

SB0210/923926/1

BY: Senator Ready

AMENDMENTS TO SENATE BILL 210
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “– Rape and Sexual Offenses” and substitute “and Rights of Respondents”; in line 8, after “respondent;” insert “providing that respondents in certain hearings regarding domestic violence protective orders are entitled to the assistance of counsel;”; and in line 22, strike “4–501(m)” and substitute “4–501(m), 4–505, and 4–506(a)”.

AMENDMENT NO. 2

On page 3, after line 23, insert:

“4–505.

(A) A RESPONDENT UNDER THIS SECTION SHALL HAVE AN OPPORTUNITY TO BE HEARD ON THE QUESTION OF WHETHER THE JUDGE SHOULD ISSUE A TEMPORARY PROTECTIVE ORDER AND IS ENTITLED TO THE ASSISTANCE OF COUNSEL AT ANY HEARING ON THE QUESTION.

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

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

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

(Over)

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

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

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

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

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

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

(viii) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession

of any firearm, for the duration of the temporary protective order if the abuse consisted of:

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

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

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

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

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

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

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

(i) IF THE RESPONDENT DOES NOT APPEAR AT THE HEARING, immediately serve the temporary protective order on the alleged abuser under this section; and

(ii) within two hours after service of the order on the respondent, electronically notify the Department of Public Safety and Correctional Services of the

service using an electronic system approved and provided by the Department of Public Safety and Correctional Services.

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

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

[(c)] (D) (1) Except as otherwise provided in this subsection, [the] A temporary protective order ENTERED AGAINST A RESPONDENT WHO DOES NOT APPEAR AT THE HEARING shall be effective for not more than 7 days after service of the order.

(2) A TEMPORARY PROTECTIVE ORDER ENTERED AGAINST A RESPONDENT WHO DOES APPEAR AT THE HEARING SHALL BE EFFECTIVE FOR NOT MORE THAN 7 DAYS AFTER THE DATE OF THE HEARING.

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

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

[(d)] (E) The judge may proceed with a final protective order hearing instead of a temporary protective order hearing, if:

- (1) (i) the respondent appears at the hearing;
 - (ii) the respondent has been served with an interim protective order; or
 - (iii) the court otherwise has personal jurisdiction over the respondent; and
- (2) the petitioner and the respondent expressly consent to waive the temporary protective order hearing.

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

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

- (i) investigate the alleged abuse as provided in:
 - 1. Title 5, Subtitle 7 of this article; or
 - 2. Title 14, Subtitle 3 of this article; and
- (ii) by the date of the final protective order hearing, send to the court a copy of the report of the investigation.

(a) A respondent under § 4-505 of this subtitle shall have an opportunity to be heard on the question of whether the judge should issue a final protective order AND IS ENTITLED TO THE ASSISTANCE OF COUNSEL AT ANY HEARING ON THE QUESTION.".