § 16.1-253.2](#). If a respondent commits an assault and battery upon a protected party that results in serious bodily injury, or violates the protective order by furtively entering the home of any protected party while the party is present or by entering and remaining in the home of the protected party until the party arrives, he or she is guilty of a Class 6 felony. Upon conviction under [Va. Code § 16.1-253.2](#), the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended. In addition, upon conviction under this section, the court shall enter a protective order pursuant to [Va. Code § 16.1-279.1](#) for a specified period not exceeding two years from the date of the conviction.

Under [Va. Code § 18.2-308.1:4](#), the Respondent shall not purchase or transport any firearm while a protective order is in effect. Violation of this section is a class 1 misdemeanor and will result in forfeiture of the firearm in question.

Upon appeal, the DC-370, NOTICE OF APPEAL-CRIMINAL is completed. If the criminal case is appealed, the protective order is appealed as well since it is part of the disposition of which the defendant is appealing. It is not necessary to complete an appeal notice for the protective order.

### Violations of Protective Order

Except as otherwise provided in [Va. Code § 18.2-60.4](#) (see below), violation of a protective order shall be punishable as contempt of court. To initiate proceedings, the aggrieved party must petition the court by filing a district court form DC-635, [MOTION FOR SHOW CAUSE SUMMONS OR CAPIAS](#).

Any person who violates any protective order is guilty of a Class 1 misdemeanor. Conviction of this misdemeanor bars a finding of contempt for the same act. [Va. Code § 18.2-60.4](#). In addition to the other penalties under [Va. Code § 18.2-60.4](#), the court shall, upon conviction, enter a protective order pursuant to [Va. Code § 19.2-152.10](#) for a specified period not to exceed two years from the date of conviction.

In addition, violations of a protective order when the order prohibits the alleged stalker from going on or remaining upon land, buildings or premises shall constitute trespass, a Class 1 misdemeanor, under [Va. Code § 18.2-119](#).

To initiate criminal proceedings, an aggrieved party may also appear before the magistrate to seek a warrant or summons.

Under [Va. Code § 18.2-308.1:4](#), the respondent shall not purchase or transport any firearm while a protective order is in effect. Violation of this section is a Class 1 misdemeanor and will result in forfeiture of the firearm in question.

Upon appeal, the DC-370, NOTICE OF APPEAL-CRIMINAL is completed. If the criminal case is appealed, the protective order is appealed as well since it is part of the disposition of which the defendant is appealing. It is not necessary to complete an appeal notice for the protective order.

## Venue

A violation of a protective order may be prosecuted in the jurisdiction where the protective order was issued or in any county or city where any act constituting the violation of the protective order occurred. Va. Code [§§ 16.1-253.2, 18.2-60.4](#).

## Emergency Substantial Risk Petition and Order

An attorney for the Commonwealth or a law-enforcement officer may petition a judge of a circuit court, general district court, juvenile and domestic relations district court or a magistrate upon a finding that there is probable cause to believe that a person poses a substantial risk of personal injury to himself or others. The petition for the Emergency Substantial Risk Order must be supported by an affidavit.

The court shall issue an ex parte emergency substantial risk order. The order shall prohibit the person who is subject to the order from purchasing, possessing, or transporting a firearm for the duration of the order. Upon service of an emergency substantial risk order, the person who is subject to the order shall be given the opportunity to voluntarily relinquish any firearm(s) in their possession.

An emergency substantial risk order shall expire at 11:59 p.m. on the fourteenth day following the issuance of the order or at 11:59 p.m. the next day the circuit court is in session. The person who is subject to the order may at any time file with the **circuit court** a motion to dissolve the order.

An emergency substantial risk order issued pursuant to this section is effective upon personal service on the person who is subject to the order. The order shall be served

forthwith after issuance. A copy of the order, petition, and supporting affidavit shall be given to the person who is subject to the order together with a notice informing the person that he has a right to a hearing under § [19.2-152.14](#) and may be represented by counsel at the hearing.

The court or magistrate shall forthwith, but in all cases no later than the end of the business day on which the emergency substantial risk order is issued, enter and transfer electronically to the Virginia Criminal Information Network (VCIN) the identifying information of the person who is subject to the order provided to the court or magistrate. A copy of an order issued pursuant to this section containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of the order. A copy of the substantial risk order shall be forwarded immediately to the circuit court for the setting of the full hearing.

The law-enforcement agency that serves the emergency substantial risk order shall make due return to the circuit court, which shall be accompanied by a written inventory of all firearms relinquished.

The person who is subject to the order may at any time file with the **circuit court** a motion to dissolve the order.

Clerk's Office Procedures for The Petition for an Emergency Substantial Risk Order. The following procedures should be followed when processing a district court form DC-4060, PETITION FOR EMERGENCY SUBSTANTIAL RISK ORDER:

STEP	DESCRIPTION
<b>1</b>	The Attorney for the Commonwealth or law-enforcement officer files the district court form DC-4060, PETITION FOR EMERGENCY SUBSTANTIAL RISK ORDER.  There are no fees for filing the district court form DC-4060, PETITION FOR SUBSTANTIAL RISK ORDER.
<b>2</b>	Clerk assigns a new case number and enters the petition in the Adult Criminal Division with a Case Type <b>SR</b> . The Complainant name will default to " <b>NONE</b> ".  Enter a hearing date and time for the ex parte hearing. The hearing shall be held the same day the petition is filed.  Print the DC-4061, EMERGENCY SUBSTANTIAL RISK ORDER using the forms program prior to sending the petition in the courtroom.
<b>3</b>	The dispositional options are 'GR'(granted), 'D'(denied) or 'W'(withdrawn).

	If the Substantial Risk Order is granted, the clerk shall <b>forthwith</b> , but in all cases no later than the end of the business day, on which the order is issued, enter and transfer identifying information electronically to the Virginia Criminal Information Network.
<b>4</b>	Upon entry of the order make service copies of the district court form DC-4061, EMERGENCY SUBSTANTIAL RISK ORDER. Forward forthwith to the primary law-enforcement agency responsible for entry into VCIN and service upon the respondent.
<b>5</b>	The emergency substantial risk order shall expire at 11:59 p.m. on the fourteenth day following issuance of the order or 11:59 p.m. on the next day circuit court is in session.
<b>6</b>	<p>Emergency substantial risk orders remain in effect until the full hearing in <b>circuit court</b>.</p> <p><b>NOTE:</b> The person who is subject to the emergency substantial risk order may at any time file with the <b>circuit court</b> a motion to dissolve the order.</p>