

SENATE BILL 650

D4

11r0674

By: **Senators Ramirez, Ferguson, King, Madaleno, Montgomery, and Rosapepe**

Introduced and read first time: February 4, 2011

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Peace Orders – Surrender of Firearms**

3 FOR the purpose of authorizing a court issuing a temporary peace order to order the
4 respondent to surrender to law enforcement authorities and to refrain from
5 possessing certain firearms for a certain period of time under certain
6 circumstances; requiring a court issuing a final peace order to order the
7 respondent to surrender to law enforcement authorities and to refrain from
8 possessing certain firearms for a certain period of time under certain
9 circumstances; requiring a law enforcement officer to provide certain
10 information to a respondent when a firearm is surrendered and to transport and
11 store the firearm in a certain manner; providing for the retaking of surrendered
12 firearms by the respondent except under certain circumstances; authorizing a
13 respondent to transport a firearm under certain circumstances; establishing a
14 certain penalty for failure to surrender a firearm or possession of a firearm
15 under certain circumstances; and generally relating to peace orders.

16 BY repealing and reenacting, with amendments,
17 Article – Courts and Judicial Proceedings
18 Section 3–1504(a), 3–1505, and 3–1508(a)
19 Annotated Code of Maryland
20 (2006 Replacement Volume and 2010 Supplement)

21 BY adding to
22 Article – Courts and Judicial Proceedings
23 Section 3–1505.1
24 Annotated Code of Maryland
25 (2006 Replacement Volume and 2010 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article – Family Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 4-505(a)(1) and (2)(viii), 4-506(f), 4-506.1, and 4-509(a)
2 Annotated Code of Maryland
3 (2006 Replacement Volume and 2010 Supplement)

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

6 **Article – Courts and Judicial Proceedings**

7 3-1504.

8 (a) (1) If after a hearing on a petition, whether ex parte or otherwise, a
9 judge finds that there are reasonable grounds to believe that the respondent has
10 committed, and is likely to commit in the future, an act specified in § 3-1503(a) of this
11 subtitle against the petitioner, the judge may issue a temporary peace order to protect
12 the petitioner.

13 (2) The temporary peace order may include any or all of the following
14 relief:

15 (i) Order the respondent to refrain from committing or
16 threatening to commit an act specified in § 3-1503(a) of this subtitle against the
17 petitioner;

18 (ii) Order the respondent to refrain from contacting, attempting
19 to contact, or harassing the petitioner;

20 (iii) Order the respondent to refrain from entering the residence
21 of the petitioner; [and]

22 (iv) Order the respondent to remain away from the place of
23 employment, school, or temporary residence of the petitioner; **AND**

24 **(v) ORDER THE RESPONDENT TO SURRENDER TO LAW**
25 **ENFORCEMENT AUTHORITIES ANY FIREARM IN THE RESPONDENT'S**
26 **POSSESSION, AND TO REFRAIN FROM POSSESSION OF ANY FIREARM, FOR THE**
27 **DURATION OF THE TEMPORARY PEACE ORDER IF THE ACT SPECIFIED IN §**
28 **3-1503(A) OF THIS SUBTITLE CONSISTED OF:**

29 **1. THE USE OF A FIREARM BY THE RESPONDENT**
30 **AGAINST THE PETITIONER;**

31 **2. A THREAT BY THE RESPONDENT TO USE A**
32 **FIREARM AGAINST THE PETITIONER;**

1 **3. SERIOUS BODILY HARM TO THE PETITIONER**
2 **CAUSED BY THE RESPONDENT; OR**

3 **4. A THREAT BY THE RESPONDENT TO CAUSE**
4 **SERIOUS BODILY HARM TO THE PETITIONER.**

5 (3) If the judge issues an order under this section, the order shall
6 contain only the relief that is minimally necessary to protect the petitioner.

7 3–1505.

8 (a) A respondent shall have an opportunity to be heard on the question of
9 whether the judge should issue a final peace order.

10 (b) (1) (i) The temporary peace order shall state the date and time of
11 the final peace order hearing.

12 (ii) Unless continued for good cause, the final peace order
13 hearing shall be held no later than 7 days after the temporary peace order is served on
14 the respondent.

15 (2) The temporary peace order shall include notice to the respondent:

16 (i) In at least 10–point bold type, that if the respondent fails to
17 appear at the final peace order hearing, the respondent may be served by first–class
18 mail at the respondent’s last known address with the final peace order and all other
19 notices concerning the final peace order;

20 (ii) Specifying all the possible forms of relief under subsection
21 (d) of this section that the final peace order may contain;

22 (iii) That the final peace order shall be effective for the period
23 stated in the order, not to exceed 6 months; and

24 (iv) In at least 10–point bold type, that the respondent must
25 notify the court in writing of any change of address.

26 (c) (1) If the respondent appears for the final peace order hearing, has
27 been served with an interim peace order or a temporary peace order, or the court
28 otherwise has personal jurisdiction over the respondent, the judge:

29 (i) May proceed with the final peace order hearing; and

30 (ii) If the judge finds by clear and convincing evidence that the
31 respondent has committed, and is likely to commit in the future, an act specified in §
32 3–1503(a) of this subtitle against the petitioner, or if the respondent consents to the
33 entry of a peace order, the court may issue a final peace order to protect the petitioner.

1 (2) A final peace order may be issued only to an individual who has
2 filed a petition under § 3–1503 of this subtitle.

3 (3) In cases where both parties file a petition under § 3–1503 of this
4 subtitle, the judge may issue mutual peace orders if the judge finds by clear and
5 convincing evidence that each party has committed, and is likely to commit in the
6 future, an act specified in § 3–1503(a) of this subtitle against the other party.

7 (d) (1) The final peace order may include any or all of the following relief:

8 (i) Order the respondent to refrain from committing or
9 threatening to commit an act specified in § 3–1503(a) of this subtitle against the
10 petitioner;

11 (ii) Order the respondent to refrain from contacting, attempting
12 to contact, or harassing the petitioner;

13 (iii) Order the respondent to refrain from entering the residence
14 of the petitioner;

15 (iv) Order the respondent to remain away from the place of
16 employment, school, or temporary residence of the petitioner;

17 (v) Direct the respondent or petitioner to participate in
18 professionally supervised counseling or, if the parties are amenable, mediation; and

19 (vi) Order either party to pay filing fees and costs of a
20 proceeding under this subtitle.

21 (2) If the judge issues an order under this section, the order shall
22 contain only the relief that is minimally necessary to protect the petitioner.

23 **(E) THE FINAL PEACE ORDER SHALL ORDER THE RESPONDENT TO**
24 **SURRENDER TO LAW ENFORCEMENT AUTHORITIES ANY FIREARM IN THE**
25 **RESPONDENT’S POSSESSION, AND TO REFRAIN FROM POSSESSION OF ANY**
26 **FIREARM, FOR THE DURATION OF THE PEACE ORDER IF THE ACT SPECIFIED IN §**
27 **3–1503(A) OF THIS SUBTITLE CONSISTED OF:**

28 **(1) THE USE OF A FIREARM BY THE RESPONDENT AGAINST THE**
29 **PETITIONER;**

30 **(2) A THREAT BY THE RESPONDENT TO USE A FIREARM AGAINST**
31 **THE PETITIONER;**

1 **(3) SERIOUS BODILY HARM TO THE PETITIONER CAUSED BY THE**
2 **RESPONDENT; OR**

3 **(4) A THREAT BY THE RESPONDENT TO CAUSE SERIOUS BODILY**
4 **HARM TO THE PETITIONER.**

5 **[(e)] (F)** (1) A copy of the final peace order shall be served on the
6 petitioner, the respondent, the appropriate law enforcement agency, and any other
7 person the court determines is appropriate, in open court or, if the person is not
8 present at the final peace order hearing, by first-class mail to the person's last known
9 address.

10 (2) (i) A copy of the final peace order served on the respondent in
11 accordance with paragraph (1) of this subsection constitutes actual notice to the
12 respondent of the contents of the final peace order.

13 (ii) Service is complete upon mailing.

14 **[(f)] (G)** All relief granted in a final peace order shall be effective for the
15 period stated in the order, not to exceed 6 months.

16 **3-1505.1.**

17 **(A) IF A RESPONDENT SURRENDERS A FIREARM UNDER § 3-1504 OR §**
18 **3-1505 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) TRANSPORT AND STORE THE FIREARM IN A PROTECTIVE**
22 **CASE, IF ONE IS AVAILABLE, AND IN A MANNER INTENDED TO PREVENT DAMAGE**
23 **TO THE FIREARM DURING THE TIME THE PEACE ORDER IS IN EFFECT.**

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

26 **(I) THE RESPONDENT IS ORDERED TO SURRENDER THE**
27 **FIREARM IN A FINAL PEACE ORDER ISSUED UNDER § 3-1505 OF THIS SUBTITLE;**
28 **OR**

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

31 **(2) THE RESPONDENT MAY RETAKE POSSESSION OF THE**
32 **FIREARM AT THE EXPIRATION OF A FINAL PEACE ORDER UNLESS THE**

1 RESPONDENT IS NOT OTHERWISE LEGALLY ENTITLED TO OWN OR POSSESS THE
2 FIREARM.

3 (C) NOTWITHSTANDING ANY OTHER LAW, A RESPONDENT MAY
4 TRANSPORT A FIREARM IF THE RESPONDENT IS CARRYING A PEACE ORDER
5 REQUIRING THE SURRENDER OF THE FIREARM AND:

6 (1) THE FIREARM IS UNLOADED;

7 (2) THE RESPONDENT HAS NOTIFIED THE LAW ENFORCEMENT
8 UNIT, BARRACKS, OR STATION THAT THE FIREARM IS BEING TRANSPORTED IN
9 ACCORDANCE WITH THE PEACE ORDER; AND

10 (3) THE RESPONDENT TRANSPORTS THE FIREARM DIRECTLY TO
11 THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.

12 3-1508.

13 (a) An individual who fails to comply with the relief granted in an interim
14 peace order under § 3-1503.1 of this subtitle, a temporary peace order under §
15 3-1504(a)(2) of this subtitle, or a final peace order under § 3-1505(d)(1)(i), (ii), (iii), or
16 (iv) OR (E) of this subtitle is guilty of a misdemeanor and on conviction is subject, for
17 each offense, to a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or
18 both.

19 **Article – Family Law**

20 4-505.

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

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

27 (viii) order the respondent to surrender to law enforcement
28 authorities any firearm in the respondent's possession, and to refrain from possession
29 of any firearm, for the duration of the temporary protective order if the abuse
30 consisted of:

31 1. the use of a firearm by the respondent against a
32 person eligible for relief;

1 (1) the firearm is unloaded;

2 (2) the respondent has notified the law enforcement unit, barracks, or
3 station that the firearm is being transported in accordance with the protective order;
4 and

5 (3) the respondent transports the firearm directly to the law
6 enforcement unit, barracks, or station.

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), or (5), or (e) 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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2011.