

SENATE BILL 268

D4, E4

9lr0210
CF HB 302

By: **The President (By Request - Administration) and Senators Brochin, Forehand, Frosh, Harrington, Lenett, and Raskin**

Introduced and read first time: January 23, 2009

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 26, 2009

CHAPTER _____

1 AN ACT concerning

2 **Family Law - Temporary Protective Orders - Surrender of Firearms**

3 FOR the purpose of authorizing a judge in entering a temporary protective order to
4 order a certain person to surrender to law enforcement authorities any firearm
5 in the person's possession and to refrain from possessing any firearm for a
6 certain period of time under certain circumstances; requiring a law enforcement
7 officer to provide certain information to a respondent when a firearm is
8 surrendered and to ~~provide for the safe storage of the firearm~~ transport and
9 store the firearm in a certain manner; providing for the retaking of surrendered
10 firearms by the respondent except under certain circumstances; making it a
11 misdemeanor subject to certain penalties to fail to comply with a certain order
12 to surrender firearms; and generally relating to protective orders and surrender
13 of firearms.

14 BY repealing and reenacting, with amendments,
15 Article - Family Law
16 Section 4-505 and 4-509
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2008 Supplement)

19 BY adding to
20 Article - Family Law
21 Section 4-506.1
22 Annotated Code of Maryland
23 (2006 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Family Law**

4 4–505.

5 (a) (1) If, after a hearing on a petition, whether ex parte or otherwise, a
6 judge finds that there are reasonable grounds to believe that a person eligible for relief
7 has been abused, the judge may enter a temporary protective order to protect any
8 person eligible for relief from abuse.

9 (2) The temporary protective order may order any or all of the
10 following relief:

11 (i) order the respondent to refrain from further abuse or threats
12 of abuse of a person eligible for relief;

13 (ii) order the respondent to refrain from contacting, attempting
14 to contact, or harassing any person eligible for relief;

15 (iii) order the respondent to refrain from entering the residence
16 of a person eligible for relief;

17 (iv) where the person eligible for relief and the respondent are
18 residing together at the time of the alleged abuse, order the respondent to vacate the
19 home immediately and award temporary use and possession of the home to the person
20 eligible for relief or in the case of alleged abuse of a child or alleged abuse of a
21 vulnerable adult, award temporary use and possession of the home to an adult living
22 in the home, provided that the court may not grant an order to vacate and award
23 temporary use and possession of the home to a nonspouse person eligible for relief
24 unless the name of the person eligible for relief appears on the lease or deed to the
25 home or the person eligible for relief has resided in the home with the respondent for a
26 period of at least 90 days within 1 year before the filing of the petition;

27 (v) order the respondent to remain away from the place of
28 employment, school, or temporary residence of a person eligible for relief or home of
29 other family members;

30 (vi) order the respondent to remain away from a child care
31 provider of a person eligible for relief while a child of the person is in the care of the
32 child care provider; [and]

33 (vii) award temporary custody of a minor child of the person
34 eligible for relief and the respondent; **AND**

1 (VIII) ORDER THE RESPONDENT TO SURRENDER TO LAW
2 ENFORCEMENT AUTHORITIES ANY FIREARM IN THE RESPONDENT'S
3 POSSESSION, AND TO REFRAIN FROM POSSESSION OF ANY FIREARM, FOR THE
4 DURATION OF THE TEMPORARY PROTECTIVE ORDER IF THE ABUSE CONSISTED
5 OF:

6 1. THE USE OF A FIREARM BY THE RESPONDENT
7 AGAINST A PERSON ELIGIBLE FOR RELIEF;

8 2. A THREAT BY THE RESPONDENT TO USE A
9 FIREARM AGAINST A PERSON ELIGIBLE FOR RELIEF;

10 3. SERIOUS BODILY HARM TO A PERSON ELIGIBLE
11 FOR RELIEF CAUSED BY THE RESPONDENT; OR

12 4. A THREAT BY THE RESPONDENT TO CAUSE
13 SERIOUS BODILY HARM TO A PERSON ELIGIBLE FOR RELIEF.

14 (b) (1) Except as provided in paragraph (2) of this subsection, a law
15 enforcement officer immediately shall serve the temporary protective order on the
16 alleged abuser under this section.

17 (2) A respondent who has been served with an interim protective order
18 under § 4-504.1 of this subtitle shall be served with the temporary protective order in
19 open court or, if the respondent is not present at the temporary protective order
20 hearing, by first-class mail at the respondent's last known address.

21 (3) There shall be no cost to the petitioner for service of the temporary
22 protective order.

23 (c) (1) The temporary protective order shall be effective for not more than
24 7 days after service of the order.

25 (2) The judge may extend the temporary protective order as needed,
26 but not to exceed 30 days, to effectuate service of the order where necessary to provide
27 protection or for other good cause.

28 (d) The judge may proceed with a final protective order hearing instead of a
29 temporary protective order hearing, if:

30 (1) (i) the respondent appears at the hearing;
31 (ii) the respondent has been served with an interim protective
32 order; or

1 (iii) the court otherwise has personal jurisdiction over the
2 respondent; and

3 (2) the petitioner and the respondent expressly consent to waive the
4 temporary protective order hearing.

5 (e) (1) Whenever a judge finds reasonable grounds to believe that abuse of
6 a child, as defined in Title 5, Subtitle 7 of this article, or abuse of a vulnerable adult,
7 as defined in Title 14, Subtitle 1 of this article, has occurred, the court shall forward to
8 the local department a copy of the petition and temporary protective order.

9 (2) Whenever a local department receives a petition and temporary
10 protective order from a court, the local department shall:

11 (i) investigate the alleged abuse as provided in:

12 1. Title 5, Subtitle 7 of this article; or

13 2. Title 14, Subtitle 3 of this article; and

14 (ii) by the date of the final protective order hearing, send to the
15 court a copy of the report of the investigation.

16 **4-506.1.**

17 (A) **IF A RESPONDENT SURRENDERS A FIREARM UNDER § 4-505 OR §**
18 **4-506 OF THIS SUBTITLE, A LAW ENFORCEMENT OFFICER SHALL:**

19 (1) **PROVIDE TO THE RESPONDENT INFORMATION ON THE**
20 **PROCESS FOR RETAKING POSSESSION OF THE FIREARM; AND**

21 (2) ~~**PROVIDE FOR THE SAFE STORAGE OF THE FIREARM**~~
22 ~~**TRANSPORT AND STORE THE FIREARM IN A PROTECTIVE CASE, IF ONE IS**~~
23 ~~**AVAILABLE, AND IN A MANNER INTENDED TO PREVENT DAMAGE TO THE**~~
24 ~~**FIREARM DURING THE TIME THE PROTECTIVE ORDER IS IN EFFECT.**~~

25 (B) (1) **THE RESPONDENT MAY RETAKE POSSESSION OF THE**
26 **FIREARM AT THE EXPIRATION OF A TEMPORARY PROTECTIVE ORDER UNLESS:**

27 (I) **THE RESPONDENT IS ORDERED TO SURRENDER THE**
28 **FIREARM IN A PROTECTIVE ORDER ISSUED UNDER § 4-506 OF THIS SUBTITLE;**
29 **OR**

30 (II) **THE RESPONDENT IS NOT OTHERWISE LEGALLY**
31 **ENTITLED TO OWN OR POSSESS THE FIREARM.**

1 **(2) THE RESPONDENT MAY RETAKE POSSESSION OF THE**
2 **FIREARM AT THE EXPIRATION OF A FINAL PROTECTIVE ORDER UNLESS:**

3 **(I) THE PROTECTIVE ORDER IS EXTENDED UNDER §**
4 **4-507(A)(2) OF THIS SUBTITLE; OR**

5 **(II) THE RESPONDENT IS NOT OTHERWISE LEGALLY**
6 **ENTITLED TO OWN OR POSSESS THE FIREARM.**

7 4-509.

8 (a) A person who fails to comply with the relief granted in an interim
9 protective order under § 4-504.1(c)(1), (2), (3), (4)(i), (7), or (8) of this subtitle, a
10 temporary protective order under § 4-505(a)(2)(i), (ii), (iii), (iv), ~~(v)~~, **OR (VIII)** of this
11 subtitle, or a final protective order under § 4-506(d)(1), (2), (3), (4), (5), or (12) of this
12 subtitle is guilty of a misdemeanor and on conviction is subject, for each offense, to:

13 (1) for a first offense, a fine not exceeding \$1,000 or imprisonment not
14 exceeding 90 days or both; and

15 (2) for a second or subsequent offense, a fine not exceeding \$2,500 or
16 imprisonment not exceeding 1 year or both.

17 (b) An officer shall arrest with or without a warrant and take into custody a
18 person who the officer has probable cause to believe is in violation of an interim,
19 temporary, or final protective order in effect at the time of the violation.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2009.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.