



Virginia State Crime Commission

Protective Order Work Group

June 22, 2010

Meeting Topics



- Study Authorization
- Study Methodology
- Review of Referred Bills
- Study Issues
- Fall Study Plan

Study Authorization



- During the 2010 Session of the Virginia General Assembly, seven bills dealing with protective orders were referred to the Crime Commission:
 - SB 208 (Barker)
 - HB 453 (Herring)
 - HB 164 (Pogge)
 - HB 656 (Armstrong)
 - HB 1156 (Oder)
 - HB 216 (McClellan)
 - HB 285 (Scott)

Study Methodology



- Literature review
- Protective Order Work Group
- Data collection:
 - Virginia Department of Juvenile Justice
 - Virginia Supreme Court
 - Virginia Compensation Board
 - Virginia State Police
- Review of other states' laws

Study Methodology



- **Work Group Objectives:**
 - Review the ideas in the seven legislative bills;
 - Identify other problems or issues that currently exist with regard to Virginia's protective order statutes, or procedures; and
 - Identify any improvements that could be made.

Review of Referred Bills

Senate Bill 208



- As originally introduced, SB 208 would have added, to the definition of “family or household member,” people involved in a “substantive, intimate dating relationship.”
- The intent of this bill, as introduced, was to allow persons in a current or former dating relationship the ability to seek family abuse protective orders.

Review of Referred Bills

Senate Bill 208



- The proposed definition from the bill:
 - Any individual who is currently or was formerly involved in a substantive, intimate dating relationship with the person; the existence of such a substantive relationship shall be determined based on the following considerations: (a) the length of the relationship, (b) the nature of the relationship and (c) the frequency of interaction between the persons involved in the relationship. A casual relationship or ordinary fraternization in a business or social context does not constitute a dating relationship.

Review of Referred Bills

Senate Bill 208



- A substitute bill was introduced in the Senate Courts of Justice Committee that expanded the availability of stalking protective orders.
- Anyone who was the victim of any crime resulting in bodily injury (not restricted to serious bodily injury) or was the victim of an assault, would be able to seek a protective order.

Review of Referred Bills

House Bill 453



- HB 453 would deem a protective order to be personally served on the respondent if law enforcement either provides him with a copy of the order, or a notice of the issuance of the order, on a form approved by the Supreme Court of Virginia.

Review of Referred Bills

House Bill 164



- HB 164 would authorize judges to require the respondent of a protective order to wear a GPS tracking device or other similar device.
 - The decision would be discretionary with the judge.
 - The judge could also require a GPS device to be worn if a person were convicted of violating a stalking protective order, or pursuant to an order to vacate the marital home under Va. Code § 20-103.

Review of Referred Bills

House Bill 656



- HB 656 is identical to HB 164, but adds the requirement that the respondent pay for the cost of the GPS device.
- It is also specified that the device must send a signal to law enforcement and the petitioner if the respondent approaches a prohibited location.

Review of Referred Bills

House Bill 1156



- HB 1156 would allow a minor to petition a JDR court for a protective order, without the consent of a parent. The minor could proceed *pro se*.
- The court would have to appoint a guardian ad litem for the minor.

Review of Referred Bills

House Bill 216



- House Bill 216 would make the respondent of a family abuse or child abuse protective order, who assaults the protected person, guilty of domestic assault under Va. Code § 18.2-57.2.
- In most cases, under current law, such an assault would already be domestic assault.
- This bill would only affect those cases where the protected person was a “family or household member” at the time the protective order was issued, but no longer met that definition at the time of the assault.

Review of Referred Bills

House Bill 216



- The penalties for assault and domestic assault are generally the same—a Class 1 misdemeanor. However, a third conviction for domestic assault within 20 years is a Class 6 felony.
- Otherwise, this bill does not affect or increase the penalty that a defendant could receive.

Review of Referred Bills

House Bill 285



- HB 285 allows a court to include in a protective order a provision prohibiting the respondent from harming a companion animal belonging to the protected person, or a family or household member.
 - In order for any such harm to be deemed a violation of the protective order, it must be done with the intent to threaten, coerce, intimidate or harm the protected person or a family or household member.

Study Issues



- Should Virginia's protective order statutes be expanded to include people who are, or were, in a dating relationship?
 - If so, should these cases be heard in JDR court or district court?
 - Should there be a time limit on dating relationships that ended in the past, similar to the 1 year limit for cohabitating couples?
- Alternatively, should Virginia's protective order statutes be expanded to include any person who can show, by a preponderance of the evidence, that he has been threatened, and has a reasonable apprehension of bodily injury?

Study Issues



- Should the service of a notification form by law enforcement, upon the respondent, be deemed personal service of a protective order?
- Are there any logistical or practical issues that currently exist with the service of protective orders?

Study Issues



- Should judges, at their discretion, be able to require the subject of a protective order to wear a GPS tracking device?
 - Should the respondent bear the cost of the device?
 - Should the tracking device be configured so as to give an alert to the protected person, as well as law enforcement, if the respondent approaches a prohibited area?

Study Issues



- Should minors be able to petition for a protective order, without parental consent?
- Should Virginia make the respondent of a family abuse or child abuse protective order, who assaults the protected person, guilty of domestic assault under Va. Code § 18.2-57.2?
- Should the protective order statutes specifically mention pets and companion animals?

Study Issues



- Is there a need for a mechanism where, under certain circumstances, a protective order can be “expunged” from a person’s record?
- Should Virginia attempt to better define, or regulate, general judicial orders that contain a “no contact” provision?
- Are any of Virginia’s protective order statutes in need of revision or rewriting?

Fall Study Plan



- Present study findings to the full Crime Commission (tentatively):
 - September 8th (study update)
 - November 15th (full-report)
 - December 8th (discuss legislation, if any)

- All meetings will be held at 10:00 a.m. in Senate Room A of the General Assembly Building.

**If you have any questions or comments
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