

# HOUSE BILL 415

D4  
SB 86/06 – JPR

7lr1651  
CF 7lr1653

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By: **Delegates Dumais, Ali, Barkley, Barve, Beidle, Benson, Bobo, Bronrott, Doory, Eckardt, Elmore, Feldman, Frush, Gaines, Gilchrist, Goldwater, Griffith, Gutierrez, Guzzone, Harrison, Healey, Hecht, Heller, Hixson, Howard, Hucker, Ivey, Jameson, Jones, Kaiser, N. King, Kirk, Kramer, Krysiak, Kullen, Lawton, Lee, Love, Manno, McIntosh, Mizeur, Montgomery, Pena-Melnyk, Pendergrass, Rice, Taylor, F. Turner, Valderrama, and Waldstreicher**

Introduced and read first time: February 5, 2007

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Protective Orders – Burden of Persuasion**

3 FOR the purpose of altering the standard of proof by which a judge in a protective  
4 order hearing must find that abuse has occurred before the judge may grant a  
5 final protective order; and generally relating to the standard of proof in a  
6 protective order hearing.

7 BY repealing and reenacting, with amendments,  
8 Article – Family Law  
9 Section 4–506(c)  
10 Annotated Code of Maryland  
11 (2006 Replacement Volume)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – Family Law**

15 4–506.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) (1) If the respondent appears before the court at a protective order  
2 hearing or has been served with an interim or temporary protective order, or the court  
3 otherwise has personal jurisdiction over the respondent, the judge:

4 (i) may proceed with the final protective order hearing; and

5 (ii) if the judge finds by [clear and convincing] A  
6 **PREPONDERANCE OF THE** evidence that the alleged abuse has occurred, or if the  
7 respondent consents to the entry of a protective order, the judge may grant a final  
8 protective order to protect any person eligible for relief from abuse.

9 (2) A final protective order may be issued only to a person who has  
10 filed a petition under § 4–504 of this subtitle.

11 (3) (i) Subject to the provisions of subparagraph (ii) of this  
12 paragraph, in cases where both parties file a petition under § 4–504 of this subtitle,  
13 the judge may issue mutual protective orders if the judge finds by clear and convincing  
14 evidence that mutual abuse has occurred.

15 (ii) The judge may issue mutual final protective orders only if  
16 the judge makes a detailed finding of fact that:

17 1. both parties acted primarily as aggressors; and

18 2. neither party acted primarily in self–defense.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2007.