

# HOUSE BILL 1105

D4, E2

8lr0738

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By: **Delegates Dumais, Ali, Anderson, Beidle, Benson, Carr, V. Clagett, Doory, Feldman, Jones, Kullen, Love, McIntosh, Rosenberg, and Waldstreicher**  
Introduced and read first time: February 7, 2008  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Interim Protective Orders – Petitions Filed by Law**  
3 **Enforcement**

4 FOR the purpose of requiring that a law enforcement officer file a petition for an  
5 interim protective order with a District Court Commissioner under certain  
6 circumstances; requiring a law enforcement officer to take certain actions under  
7 certain circumstances; altering the definition of “petitioner” under certain  
8 provisions of law to include a law enforcement officer who files a certain petition  
9 in response to a certain arrest; making this Act contingent on the passage and  
10 ratification of a certain constitutional amendment; and generally relating to  
11 interim protective orders.

12 BY repealing and reenacting, without amendments,  
13 Article – Family Law  
14 Section 4–501(a)  
15 Annotated Code of Maryland  
16 (2006 Replacement Volume and 2007 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Family Law  
19 Section 4–501(m), 4–503, and 4–504.1  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2007 Supplement)

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

24 **Article – Family Law**

25 4–501.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 (a) In this subtitle the following words have the meanings indicated.

2 (m) (1) “Petitioner” means an individual who files a petition.

3 (2) “Petitioner” includes:

4 (i) a person eligible for relief; [or]

5 (ii) the following persons who may seek relief from abuse on  
6 behalf of a minor or vulnerable adult:

7 1. the State’s Attorney for the county where the child or  
8 vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

9 2. the department of social services that has jurisdiction  
10 in the county where the child or vulnerable adult lives, or, if different, where the abuse  
11 is alleged to have taken place;

12 3. a person related to the child or vulnerable adult by  
13 blood, marriage, or adoption; or

14 4. an adult who resides in the home; **OR**

15 (III) **A LAW ENFORCEMENT OFFICER WHO FILES A PETITION**  
16 **UNDER § 4-504.1 OF THIS SUBTITLE IN RESPONSE TO AN ARREST.**

17 4-503.

18 (a) A law enforcement officer who responds to a request for help under  
19 § 4-502 of this Part I of this subtitle shall give the victim a written notice that:

20 (1) includes the telephone number of a local domestic violence  
21 program that receives funding from the Department of Human Resources; and

22 (2) states that:

23 (i) the victim may request that a District Court commissioner  
24 file a criminal charging document against the alleged abuser;

25 (ii) if the commissioner declines to charge the alleged abuser,  
26 the victim may request that the State’s Attorney file a criminal charging document  
27 against the alleged abuser;

28 (iii) the victim may file in the District Court or a circuit court or,  
29 when neither the office of the clerk of the circuit court nor the Office of the District  
30 Court Clerk is open, with a commissioner, a petition under this subtitle; [and]

1 (iv) the victim may obtain a copy of the incident report, as  
2 provided under § 4-503.1 of this Part I of this subtitle; **AND**

3 (v) **IF AN ARREST IS MADE:**

4 **1. THE LAW ENFORCEMENT OFFICER SHALL FILE A**  
5 **PETITION FOR AN INTERIM PROTECTIVE ORDER AS DESCRIBED IN § 4-504.1 OF**  
6 **THIS SUBTITLE;**

7 **2. A TEMPORARY PROTECTIVE ORDER HEARING**  
8 **SHALL BE HELD ON THE FIRST OR SECOND DAY ON WHICH A DISTRICT COURT**  
9 **JUDGE IS SITTING AFTER ISSUANCE OF THE INTERIM PROTECTIVE ORDER,**  
10 **UNLESS THE JUDGE CONTINUES THE HEARING FOR GOOD CAUSE; AND**

11 **3. THE VICTIM MAY CALL THE OFFICE OF THE**  
12 **DISTRICT COURT CLERK AT THE NUMBER PROVIDED TO FIND OUT THE ACTUAL**  
13 **DATE, TIME, AND LOCATION OF THE TEMPORARY PROTECTIVE ORDER HEARING.**

14 (b) A law enforcement officer may not be held liable in a civil action that  
15 arises from the officer's failure to provide the notice required under subsection (a) of  
16 this section.

17 4-504.1.

18 (a) A petition under this subtitle:

19 (1) may be filed with a commissioner when neither the office of the  
20 clerk of the circuit court nor the Office of the District Court Clerk is open for business;  
21 **OR**

22 (2) **SHALL BE FILED WITH A COMMISSIONER BY A LAW**  
23 **ENFORCEMENT OFFICER WHO ARRESTS A RESPONDENT FOR A CRIME THAT**  
24 **WOULD CONSTITUTE AN ACT OF ABUSE OF A PERSON ELIGIBLE FOR RELIEF.**

25 (b) If a petition is filed with a commissioner and the commissioner finds that  
26 there are reasonable grounds to believe that the respondent has abused a person  
27 eligible for relief, the commissioner may issue an interim protective order to protect a  
28 person eligible for relief.

29 (c) An interim protective order may:

30 (1) order the respondent to refrain from further abuse or threats of  
31 abuse of a person eligible for relief;

1 (2) order the respondent to refrain from contacting, attempting to  
2 contact, or harassing a person eligible for relief;

3 (3) order the respondent to refrain from entering the residence of a  
4 person eligible for relief;

5 (4) if a person eligible for relief and the respondent are residing  
6 together at the time of the alleged abuse:

7 (i) order the respondent to vacate the home immediately;

8 (ii) award to a person eligible for relief custody of any child of  
9 the person eligible for relief and respondent then residing in the home; and

10 (iii) subject to the limits as to a nonspouse specified in  
11 § 4–505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to  
12 the person eligible for relief;

13 (5) in a case alleging abuse of a child, award temporary custody of a  
14 minor child of the respondent and a person eligible for relief;

15 (6) in a case alleging abuse of a vulnerable adult, subject to the limits  
16 as to a nonspouse specified in § 4–505(a)(2)(iv) of this subtitle, award temporary use  
17 and possession of the home to an adult living in the home;

18 (7) order the respondent to remain away from the place of  
19 employment, school, or temporary residence of a person eligible for relief; or

20 (8) order the respondent to remain away from the residence of any  
21 family member of a person eligible for relief.

22 (d) (1) (i) An interim protective order shall state the date, time, and  
23 location for the temporary protective order hearing and a tentative date, time, and  
24 location for a final protective order hearing.

25 (ii) A temporary protective order hearing shall be held on the  
26 first or second day on which a District Court judge is sitting after issuance of the  
27 interim protective order, unless the judge continues the hearing for good cause.

28 (2) An interim protective order shall include in at least 10–point bold  
29 type:

30 (i) notice to the respondent that:

31 1. the respondent must give the court written notice of  
32 each change of address;

1                   2.     if the respondent fails to appear at the temporary  
2 protective order hearing or any later hearing, the respondent may be served with any  
3 orders or notices in the case by first-class mail at the respondent's last known  
4 address;

5                   3.     the date, time, and location of the final protective  
6 order hearing is tentative only, and subject to change; and

7                   4.     if the respondent does not attend the temporary  
8 protective order hearing, the respondent may call the Office of the Clerk of the District  
9 Court at the number provided in the order to find out the actual date, time, and  
10 location of any final protective order hearing;

11                   (ii)    a statement of all possible forms and duration of relief that a  
12 temporary protective order or final protective order may contain;

13                   (iii)   notice to the petitioner and respondent that, at the hearing,  
14 a judge may issue a temporary protective order that grants any or all of the relief  
15 requested in the petition or may deny the petition, whether or not the respondent is in  
16 court;

17                   (iv)    a warning to the respondent that violation of an interim  
18 protective order is a crime and that a law enforcement officer shall arrest the  
19 respondent, with or without a warrant, and take the respondent into custody if the  
20 officer has probable cause to believe that the respondent has violated any provision of  
21 the interim protective order; and

22                   (v)    the phone number of the Office of the District Court Clerk.

23           (e)    **(1) [Whenever] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
24 **SUBSECTION, WHENEVER** a commissioner issues an interim protective order, the  
25 commissioner shall:

26                   **[(1)] (I)**     immediately forward a copy of the petition and interim  
27 protective order to the appropriate law enforcement agency for service on the  
28 respondent; and

29                   **[(2)] (II)**    before the hearing scheduled in the interim protective order,  
30 transfer the case file and the return of service, if any, to the Office of the District Court  
31 Clerk.

32                   **(2) IF A PETITION IS FILED BY A LAW ENFORCEMENT OFFICER IN**  
33 **RESPONSE TO AN ARREST OF A RESPONDENT UNDER SUBSECTION (A) OF THIS**  
34 **SECTION AND A COMMISSIONER ISSUES AN INTERIM PROTECTIVE ORDER, A LAW**  
35 **ENFORCEMENT OFFICER SHALL:**

1                   (I)     SERVE THE PETITION AND THE INTERIM PROTECTIVE  
2 ORDER ON THE RESPONDENT AT THE BAIL HEARING THAT RELATES TO THE  
3 ARREST; AND

4                   (II)    IMMEDIATELY NOTIFY THE PERSON ELIGIBLE FOR  
5 RELIEF THAT:

6                           1.     AN INTERIM PROTECTIVE ORDER HAS BEEN  
7 ISSUED;

8                           2.     A TEMPORARY PROTECTIVE ORDER HEARING  
9 SHALL BE HELD ON THE FIRST OR SECOND DAY ON WHICH A DISTRICT COURT  
10 JUDGE IS SITTING AFTER ISSUANCE OF THE INTERIM PROTECTIVE ORDER,  
11 UNLESS THE JUDGE CONTINUES THE HEARING FOR GOOD CAUSE; AND

12                           3.     THE VICTIM MAY CALL THE OFFICE OF THE  
13 DISTRICT COURT CLERK AT THE NUMBER PROVIDED TO FIND OUT THE ACTUAL  
14 DATE, TIME, AND LOCATION OF THE TEMPORARY PROTECTIVE ORDER HEARING.

15           (f)     [A] EXCEPT AS PROVIDED IN SUBSECTION (E)(2) OF THIS SECTION,  
16 A law enforcement officer shall:

17                           (1)    immediately on receipt of a petition and interim protective order,  
18 serve them on the respondent named in the order; and

19                           (2)    immediately after service, make a return of service to the  
20 commissioner's office or, if the Office of the District Court Clerk is open for business, to  
21 the Clerk.

22           (g)     An interim protective order shall be effective until the earlier of:

23                           (1)    the temporary protective order hearing under § 4-505 of this  
24 subtitle; or

25                           (2)    the end of the second business day the Office of the Clerk of the  
26 District Court is open following the issuance of an interim protective order.

27           (h)     A decision of a commissioner to grant or deny relief under this section is  
28 not binding on, and does not affect any power granted to or duty imposed on, a judge of  
29 a circuit court or the District Court under any law, including any power to grant or  
30 deny a petition for a temporary protective order or final protective order.

31           SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on  
32 the passage of Chapter \_\_\_\_ (S.B. \_\_\_\_/H.B. \_\_\_\_)(8lr1908) of the Acts of the General  
33 Assembly of 2008, a constitutional amendment, and its ratification by the voters of the  
34 State.

1           SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions  
2 of Section 2 of this Act, this Act shall take effect on the proclamation of the Governor  
3 that the constitutional amendment, having received a majority of the votes cast at the  
4 general election, has been adopted by the people of Maryland.