

SENATE BILL NO. 174

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator Peake)

A BILL to amend and reenact § 18.2-60.4 of the Code of Virginia, relating to permanent protective orders; contact between petitioner and respondent.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-60.4 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-60.4. Violation of protective orders; penalty.**

A. Any person who violates any provision of a protective order issued pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10 is guilty of a Class 1 misdemeanor. Conviction hereunder shall bar a finding of contempt for the same act. The punishment for any person convicted of a second offense of violating a protective order, other than a protective order issued pursuant to subsection C of § 19.2-152.10, when the offense is committed within five years of the prior conviction and when either the instant or prior offense was based on an act or threat of violence, shall include a mandatory minimum term of confinement of 60 days. Any person convicted of a third or subsequent offense of violating a protective order, other than a protective order issued pursuant to subsection C of § 19.2-152.10, when the offense is committed within 20 years of the first conviction and when either the instant or one of the prior offenses was based on an act or threat of violence, is guilty of a Class 6 felony and the punishment shall include a mandatory minimum term of confinement of six months. The mandatory minimum terms of confinement prescribed for violations of this section shall be served consecutively with any other sentence.

B. In addition to any other penalty provided by law, any person who, while knowingly armed with a firearm or other deadly weapon, violates any provision of a protective order with which he has been served issued pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, other than a protective order issued pursuant to subsection C of § 19.2-152.10, is guilty of a Class 6 felony.

27 C. If the respondent commits an assault and battery upon any party protected by the protective  
28 order, other than a protective order issued pursuant to subsection C of § 19.2-152.10, resulting in bodily  
29 injury to the party or stalks any party protected by the protective order in violation of § 18.2-60.3, he is  
30 guilty of a Class 6 felony. Any person who violates such a protective order, other than a protective order  
31 issued pursuant to subsection C of § 19.2-152.10, by furtively entering the home of any protected party  
32 while the party is present, or by entering and remaining in the home of the protected party until the party  
33 arrives, is guilty of a Class 6 felony, in addition to any other penalty provided by law.

34 D. Upon conviction of any offense hereunder for which a mandatory minimum term of  
35 confinement is not specified, the person shall be sentenced to a term of confinement and in no case shall  
36 the entire term imposed be suspended.

37 E. Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order  
38 pursuant to § 19.2-152.10 for a specified period not exceeding two years from the date of conviction.

39 F. A violation of this section may be prosecuted in the jurisdiction where the protective order was  
40 issued or in any county or city where any act constituting the violation of the protective order occurred.

41 G. It shall be an affirmative defense to prosecution of a violation of a protective order issued under  
42 § 19.2-152.9 or 19.2-152.10 when the petitioner invited or solicited the respondent to contact the petitioner  
43 and the respondent subsequently violated a condition imposed on him as a result of such invitation or  
44 solicitation.

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