

HOUSE BILL 1562

D4

8lr3167

By: **Delegates Gutierrez, Angel, Atterbeary, Carr, Chang, Gaines, Gibson, Haynes, Korman, Krimm, J. Lewis, Lierman, A. Miller, Moon, Morales, Mosby, Pena–Melnyk, Queen, Sanchez, Valentino–Smith, and Waldstreicher**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Peace Orders and Protective Orders – Surrender of Firearms**

3 FOR the purpose of requiring a temporary peace order and a final peace order to order the
4 respondent to surrender to law enforcement authorities any firearm in the
5 respondent's possession within a certain time frame and to refrain from possession
6 of any firearm for the duration of the temporary peace order or the final peace order;
7 requiring, instead of authorizing, a temporary protective order to order a certain
8 respondent to surrender to law enforcement authorities any firearm in the
9 respondent's possession within a certain time frame and to refrain from possession
10 of any firearm for the duration of the temporary protective order; requiring the
11 surrender of firearms under a final protective order to take place within a certain
12 time frame; requiring a temporary peace order, a final peace order, a temporary
13 protective order, and a final protective order to contain a list of authorized locations
14 for surrendering firearms; requiring a law enforcement officer to accompany the
15 respondent to any place where a firearm in the respondent's possession is located
16 and take custody of the firearm under certain circumstances; requiring a law
17 enforcement officer to seize a firearm under certain circumstances; making certain
18 conforming changes; and generally relating to peace and protective orders and the
19 surrender of firearms.

20 BY repealing and reenacting, with amendments,
21 Article – Courts and Judicial Proceedings
22 Section 3–1504 and 3–1505(d) through (f)
23 Annotated Code of Maryland
24 (2013 Replacement Volume and 2017 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article – Courts and Judicial Proceedings
27 Section 3–1505(e) and (f)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2013 Replacement Volume and 2017 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Family Law
5 Section 4–505 and 4–509
6 Annotated Code of Maryland
7 (2012 Replacement Volume and 2017 Supplement)

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

10 **Courts and Judicial Proceedings**

11 3–1504.

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

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

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

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

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

23 (iv) Order the respondent to remain away from the place of
24 employment, school, or temporary residence of the petitioner.

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

27 **(4) (I) THE TEMPORARY PEACE ORDER SHALL ORDER THE**
28 **RESPONDENT TO:**

29 **1. SURRENDER TO LAW ENFORCEMENT AUTHORITIES**
30 **ANY FIREARM IN THE RESPONDENT'S POSSESSION WITHIN 24 HOURS AFTER**
31 **SERVICE OF THE PROTECTIVE ORDER; AND**

32 **2. REFRAIN FROM POSSESSION OF ANY FIREARM FOR**

1 **THE DURATION OF THE TEMPORARY PEACE ORDER.**

2 **(II) THE TEMPORARY PEACE ORDER SHALL CONTAIN A LIST OF**
3 **AUTHORIZED LOCATIONS FOR SURRENDERING FIREARMS.**

4 **(III) 1. IF THE RESPONDENT FAILS TO SURRENDER A**
5 **FIREARM IN ACCORDANCE WITH THIS PARAGRAPH, A LAW ENFORCEMENT OFFICER**
6 **SHALL ACCOMPANY THE RESPONDENT TO THE PLACE WHERE THE FIREARM IS**
7 **LOCATED AND TAKE CUSTODY OF THE FIREARM.**

8 **2. IF THE RESPONDENT FAILS TO SURRENDER A**
9 **FIREARM IN ACCORDANCE WITH THIS PARAGRAPH AND THE RESPONDENT IS**
10 **PROHIBITED FROM ENTERING THE LOCATION WHERE THE FIREARM IS LOCATED,**
11 **THE LAW ENFORCEMENT OFFICER SHALL SEIZE THE FIREARM.**

12 (b) (1) Except as provided in paragraph (2) of this subsection, a law
13 enforcement officer immediately shall serve the temporary peace order on the respondent.

14 (2) A respondent who has been served with an interim peace order under §
15 3–1503.1 of this subtitle shall be served with the temporary peace order in open court or, if
16 the respondent is not present at the temporary peace order hearing, by first–class mail at
17 the respondent’s last known address.

18 (c) (1) Except as otherwise provided in this subsection, the temporary peace
19 order shall be effective for not more than 7 days after service of the order.

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

23 (3) If the court is closed on the day on which the temporary peace order is
24 due to expire, the temporary peace order shall be effective until the second day on which
25 the court is open, by which time the court shall hold a final peace order hearing.

26 (d) The judge may proceed with a final peace order hearing instead of a temporary
27 peace order hearing if:

28 (1) (i) The respondent appears at the hearing;

29 (ii) The respondent has been served with an interim peace order; or

30 (iii) The court otherwise has personal jurisdiction over the
31 respondent; and

32 (2) The petitioner and the respondent expressly consent to waive the
33 temporary peace order hearing.

1 3-1505.

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

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

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

7 (iii) Order the respondent to refrain from entering the residence of
8 the petitioner;

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

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

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

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

17 **(3) (I) THE PEACE ORDER SHALL ORDER THE RESPONDENT TO:**

18 **1. SURRENDER TO LAW ENFORCEMENT AUTHORITIES**
19 **ANY FIREARM IN THE RESPONDENT'S POSSESSION WITHIN 24 HOURS AFTER**
20 **SERVICE OF THE PROTECTIVE ORDER; AND**

21 **2. REFRAIN FROM POSSESSION OF ANY FIREARM FOR**
22 **THE DURATION OF THE PEACE ORDER.**

23 **(II) THE PEACE ORDER SHALL CONTAIN A LIST OF AUTHORIZED**
24 **LOCATIONS FOR SURRENDERING FIREARMS.**

25 **(III) 1. IF THE RESPONDENT FAILS TO SURRENDER A**
26 **FIREARM IN ACCORDANCE WITH THIS PARAGRAPH, A LAW ENFORCEMENT OFFICER**
27 **SHALL ACCOMPANY THE RESPONDENT TO THE PLACE WHERE THE FIREARM IS**
28 **LOCATED AND TAKE CUSTODY OF THE FIREARM.**

29 **2. IF THE RESPONDENT FAILS TO SURRENDER A**
30 **FIREARM IN ACCORDANCE WITH THIS PARAGRAPH AND THE RESPONDENT IS**

1 **PROHIBITED FROM ENTERING THE LOCATION WHERE THE FIREARM IS LOCATED,**
2 **THE LAW ENFORCEMENT OFFICER SHALL SEIZE THE FIREARM.**

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

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

10 (ii) Service is complete upon mailing.

11 (f) All relief granted in a final peace order shall be effective for the period stated
12 in the order, not to exceed 6 months.

13 **Article – Family Law**

14 4–505.

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

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

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

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

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

27 (iv) where the person eligible for relief and the respondent are
28 residing together at the time of the alleged abuse, order the respondent to vacate the home
29 immediately and award temporary use and possession of the home to the person eligible
30 for relief or in the case of alleged abuse of a child or alleged abuse of a vulnerable adult,
31 award temporary use and possession of the home to an adult living in the home, provided
32 that the court may not grant an order to vacate and award temporary use and possession
33 of the home to a nonspouse person eligible for relief unless the name of the person eligible
34 for relief appears on the lease or deed to the home or the person eligible for relief has resided
35 in the home with the respondent for a period of at least 90 days within 1 year before the

1 filing of the petition;

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

5 (vi) order the respondent to remain away from a child care provider
6 of a person eligible for relief while a child of the person is in the care of the child care
7 provider;

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

10 (viii) [order the respondent to surrender to law enforcement
11 authorities any firearm in the respondent's possession, and to refrain from possession of
12 any firearm, for the duration of the temporary protective order if the abuse consisted of:

13 1. the use of a firearm by the respondent against a person
14 eligible for relief;

15 2. a threat by the respondent to use a firearm against a
16 person eligible for relief;

17 3. serious bodily harm to a person eligible for relief caused by
18 the respondent; or

19 4. a threat by the respondent to cause serious bodily harm to
20 a person eligible for relief; and

21 (ix)] award temporary possession of any pet of the person eligible for
22 relief or the respondent.

23 (3) If the judge awards temporary custody of a minor child under
24 paragraph (2)(vii) of this subsection, the judge may order a law enforcement officer to use
25 all reasonable and necessary force to return the minor child to the custodial parent after
26 service of the temporary protective order.

27 (b) (1) Except as provided in paragraph (2) of this subsection, a law
28 enforcement officer shall:

29 (i) immediately serve the temporary protective order on the alleged
30 abuser under this section; and

31 (ii) within two hours after service of the order on the respondent,
32 electronically notify the Department of Public Safety and Correctional Services of the
33 service using an electronic system approved and provided by the Department of Public
34 Safety and Correctional Services.

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

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

7 (c) (1) Except as otherwise provided in this subsection, the temporary
8 protective order shall be effective for not more than 7 days after service of the order.

9 (2) The judge may extend the temporary protective order as needed, but
10 not to exceed 6 months, to effectuate service of the order where necessary to provide
11 protection or for other good cause.

12 (3) If the court is closed on the day on which the temporary protective order
13 is due to expire, the temporary protective order shall be effective until the second day on
14 which the court is open, by which time the court shall hold a final protective order hearing.

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

17 (1) (i) the respondent appears at the hearing;

18 (ii) the respondent has been served with an interim protective order;

19 or

20 (iii) the court otherwise has personal jurisdiction over the
21 respondent; and

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

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

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

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

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

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

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

3 (F) (1) THE TEMPORARY PROTECTIVE ORDER SHALL ORDER THE
4 RESPONDENT TO:

5 (I) SURRENDER TO LAW ENFORCEMENT AUTHORITIES ANY
6 FIREARM IN THE RESPONDENT'S POSSESSION WITHIN 24 HOURS AFTER SERVICE OF
7 THE PROTECTIVE ORDER; AND

8 (II) REFRAIN FROM POSSESSION OF ANY FIREARM FOR THE
9 DURATION OF THE TEMPORARY PROTECTIVE ORDER.

10 (2) THE TEMPORARY PROTECTIVE ORDER SHALL CONTAIN A LIST OF
11 AUTHORIZED LOCATIONS FOR SURRENDERING FIREARMS.

12 (3) (I) IF THE RESPONDENT FAILS TO SURRENDER A FIREARM IN
13 ACCORDANCE WITH THIS SUBSECTION, A LAW ENFORCEMENT OFFICER SHALL
14 ACCOMPANY THE RESPONDENT TO THE PLACE WHERE THE FIREARM IS LOCATED
15 AND TAKE CUSTODY OF THE FIREARM.

16 (II) IF THE RESPONDENT FAILS TO SURRENDER A FIREARM IN
17 ACCORDANCE WITH THIS SUBSECTION AND THE RESPONDENT IS PROHIBITED FROM
18 ENTERING THE LOCATION WHERE THE FIREARM IS LOCATED, THE LAW
19 ENFORCEMENT OFFICER SHALL SEIZE THE FIREARM.

20 4-506.

21 (f) (1) The final protective order shall order the respondent to [surrender to
22 law enforcement authorities any firearm in the respondent's possession, and to refrain from
23 possession of any firearm, for the duration of the protective order]:

24 (I) SURRENDER TO LAW ENFORCEMENT AUTHORITIES ANY
25 FIREARM IN THE RESPONDENT'S POSSESSION WITHIN 24 HOURS AFTER SERVICE OF
26 THE PROTECTIVE ORDER; AND

27 (II) REFRAIN FROM POSSESSION OF ANY FIREARM FOR THE
28 DURATION OF THE TEMPORARY PEACE ORDER.

29 (2) THE TEMPORARY PEACE ORDER SHALL CONTAIN A LIST OF
30 AUTHORIZED LOCATIONS FOR SURRENDERING FIREARMS.

31 (3) (I) IF THE RESPONDENT FAILS TO SURRENDER A FIREARM IN

1 ACCORDANCE WITH THIS SUBSECTION, A LAW ENFORCEMENT OFFICER SHALL
2 ACCOMPANY THE RESPONDENT TO THE PLACE WHERE THE FIREARM IS LOCATED
3 AND TAKE CUSTODY OF THE FIREARM.

4 (II) IF THE RESPONDENT FAILS TO SURRENDER A FIREARM IN
5 ACCORDANCE WITH THIS SUBSECTION AND THE RESPONDENT IS PROHIBITED FROM
6 ENTERING THE LOCATION WHERE THE FIREARM IS LOCATED, THE LAW
7 ENFORCEMENT OFFICER SHALL SEIZE THE FIREARM.

8 4-509.

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

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

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

18 (b) For the purpose of second or subsequent offender penalties provided under
19 subsection (a)(2) of this section, a prior conviction under § 3-1508 of the Courts Article shall
20 be considered a conviction under this section.

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

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2018.