

CHAPTER 6 - PROTECTIVE ORDERS

I. FAMILY ABUSE AND CRIMINAL CASES

A. 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 person 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.

B. Procedure

The following procedures should be followed when processing an **Emergency Protective Order – Family Abuse**:

<u>PROCEDURE</u>	<u>COMMENTS</u>
Step 1 The Clerk receives the DC-626, EMERGENCY PROTECTIVE ORDER – FAMILY ABUSE.	No filing fees are charged for the Emergency Protective Order.
The case should be set up in CMS/Adult with a case type of PE .	PE - Emergency Protective Order
The charge may be described as “EPO/Family Abuse” and the code section should be Va. Code § 16.1-253.4 .	If the Court has issued the DC-626, EMERGENCY PROTECTIVE ORDER – FAMILY ABUSE a copy of the order should be given to the allegedly abused person at the time it is issued, and a copy

PROCEDURE

COMMENTS

Step 1 (cont'd) Offense date will be date request for DC-626, EMERGENCY PROTECTIVE ORDER – FAMILY ABUSE is signed. Hearing date will be date of issuance if Judge issued, or date of filing with the court, if magistrate issued.

Hearing type suggested as **DS**.

shall be sent forthwith but in all case no later than the end of the day on the day the order is issued to local law enforcement for service on the alleged abuser. The executed order is returned to the judge (or magistrate), who reviews it and forwards it within five days from issuance to the clerk of the juvenile and domestic relations district court.

Step 2 The Clerk receives the executed order.

On the hearing update screen, use the code **EPOI** if EPO is not served, or **EPOS** if served on the respondent.

The Agency code is the local law enforcement agency that served the EPO. For a list of agency codes, *see CAIS J&DR CASE MANAGEMENT SYSTEMS USER'S GUIDE*. (The current version is available via the intranet.)

Finalize the case using “**GR**”- Granted as the disposition.

In remarks, it is suggested to note the date and time of service on the respondent and date and time of expiration of the DC-626, EMERGENCY PROTECTIVE ORDER – FAMILY ABUSE.

EPOI – Emergency Protective Order issued.

EPOS – Emergency Protective Order served.

The order is not docketed for hearing by the court.

Unlike preliminary and final orders of protection, Emergency Protective Orders are NOT entered into VCIN, as the magistrate usually creates these orders.

Step 3 Either party may at any time file a motion with the court requesting a hearing to

See DC-652, ORDER DISSOLVING PROTECTIVE ORDER if order is dissolved. If order is dissolved or modified, a copy

PROCEDURE

COMMENTS

Step 3 (cont'd) dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

If order is dissolved, or withdrawn, update the PO field on the Hearing/Update screen of the underlying **EPO** with **EPOD** or **EPOW**. Update the disposition of the motion on Hearing/Update screen of the motion with “**GR**” – Granted.

of such shall forward **forthwith** but 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.

EPOD - Emergency Protective Order dismissed.

EPOW - Emergency Protective Order withdrawn.

C. Preliminary 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 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

D. Procedure

The following procedures should be followed when the *petitioner is requesting the ex parte hearing*, and the Court will process as a **Preliminary Protective Order (PPO)**.

PROCEDURE

COMMENTS

Step 1 The petitioner, or his/her attorney files the DC-611, PETITION FOR PROTECTIVE ORDER - FAMILY ABUSE along with the DC-621, [NON-DISCLOSURE ADDENDUM](#). This non-disclosure provision is automatic and the protected person does NOT have to file the DC-301, [REQUEST FOR CONFIDENTIALITY BY CRIME VICTIM](#) to prevent disclosure.

Petition must be attested or an affidavit attached only if the petitioner is requesting the issuance of an *ex parte* preliminary protective order.

The DC-621, [NON-DISCLOSURE ADDENDUM](#) may be copied for service purposes and then destroyed by the serving officer. The court will keep the original under seal unless disclosure is allowed.

PROCEDURE

COMMENTS

Step 1 (cont'd) If children are to be a part of the protective order, the DC-620, [AFFIDAVIT](#) (UCCJEA) will be filed.

There are no fees for filing a DC-611, PETITION FOR PROTECTIVE ORDER - FAMILY ABUSE.

The clerk, upon receiving the DC-611, PETITION FOR PROTECTIVE ORDER – FAMILY ABUSE, and the DC-621, [NON-DISCLOSURE ADDENDUM](#), should inquire as to whether a preliminary order of protection is being sought. If such an order is sought, an *ex parte* hearing is scheduled, as quickly as possible, usually that same day.

CAUTION: 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 number, 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.

Step 2 Clerk sets up case in the Adult division with a Case Type **SA**. The clerk should utilize the functions of the interface with DJJ-Court Services Unit to bring forward information already entered into the system.
See CAIS J&DR CASE MANAGEMENT SYSTEM USER'S GUIDE for instructions.

Charge: PPO/Family abuse [Va. Code § 16.1-253.1](#).
Offense date will be date of petition.
Hearing type will be **AJ**.

SA - Spousal Abuse

Step 3 *Ex parte* hearing is held, and Judge grants or denies preliminary protective order.

If PPO denied, case is updated using **PPOD**- in the **PO** field, and with **DP**-dismissed as the

PPOD - dismissed
PPOI - issued

PROCEDURE

COMMENTS

Step 3 disposition.
(cont'd)

If granted, hearing update screen is updated with **PPOI**-in the **PO** field and a preliminary protective order is issued, using the DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE. This order will include any conditions and limitations being placed upon the respondent, and will state date of full hearing.

The next hearing type will be **DS**.

Date of next hearing must be within fifteen days.

Step 4 For instruction on entering PPO into VCIN via the interface, refer to *CAIS J&DR CASE MANAGEMENT SYSTEMS USER'S GUIDE*. (The current version is available via the intranet.) 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 **only** if the order has not expired.

Data is sent electronically (through CMS) to the Virginia Criminal Information Network system.

Step 5 When the DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE is issued, the clerk shall have the petitioner served with a copy of the petition and the PPO.

Step 6 Clerk forwards copy of the DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE to the local law enforcement agency to be served **forthwith** on the alleged abusing adult.

The DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE becomes **effective upon service** on the allegedly abusing

Depending on local policy, a copy of the front and back of the DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE may be faxed to the local law enforcement agency. The hard copy of the DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE 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

PROCEDURE

COMMENTS

Step 6 person.
(cont'd)

Once served copy is returned to court, update the hearing/disposition update screen with **PPOS**-Preliminary Protective order served.

local law enforcement agency for review and further entry of additional information into VCIN.

There is no fee for service of this order.

Upon request after the DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service on the respondent.

Step 7 Upon motion of the respondent and for good cause shown, the court may continue the hearing. If the court does not find good cause and does not continue the “15 day hearing,” the DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE shall remain in effect until the hearing.

The respondent is the only party that may be granted a request for continuance.

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.

Upon granting the respondent’s request for a continuance, the Court should reissue the DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE with a new expiration date reflecting the continuance. The conditions of the initial 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 **forthwith** but in all cases no later than the end of the business day on the day the order is issued.

The clerk shall attach a copy of DC-621, [NON-DISCLOSURE ADDENDUM](#) form to Petitioner’s copy ONLY for service purposes, at which time the serving officer will destroy the copy.

PROCEDURE

COMMENTS

Step 7

(cont'd) **NOTE:** If a continuation is granted, the **PO** field on the hearing/update screen should be updated using the code **CONT**.

Step 8

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 protective order if the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.

Once the PPO has been served on the respondent, and service copy has been returned to court, the clerk should update the **PO** field on the Hearing/Update screen with **PPOS**.

To continue step-by-step procedures for the fifteen-day hearing, see STEP 2 of the Protective Order process, next section.

Step 9

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 of the court.

If order is dissolved, or withdrawn, update the **PO** field on the Hearing/Update screen of the underlying **PPO** with **PPOD** or **PPOW**. Update the disposition of the motion on Hearing/Update screen of the motion with "**GR**" – Granted.

PPOS - Preliminary Protective Order served.

See DC-652, ORDER DISSOLVING PROTECTIVE ORDER if order is dissolved. If 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.

PPOD - Preliminary Protective Order dismissed.
PPOW - Preliminary Protective Order withdrawn.

PROCEDURE

COMMENTS

Step 10 Appeal should be noted on DC-475, NOTICE OF APPEAL - CIVIL. See appendix on “Appeals” for step-by-step procedures.

Although indexed as an Adult (criminal) case, the proceedings, and subsequently the appeal, are civil in nature.

E. Final Protective Orders – Family Abuse

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 DC-611, PETITION FOR PROTECTIVE ORDER – FAMILY ABUSE *with the intake office* 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 officer, 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 clerk, upon receiving the petition and the DC-621, [NON-DISCLOSURE ADDENDUM](#) and the DC-651, [ADDENDUM – PROTECTIVE ORDER](#) and having determined the petitioner does not wish for an *ex parte* hearing for a preliminary protective order, shall schedule a full adversarial hearing within fifteen days.

A temporary child support order may be issued for the support of any children of the petitioner whom the respondent is obligated to support. The temporary support order terminates upon determination of support pursuant to [Va. Code § 20-108.1](#). Although there is no fee to file the DC-611, PETITION FOR PROTECTIVE ORDER – FAMILY ABUSE, the court may assess costs and attorney’s fees against either party, regardless of whether an Order of Protection was issued at the adversarial hearing.

F. Clerk’s Procedure Final Protective Order

PROCEDURE

COMMENTS

Step 1 The petitioner, or his/her attorney files the DC-611, PETITION FOR PROTECTIVE ORDER - FAMILY ABUSE along with the DC-621, [NON-DISCLOSURE ADDENDUM](#). This non-disclosure provision is automatic and the protected person does NOT have to file the DC-301, [REQUEST FOR CONFIDENTIALITY BY CRIME VICTIM](#) to prevent disclosure. If children are to be a

PROCEDURE

COMMENTS

Step 1 (cont'd) part of the protective order the DC-620, [AFFIDAVIT](#) (UCCJEA) will be filed.

Step 2 If the case has not been entered by way of a DC-627, PRELIMINARY PROTECTIVE ORDER - FAMILY ABUSE the Clerk sets up case in the Criminal division with a Case Type **SA**.

Charge: PO/Family abuse [Va. Code § 16.1-253.1](#).

Offense date will be date of petition.

Hearing type will be **DS**.

Step 3 If petition for a DC-650, PROTECTIVE ORDER - FAMILY ABUSE is denied, case is updated on the hearing update screen, using **OOPD**- in the **PO** field, and with **D**-dismissed as the disposition.

If granted, hearing update screen is updated with **OOPD**-in the **PO** field, and **GR**-granted as the disposition.

It is suggested to use the remarks field to indicate date of issuance, how long the order is valid, and other information as appropriate.

If granted the DC-650, PROTECTIVE ORDER-FAMILY ABUSE is used and will include any condition or limitations being placed on the respondent, and will state the amount of time the Protective order is valid. Data is

If a DC-627, PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE **has not** been issued previously, the clerk will issue a DC-510, SUMMONS to the respondent and the petitioner with date and time of hearing.

Order will be for a specified period, not to exceed two (2) years.

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 DC-650, PROTECTIVE ORDER - FAMILY ABUSE. This temporary support order terminates upon determination of support pursuant to [Va. Code § 20-108.1](#).

The court may assess costs and attorney's fees against either party, regardless of whether an Order of Protection has been issued. The clerk should serve copy on the petitioner and respondent before leaving court, if at all possible. If service is not obtainable by the

PROCEDURE

COMMENTS

Step 3 (cont'd) sent electronically (through CMS) to the Virginia Criminal Information Network system. For instruction on entering, refer to *CAIS J&DR CASE MANAGEMENT SYSTEMS USER'S GUIDE*. (The current version is available via the intranet.)

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.

Step 4 Respondent must surrender concealed carry weapons permit immediately, clerk will retain permit until the expiration date entered by the judge or magistrate.

When served copy is completed, or returned to the court by local law enforcement agency, the clerk should update the **PO** field on the hearing/Update screen with **OOPS**.

clerk, the DC-650, PROTECTIVE ORDER - FAMILY ABUSE shall be sent to local law enforcement **forthwith** but in all cases no later than the end of the business day on the day the order is issued for service.

NOTE: The clerk is required to send a copy of the DC-650, PROTECTIVE ORDER – FAMILY ABUSE to the appropriate law enforcement agency for their review and further entry of information into VCIN.

The petitioner may file for a new PPO if the respondent exhibits a new threat to the petitioner prior to the expiration of the initial PO. The judge may extend the PPO for up to six months if the respondent was not served or if personally served was incarcerated and not transported to the hearing.

[Va. Code § 19.2-152.8](#)

The judge may enter a protective order including cases involving an incarcerated respondent against whom a PPO has been issued pursuant to [Va. Code § 19.2-152.8](#)

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.

OOPS - Order of Protection served.

PROCEDURE

COMMENTS

Step 5 Either party may file a motion with the court to dissolve or modify the order.

The Court must give precedence on the docket for such a motion. The motion should be indexed as a subsequent action, using case type **PO**.

If order is dissolved, or withdrawn, update the PO field on the Hearing/Update screen of the underlying **PO** with **OOPD** or **OOPW** . Update the disposition of the motion on Hearing/Update screen of the motion with “**GR**” – Granted.

See DC-652, ORDER DISSOLVING PROTECTIVE ORDER if order is dissolved.

If order is dissolved or modified, a copy of such shall be forwarded **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.

OOPD - Order of Protection dismissed.
OOPW - Order of Protection withdrawn.

Step 6 Appeal should be noted on DC-475, NOTICE OF APPEAL - CIVIL.

See the “Appeals” appendix for step-by-step procedures.

Although indexed as an Adult (criminal) case, the proceedings, and subsequently the appeal are civil in nature.

a. Forms

DC-475	NOTICE OF APPEAL - CIVIL
DC-527	PRELIMINARY CHILD PROTECTIVE ORDER
DC-532	CHILD PROTECTIVE ORDER
DC-611	PETITION FOR PROTECTIVE ORDER – FAMILY ABUSE
DC-621	NON-DISCLOSURE ADDENDUM
DC-626	EMERGENCY PROTECTIVE ORDER – FAMILY ABUSE
DC-627	PRELIMINARY PROTECTIVE ORDER – FAMILY ABUSE
DC-650	PROTECTIVE ORDER – FAMILY ABUSE
DC-652	ORDER DISSOLVING PROTECTIVE ORDER
DC-684	FILING OF FOREIGN PROTECTIVE ORDER

b. References

Va. Code § 16.1-253	Preliminary protective order.
Va. Code § 16.1-253.1	Preliminary protective orders in cases of family abuse; confidentiality.

- [Va. Code § 16.1-253.4](#) Emergency protective orders authorized in certain cases; penalty.
- [Va. Code § 16.1-279.1](#) Protective order in cases of family abuse.

II. STALKING/SERIOUS BODILY INJURY/SEXUAL BATTERY

A. Emergency Protective Orders

“Stalking” is perpetrated when any person who on more than one occasion engages in conduct directed at another person with the intent to place, or with knowledge that the conduct places, that other person in reasonable fear of death, criminal sexual assault or bodily injury to that other person or that other person’s family or household member. [Va. Code § 18.2-60.3](#).

“Sexual battery” is defined when the accused sexually abuses the complaining witness against the will of the complaining witness, by force, threat, intimidation, or ruse.

“Aggravated sexual battery” is defined when the accused sexually abuses the complaining witness and the complaining witness is less than 13 years of age, or the act is accomplished through the use of the complaining witness's mental incapacity or physical helplessness, or the offense is committed by a parent, step-parent, grandparent, or step-grandparent and the complaining witness is at least 13 but less than 18 years of age, or the act is accomplished against the will of the complaining witness by force, threat or intimidation, and the complaining witness is at least 13 but less than 15 years of age, or the accused causes serious bodily or mental injury to the complaining witness, or the accused uses or threatens to use a dangerous weapon.

Any judge or magistrate may issue a written or oral *ex parte* emergency protective order prohibiting further acts of stalking or acts of sexual battery against an alleged victim and prohibiting such contact with the alleged victim or with the alleged victim’s family or household members as deemed necessary to protect their health and safety and requiring such other conditions as the judge or magistrate deems necessary to prevent further acts of stalking, sexual battery, communication or other contact of any kind by the alleged abuser. *See* DC-382, EMERGENCY PROTECTIVE ORDER – STALKING/SERIOUS BODILY INJURY/SEXUAL BATTERY.

An emergency protective order should be issued when an alleged victim or a law enforcement officer asserts under oath to a judge or magistrate and on that assertion or other evidence the judge or magistrate finds:

- o there is probable danger of a further such offense being committed by the respondent against the alleged victim, and
- o a warrant for the arrest of the respondent has been issued.

B. Procedure – Emergency Protective Order

A law enforcement officer may request an emergency protective order orally, in person or by electronic means.

PROCEDURE

COMMENTS

Step 1 **NOTE:** Proper venue for this type of protective order is where the underlying criminal offense occurred.

The Clerk receives the DC-382, EMERGENCY PROTECTIVE ORDER - STALKING/SERIOUS BODILY INJURY.

The case should be set up in CMS/Adult with a case type of **PE**.

The charge may be described as EPO/Stalking or EPO/Sexual Battery, and the code section should be [Va Code § 19.2-152.8](#). Offense date will be date request for DC-382, EMERGENCY PROTECTIVE ORDER - STALKING/SERIOUS BODILY INJURY/SEXUAL BATTERY is signed.

Hearing date will be date of issuance if Judge issued, or date of filing with the court, if magistrate issued.

Hearing type suggested as **DS**

If the Court has issued the DC-382, EMERGENCY PROTECTIVE ORDER - STALKING/SERIOUS BODILY INJURY/SEXUAL BATTERY a copy of the order should be given to the allegedly abused person at the time it is issued, and a copy should be sent to local law enforcement for service on the alleged abuser.

The executed order is returned to the judge (or magistrate), who reviews it and forwards it within five days from issuance to the clerk of the juvenile and domestic relations district court.

If the alleged victim or officer seeks a warrant for stalking pursuant to [Va. Code § 18.2-60.3](#) or for a crime involving serious bodily injury and the magistrate requires the complainant to complete a DC-311, CRIMINAL COMPLAINT to document the facts for the criminal charge, the magistrate may use this form as the petition for the emergency protective order. In such case, the magistrate would type “See attached criminal complaint” in the “**REQUEST FOR EMERGENCY PROTECTIVE ORDER**” section of DC-382, EMERGENCY PROTECTIVE ORDER - STALKING/SERIOUS BODILY INJURY/SEXUAL BATTERY.

PROCEDURE

COMMENTS

Step 2 The Clerk receives the executed order. On the hearing update screen, use the code **EPOI** if EPO is not served, or **EPOS** if served on the respondent.

The Agency code is the local law enforcement agency that served the EPO. For a list of agency codes, see *CAIS J&DR DISTRICT CASE MANAGEMENT SYSTEMS USER'S GUIDE*. (The current version is available via the intranet.)

Finalize the case using **GR**-Granted as Disposition.

Unlike preliminary and final orders of protection, Emergency Protective orders are NOT transmitted to VCIN; as the magistrate usually creates these orders.

Step 3 The respondent 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 of the court.

If order is dissolved, or with-drawn, update the PO field on the Hearing/Update screen of the underlying **EPO** with **EPOD** or **EPOW** . Update the disposition of the motion on Hearing/Update screen of the motion with "**GR**" – Granted.

EPOI - Emergency Protective order issued.

EPOS - Emergency Protective order served.

The order is not docketed for hearing by the court.

In remarks it is suggested to note the date and time of service on the respondent and date and time of expiration of the DC-328, EMERGENCY PROTECTIVE ORDER - STALKING/ SERIOUS BODILY INJURY/SEXUAL BATTERY.

See DC-652, ORDER DISSOLVING PROTECTIVE ORDER if order is dissolved.

If order is dissolved or modified, a copy of such shall be forwarded **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.

EPOD - Emergency Protective Order dismissed.

EPOW - Emergency Protective Order withdrawn.

C. Preliminary Protective Orders And Protective Orders – Stalking/Serious Bodily Injury/Sexual Battery

If the persons involved come within the jurisdiction of the juvenile court a DC-383, [PETITION FOR PROTECTIVE ORDER – STALKING/SERIOUS BODILY INJURY/Sexual Battery](#) may be filed. When the petitioner alleges that he/she has been within a reasonable period of time subjected to stalking and that a warrant has been issued for the arrest of the alleged stalker or when the accused sexually abuses the complaining witness against the will of the complaining witness, by force, threat, intimidation, or ruse or when the accused sexually abuses the complaining witness and the complaining witness is less than 13 years of age, or the act is accomplished through the use of the complaining witness's mental incapacity or physical helplessness, or the offense is committed by a parent, step-parent, grandparent, or step-grandparent and the complaining witness is at least 13 but less than 18 years of age, or the act is accomplished against the will of the complaining witness by force, threat or intimidation, and the complaining witness is at least 13 but less than 15 years of age, or the accused causes serious bodily or mental injury to the complaining witness, or the accused uses or threatens to use a dangerous weapon, a preliminary protective order may be issued. The order may be issued *ex parte* when supported by an affidavit or sworn testimony before a judge or intake officer, upon good cause shown. Either (i) immediate and present danger of stalking or sexual battery or (ii) evidence sufficient to establish probable cause that stalking or sexual battery has recently occurred shall constitute good cause. A preliminary protective order may prohibit further acts of stalking or sexual battery, prohibit contact with petitioner or petitioner's family or household members as the court shall direct and require such other conditions as the court deems necessary to prevent further acts of stalking or sexual battery, communication or other contact of any kind by the respondent. [Va. Code § 19.2-152.9](#). This order is entered using DC-384, PRELIMINARY PROTECTIVE ORDER – STALKING/SERIOUS BODILY INJURY/SEXUAL BATTERY.

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 the full hearing, the court may issue a protective order pursuant to [Va. Code § 19.2-152.10](#) if the court finds that the petitioner has proved the allegation of stalking by a preponderance of the evidence. This order is entered using DC-385, PROTECTIVE ORDER – STALKING/SERIOUS BODILY INJURY/SEXUAL BATTERY.

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.

D. Procedure Preliminary Protective Order

The following procedures should be followed when processing a **Preliminary Protective Order (PPO)** or **Protective Order (PO)** – Stalking/Serious Bodily

Injury/Sexual Battery:

PROCEDURE

COMMENTS

Step 1 Alleged victim requests a Preliminary or Protective Order by filing a DC-383, [PETITION FOR PROTECTIVE ORDER - STALKING/SERIOUS BODILY INJURY/SEXUAL BATTERY](#) along with DC-621, [NON-DISCLOSURE ADDENDUM](#).

Petition must be attested or an affidavit attached only if the petitioner is requesting the issuance of an *ex parte* preliminary protective order.

NOTE: No fees shall be charged for filing the petition.

Petitioner alleges that he/she has, within a reasonable time, been subjected to stalking, criminal offense resulting in serious bodily injury or sexual battery and that a warrant has been issued for the arrest of the alleged stalker or offender.

Upon filing of the petition and the DC-621, [NON-DISCLOSURE ADDENDUM](#) the clerk should inquire as to whether a preliminary order of protection is being sought. If so, an *ex parte* hearing is scheduled, as quickly as possible, usually that same day.

The DC-621, [NON-DISCLOSURE ADDENDUM](#) may be copied for service purposes and then destroyed by the serving officer. The court will keep the original under seal, unless disclosure is allowed.

This non-disclosure provision is automatic and the protected person does NOT have to file the DC-301, [REQUEST FOR CONFIDENTIALITY BY CRIME VICTIM](#) to prevent disclosure.

CAUTION: 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 number, 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

Step 2 Clerk sets up case in the Adult Division with a Case Type **PC**.

PC - PO Issued-Stalking/Acts of Violence/Sexual Battery.

Charge PPO/Stalking or PPO/Sexual Battery
[Va. Code § 19.2-152.10](#).

PROCEDURE

COMMENTS

Step 3 If PPO requested, ex parte hearing is held. This order is valid for fifteen days.

At the hearing, a preliminary protective order may be issued, [Va. Code § 19.2-152.9](#), using the DC-384, PRELIMINARY PROTECTIVE ORDER - STALKING/SERIOUS BODILY INJURY/SEXUAL BATTERY. This order will include any conditions and limitations being placed upon the respondent, and will state the date of full hearing.

Order shall state date of next full hearing.

The clerk should have the petitioner served with a copy of the petition and the PPO.

Step 4 Data is sent electronically (through CMS) to the Virginia Criminal Information Network system. For instruction on entering PPO refer to *CAIS J&DR CASE MANAGEMENT SYSTEM USER'S GUIDE*. (The current version is available via the intranet.)

NOTE: 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 DC-384, PRELIMINARY PROTECTIVE ORDER – STALKING/ SERIOUS BODILY INJURY/SEXUAL BATTERY to the appropriate law enforcement agency for their review and further entry of information into VCIN

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.

Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service.

Step 5 If a hearing is not requested earlier, or a continuance has been granted, a full hearing must be held within fifteen days. At this hearing, the court may issue a protective order if the court finds that the petitioner has proven the

PROCEDURE

COMMENTS

Step 5 (cont'd) allegation of family abuse by a preponderance of the evidence.

Once the PPO has been served on the respondent, and service copy has been returned to court, the clerk should update the **PO** field on the Hearing/Update screen with **PPOS**.

PPOS - Preliminary Protective Order served.

Step 6 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 of the court

See DC-652, ORDER DISSOLVING PROTECTIVE ORDER if order is dissolved. If order is dissolved or modified, a copy of such shall be forwarded **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.

If order is dissolved, or withdrawn, update the PO field on the Hearing/Update screen of the underlying **PPO** with **PPOD** or **PPOW** . Update the disposition of the motion on Hearing/Update screen of the motion with “**GR**” – Granted.

PPOD - Preliminary Protective Order dismissed.
PPOW - Preliminary Protective Order withdrawn.

Step 7 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.

Step 8 Hearing for Protective Order is set within fifteen days of issuance of Preliminary Protective Order.

Hearing type **DS**.

PROCEDURE

COMMENTS

Step 9 Appeal should be noted on DC-475, NOTICE OF APPEAL - CIVIL. For step-by-step procedures, see appendix on “Appeals”.

Although indexed as an Adult (criminal) case, the proceedings, and subsequently the appeal are civil in nature.

Step 10 If the DC-385, PROTECTIVE ORDER – STALKING/SERIOUS BODILY INJURY/SEXUAL BATTERY is being issued pursuant to a conviction of [Va. Code § 18.2-60.3](#), the clerk will enter the case as a subsequent action number of underlying offense

Case type **PC**.

Offense date will be the offense date of criminal warrant.

Continue with the rest of the step-by-step procedures from this point forward.

Step 11 At the full hearing on the petition, the Court may issue DC-385, PROTECTIVE ORDER - STALKING/SERIOUS BODILY INJURY/ SEXUAL BATTERY pursuant to [Va. Code § 19.2-152.10](#), upon a showing that:

- o A warrant has been issued against the respondent for stalking or for a criminal offense resulting in serious bodily harm or sexual battery to the petitioner, or
- o A preliminary protective order has been issued, or the respondent has been convicted of stalking or a criminal resulting in serious bodily harm or sexual battery to the

The clerk should serve copy on the petitioner and respondent before leaving court, if at all possible. If service is not obtainable by the clerk, the DC-385, PROTECTIVE ORDER - STALKING/ SERIOUS BODILY INJURY/ SEXUAL BATTERY 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.

A DC-385, PROTECTIVE ORDER - STALKING/SERIOUS BODILY INJURY/ SEXUAL BATTERY may be issued for a period of up to two years.

PROCEDURE

COMMENTS

Step 11 petitioner.
(cont'd)

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

Step 12 Data is sent electronically (through CMS) to the Virginia Criminal Information Network system. For instruction on entering PPO refer to *CAIS J&DR CASE MANAGEMENT SYSTEM USER'S GUIDE*. (The current version is available via the intranet.)

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.

NOTE: 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 DC-385, PROTECTIVE ORDER – STALKING/ SERIOUS BODILY INJURY/SEXUAL BATTERY to the appropriate law enforcement agency for their review and further entry of information into VCIN.

Step 13 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.

Step 14 Clerk closes case in CMS with Disposition Code of **GR-Granted**.

Step 15 Either party may file a motion with the court to dissolve or modify the order. The Court must give precedence on the docket for such a motion.

The motion should be indexed as a subsequent action, using case type **PO**.

See DC-652, ORDER DISSOLVING PROTECTIVE ORDER if order is dissolved. If order is dissolved or modified, a copy of such shall be forwarded **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.

If order is dissolved, or with-

OOPD - Order of Protection

<u>PROCEDURE</u>	<u>COMMENTS</u>
<p>Step 15 (cont'd) drawn, update the PO field on the Hearing/Update screen of the underlying PO with OOPD or OOPW . Update the disposition of the motion on Hearing/Update screen of the motion with “GR” – Granted.</p>	<p>dismissed.</p> <p>OOPW - Order of Protection withdrawn.</p>
<p>Step 16 Appeal should be noted on DC-475, NOTICE OF APPEAL – CIVIL. <i>See</i> appendix on “Appeals” for step-by-step procedures.</p>	<p>Although indexed as an Adult (criminal) case, the proceedings, and subsequently the appeal are civil in nature.</p>
<p>a. Forms</p>	
<p>DC-382 EMERGENCY PROTECTIVE ORDER-STALKING/SERIOUS BODILY INJURY/SEXUAL BATTERY</p>	
<p>DC-383 PETITION FOR PROTECTIVE ORDER-STALKING/SERIOUS BODILY INJURY/ SEXUAL BATTERY</p>	
<p>DC-384 PRELIMINARY PROTECTIVE ORDER-STALKING/SERIOUS BODILY INJURY/ SEXUAL BATTERY</p>	
<p>DC-385 PROTECTIVE ORDER – STALKING/SERIOUS BODILY INJURY/ SEXUAL BATTERY</p>	
<p>DC-621 NON-DISCLOSURE ADDENDUM</p>	
<p>DC-651 ADDENDUM-PROTECTIVE ORDER</p>	
<p>DC-652 ORDER DISSOLVING PROTECTIVE ORDER</p>	
<p>b. References</p>	
<p>Va. Code § 18.2-60.3</p>	<p>Stalking; penalty.</p>
<p>Va. Code § 19.2-152.8</p>	<p>Emergency protective orders authorized in cases of stalking, acts of violence and sexual battery.</p>
<p>Va. Code § 19.2-152.9</p>	<p>Preliminary protective orders in cases of stalking, acts of violence and sexual battery.</p>
<p>Va. Code § 19.2-152.10</p>	<p>Protective order in cases of stalking, acts of violence and sexual battery.</p>

III. CONFIDENTIALITY CONSIDERATIONS

Certain locating information about the person (or people) and family protected by any protective order for family abuse, stalking or sexual battery must not be disclosed, except under certain conditions. The residential address, telephone number 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 DC-621) that will be used for service purposes but otherwise maintained in a confidential area.

IV. 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. Following the issuance of an *ex parte* order the court shall provide an adversary hearing to the affected parties within the shortest practicable time not to exceed five business days after the issuance of the order.

If a petition alleging abuse and neglect of a child has been filed, and a preliminary protective order is issued, 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 or protective order 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".

V. FOREIGN PROTECTIVE ORDER (ISSUED BY OTHER STATES)

A. State Provisions

Under [Va. Code § 16.1-279.1 \(E\)](#), 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 competing 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 CMS, finalize the case and file the order in the Disposed File unless a motion for modification or enforcement is filed simultaneously, at which time a sub-action

number should be assigned to the motion, a hearing date set, and the order and motion filed in the appropriate pending data file. The clerk shall complete the Certification of Filing on the 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](#).

B. 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:

- o The issuing jurisdiction had jurisdiction over the parties and over the subject matter
- o 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.”
- o 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:

- o No cross or counter petition, complaint or written pleading was filed seeking such relief, or
- o 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.

VI. VIOLATIONS OF PROTECTIVE ORDERS

A. 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.

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.

B. Violations of Stalking/Serious Bodily Injury/Sexual Battery Protective Orders

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 DC-635, [MOTION FOR SHOW CAUSE SUMMONS OR CAPIAS](#).

Any person who violates any stalking/sexual battery 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.

C. Venue

The first sentence of [Va. Code § 19.2-244](#) states “Except as otherwise provided by law, the prosecution of a criminal case shall be had in the county or city in which the offense was committed.”

In an opinion of the Attorney General to the Honorable Janet Howell, the Attorney General stated that venue in cases involving violations of protective orders (§ 16.1-253.2) is proper only where the act that violates the protective order occurs. (*See* 1998 Va. AG 42 (1998). *See* also 1997 Va. AG 83.) The same principle is applicable to [Va. Code § 18.2-60.4](#) that prohibits violations of protective orders issued pursuant to [Va. Code §§ 19.2-152.8](#), [19.2-152.9](#), and 19.2-152.1.