

SENATE BILL 595

D4

0lr1772

By: **Senators Lee, Smith, Sydnor, West, and Young**

Introduced and read first time: January 31, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Protective Order – Rescission**

3 FOR the purpose of requiring, as a condition precedent to the rescission of a protective
4 order, that good cause be shown; requiring a petition to rescind a protective order to
5 establish with particularity the basis for the rescission; authorizing a judge to deny
6 a petition to rescind a protective order without a hearing if a certain party objects to
7 the rescission; making conforming changes; and generally relating to protective
8 orders.

9 BY repealing and reenacting, with amendments,
10 Article – Family Law
11 Section 4–506(b)(2)(iii), 4–506.1(b)(2)(i), and 4–507
12 Annotated Code of Maryland
13 (2019 Replacement Volume)

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

16 **Article – Family Law**

17 4–506.

18 (b) (2) The temporary protective order shall include notice to the respondent:

19 (iii) that the final protective order shall be effective for the period
20 stated in the order, not to exceed 1 year or, under the circumstances described in subsection
21 (j)(2) of this section, 2 years, unless the judge extends the term of the order under §
22 [4–507(a)(2)] **4–507(C)** of this subtitle or the court issues a permanent order under
23 subsection (k) of this section; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 4-506.1.

2 (b) (2) The respondent may retake possession of the firearm at the expiration
3 of a final protective order unless:

4 (i) the protective order is extended under § [4-507(a)(2)] **4-507(C)**
5 of this subtitle; or

6 4-507.

7 (a) **[(1)]** A protective order may be modified [or rescinded] during the term of
8 the protective order after:

9 **[(i)] (1)** giving notice to all affected persons eligible for relief and
10 the respondent; and

11 **[(ii)] (2)** a hearing.

12 **(B) (1) A PROTECTIVE ORDER MAY BE RESCINDED DURING THE TERM OF**
13 **THE PROTECTIVE ORDER AFTER:**

14 **(I) GIVING NOTICE TO ALL AFFECTED PERSONS ELIGIBLE FOR**
15 **RELIEF AND THE RESPONDENT; AND**

16 **(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A**
17 **HEARING.**

18 **(2) A JUDGE MAY DENY A PETITION TO RESCIND A PROTECTIVE**
19 **ORDER WITHOUT A HEARING IF AN AFFECTED PERSON ELIGIBLE FOR RELIEF**
20 **OBJECTS TO THE RESCISSION.**

21 **(3) A PETITION FOR RESCISSION FILED UNDER THIS SUBSECTION**
22 **MUST DESCRIBE WITH PARTICULARITY THE BASIS FOR THE RESCISSION.**

23 **[(2)](C) (1)** For good cause shown, a judge may extend the term of the
24 protective order for 6 months beyond the period specified in § 4-506(j) of this subtitle, after:

25 (i) giving notice to all affected persons eligible for relief and the
26 respondent; and

27 (ii) a hearing.

28 **[(3)] (2) (i)** Subject to subparagraph (ii) of this paragraph, a judge
29 may extend the term of a protective order for a period not to exceed 2 years from the date
30 the extension is granted if:

1 1. during the term of the protective order, the judge finds by
2 a preponderance of the evidence that the respondent named in the protective order has
3 committed a subsequent act of abuse against a person eligible for relief named in the
4 protective order; or

5 2. the respondent named in the protective order consents to
6 the extension of the protective order.

7 (ii) The judge may extend the term of the protective order under
8 subparagraph (i) of this paragraph after:

9 1. giving notice to all affected persons eligible for relief and
10 the respondent; and

11 2. a hearing.

12 (iii) In determining the period of extension of a protective order under
13 subparagraph (i)1 of this paragraph, the judge shall consider the following factors:

14 1. the nature and severity of the subsequent act of abuse;

15 2. the history and severity of abuse in the relationship
16 between the respondent and any person eligible for relief named in the protective order;

17 3. the pendency and type of criminal charges against the
18 respondent; and

19 4. the nature and extent of the injury or risk of injury caused
20 by the respondent.

21 **[(4)](3)** (i) If, during the term of a final protective order, a petitioner
22 or person eligible for relief files a motion to extend the term of the order under paragraph
23 **[(2) or (3)] (1) OR (2)** of this subsection, the court shall hold a hearing on the motion within
24 30 days after the motion is filed.

25 (ii) If the hearing on the motion is scheduled after the original
26 expiration date of the final protective order, the court shall extend the order and keep the
27 terms of the order in full force and effect until the hearing on the motion.

28 **[(b)] (D)** (1) If a District Court judge grants or denies relief under a petition
29 filed under this subtitle, a respondent, any person eligible for relief, or a petitioner may
30 appeal to the circuit court for the county where the District Court is located.

31 (2) An appeal taken under this subsection to the circuit court shall be heard
32 de novo in the circuit court.

1 (3) If an appeal is filed under this subsection, the District Court judgment
2 shall remain in effect until superseded by a judgment of the circuit court. Unless the circuit
3 court orders otherwise, modification or enforcement of the District Court order shall be by
4 the District Court.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2020.