

HOUSE BILL 1030

D3, D4, E4

9lr1656

By: **Delegate Cox**

Introduced and read first time: February 8, 2019

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Law – Jury Proceedings – Fundamental Rights**

3 FOR the purpose of establishing that a court may not terminate, limit, or regulate a right
4 of a party that is enumerated in the United States Constitution or the Maryland
5 Constitution and recognized by certain court precedent without providing the
6 affected party the opportunity for a jury proceeding on the issue; authorizing a court
7 to make a certain appointment in certain circumstances; prohibiting a court from
8 issuing a certain final protective order over the objection of the respondent without
9 first providing the respondent an opportunity to elect a jury proceeding on the facts
10 and matters relating to the order; providing for a certain notice; prohibiting a court
11 from issuing a final order terminating a parent’s right to custody or visitation over
12 the objection of a parent without first providing the objecting parent an opportunity
13 to elect a jury proceeding on the facts and matters relating to the order; providing
14 for a certain notice; prohibiting a court from issuing a final extreme risk protective
15 order over the objection of the respondent without first providing the respondent an
16 opportunity to elect a jury proceeding on the facts and matters relating to the order;
17 providing for a certain notice; and generally relating to jury proceedings.

18 BY adding to
19 Article – Courts and Judicial Proceedings
20 Section 8–107
21 Annotated Code of Maryland
22 (2013 Replacement Volume and 2018 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Family Law
25 Section 4–506(a) and 9–101
26 Annotated Code of Maryland
27 (2012 Replacement Volume and 2018 Supplement)

28 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Public Safety
2 Section 5–605(a)
3 Annotated Code of Maryland
4 (2018 Replacement Volume)

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

7 **Article – Courts and Judicial Proceedings**

8 **8–107.**

9 **NOTWITHSTANDING ANY OTHER PROVISION IN THIS TITLE, A COURT MAY NOT**
10 **TERMINATE, LIMIT, OR REGULATE A RIGHT OF A PARTY THAT IS ENUMERATED IN**
11 **THE UNITED STATES CONSTITUTION OR THE MARYLAND CONSTITUTION AND**
12 **RECOGNIZED BY COURT PRECEDENT OF THE U.S. SUPREME COURT OR MARYLAND**
13 **COURT OF APPEALS WITHOUT PROVIDING THE AFFECTED PARTY THE**
14 **OPPORTUNITY FOR A JURY PROCEEDING ON THE ISSUE.**

15 **Article – Family Law**

16 4–506.

17 (a) (1) A respondent under § 4–505 of this subtitle shall have an opportunity
18 to be heard on the question of whether the judge should issue a final protective order.

19 (2) (i) **NOTWITHSTANDING ANY OTHER PROVISION IN THIS TITLE,**
20 **A COURT MAY NOT ISSUE A FINAL PROTECTIVE ORDER OVER THE OBJECTION OF THE**
21 **RESPONDENT WITHOUT FIRST PROVIDING THE RESPONDENT THE OPPORTUNITY TO**
22 **ELECT A JURY PROCEEDING ON THE FACTS AND MATTERS RELATING TO THE ORDER.**

23 (ii) **THE COURT SHALL, ON THE RECORD AND BY ORDER TO THE**
24 **CLERK FOR WRITTEN NOTICE BY CERTIFIED MAIL, PROVIDE NOTICE OF THE RIGHT**
25 **TO OBTAIN A JURY PROCEEDING ON THIS ISSUE TO THE RESPONDENT AND THAT**
26 **FAILURE TO OBTAIN COUNSEL OR REQUEST A JURY PROCEEDING MAY RESULT IN A**
27 **LOSS OF A FUNDAMENTAL RIGHT, INCLUDING CHILD CUSTODY, THE RIGHT TO KEEP**
28 **AND BEAR ARMS, OR THE OPPORTUNITY TO BE EMPLOYED IN THE UNITED STATES**
29 **ARMED FORCES OR LAW ENFORCEMENT.**

30 9–101.

31 (a) [In] **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IN any**
32 **custody or visitation proceeding, if the court has reasonable grounds to believe that a child**
33 **has been abused or neglected by a party to the proceeding, the court shall determine**

1 whether abuse or neglect is likely to occur if custody or visitation rights are granted to the
2 party.

3 (b) Unless the court specifically finds that there is no likelihood of further child
4 abuse or neglect by the party, the court shall deny custody or visitation rights to that party,
5 except that the court may approve a supervised visitation arrangement that assures the
6 safety and the physiological, psychological, and emotional well-being of the child.

7 (c) (1) **NOTWITHSTANDING ANY OTHER PROVISION IN THIS TITLE, A
8 COURT MAY NOT ISSUE A FINAL ORDER TERMINATING A PARENT'S RIGHT TO
9 CUSTODY OR VISITATION OVER THE OBJECTION OF A PARENT WITHOUT FIRST
10 PROVIDING THE PARENT THE OPPORTUNITY TO ELECT A JURY PROCEEDING ON THE
11 FACTS AND MATTERS RELATING TO THE ORDER.**

12 (2) **THE COURT SHALL, ON THE RECORD AND BY ORDER TO THE
13 CLERK FOR WRITTEN NOTICE BY CERTIFIED MAIL, PROVIDE NOTICE OF THE RIGHT
14 TO OBTAIN A JURY PROCEEDING ON THIS ISSUE TO THE PARTIES IN THE
15 PROCEEDING.**

16 Article – Public Safety

17 5–605.

18 (a) (1) A respondent under § 5–604 of this subtitle shall have an opportunity
19 to be heard on the question of whether the judge should issue a final extreme risk protective
20 order.

21 (2) (i) **NOTWITHSTANDING ANY OTHER PROVISION IN THIS TITLE,
22 A COURT MAY NOT ISSUE A FINAL EXTREME RISK PROTECTIVE ORDER OVER THE
23 OBJECTION OF THE RESPONDENT WITHOUT FIRST PROVIDING THE RESPONDENT
24 THE OPPORTUNITY TO ELECT A JURY PROCEEDING ON THE FACTS AND MATTERS
25 RELATING TO THE ORDER.**

26 (ii) **THE COURT SHALL, ON THE RECORD AND BY ORDER TO THE
27 CLERK FOR WRITTEN NOTICE BY CERTIFIED MAIL, PROVIDE NOTICE OF THE RIGHT
28 TO OBTAIN A JURY PROCEEDING TO THE RESPONDENT AND THAT FAILURE TO
29 OBTAIN COUNSEL OR REQUEST A JURY PROCEEDING MAY RESULT IN A LOSS OF A
30 FUNDAMENTAL RIGHT, INCLUDING CHILD CUSTODY, THE RIGHT TO KEEP AND BEAR
31 ARMS, OR THE OPPORTUNITY TO BE EMPLOYED IN THE UNITED STATES ARMED
32 FORCES OR LAW ENFORCEMENT.**

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
34 1, 2019.