

# HOUSE BILL 1278

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By: **Delegates McComas, Afzali, Anderson, Aumann, Beidle, Boteler, Carter, Clippinger, Costa, Dumais, Dwyer, Elliott, Frush, George, Glass, Kipke, Love, McConkey, McDonough, B. Robinson, Stocksdales, Swain, Szeliga, Valderrama, Valentino-Smith, and Wilson**

Introduced and read first time: February 7, 2014

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Protective Order Proceedings – Jurisdiction – Custody of**  
3 **Minor Child**

4 FOR the purpose of requiring a certain petition for relief from abuse to be filed with a  
5 circuit court under certain circumstances; requiring a District Court  
6 commissioner to transfer a certain case file and return of service to the office of  
7 the clerk of the circuit court under certain circumstances; making certain  
8 conforming changes; and generally relating to jurisdiction over certain petitions  
9 for relief from abuse.

10 BY repealing and reenacting, without amendments,  
11 Article – Family Law  
12 Section 4–501(a) and (f) and 4–504(b)  
13 Annotated Code of Maryland  
14 (2012 Replacement Volume and 2013 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Family Law  
17 Section 4–504(a) and 4–504.1  
18 Annotated Code of Maryland  
19 (2012 Replacement Volume and 2013 Supplement)

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

22 **Article – Family Law**

23 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 (f) “Court” means the District Court or a circuit court in this State.

3 4–504.

4 (a) **(1) [A] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A**  
5 petitioner may seek relief from abuse by filing with a court, or with a commissioner  
6 under the circumstances specified in § 4–504.1(a) of this subtitle, a petition that  
7 alleges abuse of any person eligible for relief by the respondent.

8 **(2) IF THE RELIEF SOUGHT IN A PETITION UNDER PARAGRAPH (1)**  
9 **OF THIS SUBSECTION INCLUDES CUSTODY OF A MINOR CHILD, THE PETITION**  
10 **SHALL BE FILED WITH A CIRCUIT COURT OR WITH A COMMISSIONER UNDER THE**  
11 **CIRCUMSTANCES SPECIFIED IN § 4–504.1(A) OF THIS SUBTITLE.**

12 (b) (1) The petition shall:

13 (i) be under oath; and

14 (ii) include any information known to the petitioner of:

15 1. the nature and extent of the abuse for which the relief  
16 is being sought, including information known to the petitioner concerning previous  
17 injury resulting from abuse by the respondent;

18 2. each previous action between the parties in any court;

19 3. each pending action between the parties in any court;

20 4. the whereabouts of the respondent, if known;

21 5. if financial relief is requested, information known to  
22 the petitioner regarding the financial resources of the respondent; and

23 6. in a case of alleged child abuse or alleged abuse of a  
24 vulnerable adult, the whereabouts of the child or vulnerable adult and any other  
25 information relating to the abuse of the child or vulnerable adult.

26 (2) If the petition states that disclosure of the address of a person  
27 eligible for relief would risk further abuse of a person eligible for relief, or reveal the  
28 confidential address of a shelter for domestic violence victims, that address may be  
29 omitted from all documents filed with a commissioner or filed with, or transferred to, a  
30 court. If disclosure is necessary to determine jurisdiction or consider any venue issue,  
31 it shall be made orally and in camera and may not be disclosed to the respondent.

1 4-504.1.

2 (a) A petition under this subtitle may be filed with a commissioner when  
3 neither the office of the clerk of the circuit court nor the Office of the District Court  
4 Clerk is open for business.

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

9 (c) An interim protective order may:

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

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

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

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

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

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

21 (iii) subject to the limits as to a nonspouse specified in §  
22 4-505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to the  
23 person eligible for relief;

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

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

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

31 (8) order the respondent to remain away from the residence of any  
32 family member of a person eligible for relief; or

1           (9)     award temporary possession of any pet of the person eligible for  
2 relief or the respondent.

3           (d)     If the commissioner awards temporary custody of a minor child under  
4 subsection (c)(4)(ii) or (5) of this section, the commissioner may order a law  
5 enforcement officer to use all reasonable and necessary force to return the minor child  
6 to the custodial parent after service of the interim protective order.

7           (e)     (1)     (i)     An interim protective order shall state the date, time, and  
8 location for the temporary protective order hearing and a tentative date, time, and  
9 location for a final protective order hearing.

10                   (ii)     Except as provided in subsection (h) of this section, or unless  
11 the judge continues the hearing for good cause, a temporary protective order hearing  
12 shall be held on the first or second day on which a District Court **OR CIRCUIT COURT**  
13 judge, **AS APPLICABLE**, is sitting after issuance of the interim protective order.

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

16                   (i)     notice to the respondent that:

17                           1.     the respondent must give the court written notice of  
18 each change of address;

19                           2.     if the respondent fails to appear at the temporary  
20 protective order hearing or any later hearing, the respondent may be served with any  
21 orders or notices in the case by first–class mail at the respondent’s last known  
22 address;

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

25                           4.     if the respondent does not attend the temporary  
26 protective order hearing, the respondent may call the Office of the Clerk of the District  
27 Court **OR THE OFFICE OF THE CLERK OF THE CIRCUIT COURT, AS APPLICABLE**,  
28 at the number provided in the order to find out the actual date, time, and location of  
29 any final protective order hearing;

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

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

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

6 (v) the phone number of the Office of the District Court Clerk  
7 **OR THE OFFICE OF THE CLERK OF THE CIRCUIT COURT, AS APPLICABLE.**

8 (f) Whenever a commissioner issues an interim protective order, the  
9 commissioner shall:

10 (1) immediately forward a copy of the petition and interim protective  
11 order to the appropriate law enforcement agency for service on the respondent; and

12 (2) before the hearing scheduled in the interim protective order,  
13 transfer the case file and the return of service, if any, to the Office of the District Court  
14 Clerk **OR, IF THE RELIEF SOUGHT IN THE PETITION INCLUDES CUSTODY OF A**  
15 **MINOR CHILD, THE OFFICE OF THE CLERK OF THE CIRCUIT COURT.**

16 (g) 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;

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; and

22 (3) within two hours after service of the order on the respondent,  
23 electronically notify the Department of Public Safety and Correctional Services of the  
24 service.

25 (h) (1) Except as otherwise provided in this subsection, an interim  
26 protective order shall be effective until the earlier of:

27 (i) the temporary protective order hearing under § 4–505 of this  
28 subtitle; or

29 (ii) the end of the second business day the Office of the Clerk of  
30 the District Court **OR THE OFFICE OF THE CLERK OF THE CIRCUIT COURT, AS**  
31 **APPLICABLE**, is open following the issuance of an interim protective order.

32 (2) If the court is closed on the day on which the interim protective  
33 order is due to expire, the interim protective order shall be effective until the next day  
34 on which the court is open, at which time the court shall hold a temporary protective  
35 order hearing.

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

5           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2014.