SENATE BILL 105

By: Senator Sydnor

Requested: October 9, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

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Peace Orders - Workplace Violence

- 3 FOR the purpose of making certain provisions of law relating to the filing, issuance, and 4 modification of certain peace orders and to the shielding of certain court records of 5 certain peace order proceedings apply to certain peace orders filed by certain 6 employers on the basis of certain acts committed against certain employees under 7 certain circumstances; requiring an employer to notify an employee before an 8 employer files a certain petition; providing certain immunity from certain liability to 9 a certain employer under certain circumstances; prohibiting an employer from 10 retaliating against an employee under certain circumstances; making certain 11 conforming changes; defining certain terms; providing for the application of a certain 12 provision of this Act; and generally relating to peace orders.
- 13 BY repealing and reenacting, with amendments,
- 14 Article Courts and Judicial Proceedings
- 15 Section 3–1501, 3–1502, 3–1503, 3–1503.1, 3–1504, 3–1505, 3–1506, and 3–1510
- 16 Annotated Code of Maryland
- 17 (2020 Replacement Volume)
- 18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 19 That the Laws of Maryland read as follows:

Article - Courts and Judicial Proceedings

21 3–1501.

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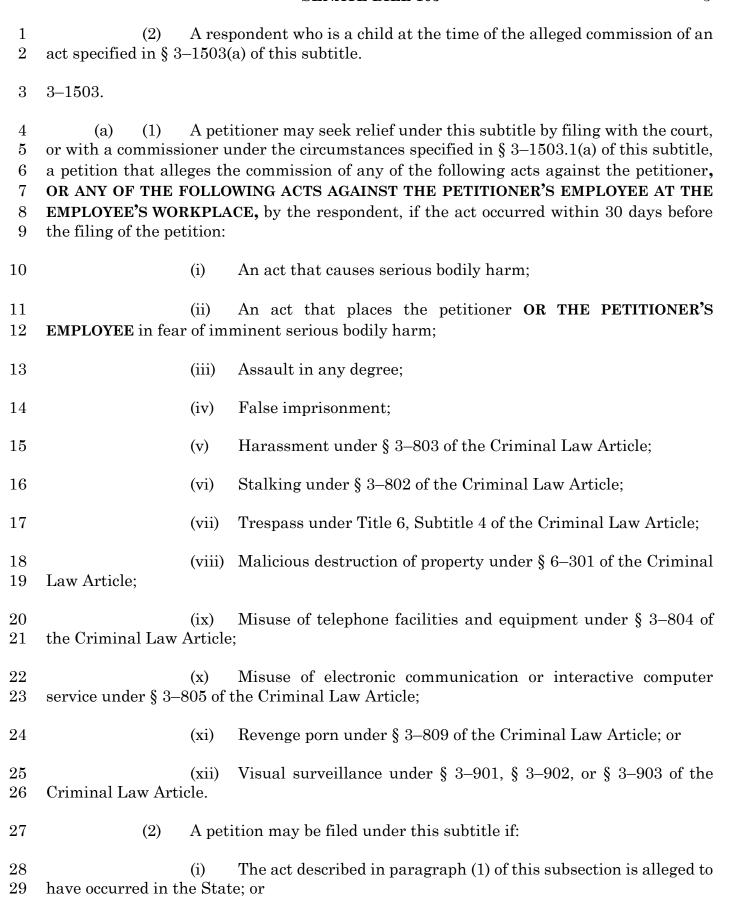
- 22 (a) In this subtitle the following words have the meanings indicated.
- 23 (b) "Commissioner" means a District Court commissioner appointed in accordance with Article IV, § 41G of the Maryland Constitution.

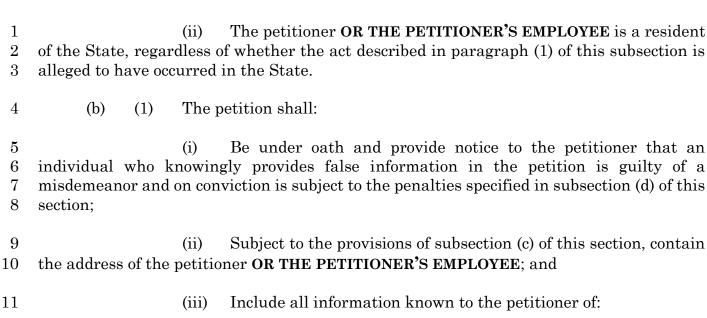
EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (c) "Court" means the District Court of Maryland.
- 2 (D) "EMPLOYEE" MEANS:
- 3 (1) AN INDIVIDUAL WHO IS EMPLOYED BY AN EMPLOYER; OR
- 4 (2) A VOLUNTEER OR AN INDEPENDENT CONTRACTOR WHO 5 PERFORMS SERVICES FOR AN EMPLOYER AT THE EMPLOYER'S WORKPLACE.
- 6 (E) (1) "EMPLOYER" MEANS A PERSON ENGAGED IN A BUSINESS, AN 7 INDUSTRY, A PROFESSION, A TRADE, OR ANY OTHER ENTERPRISE IN THE STATE.
- 8 (2) "EMPLOYER" INCLUDES A PERSON THAT ACTS DIRECTLY OR 9 INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.
- 10 **[**(d)**] (F)** "Final peace order" means a peace order issued by a judge under § 11 3–1505 of this subtitle.
- [(e)] (G) "Interim peace order" means an order that a commissioner issues under this subtitle pending a hearing by a judge on a petition.
- 14 **[**(f)**] (H)** "Petitioner" means an individual who files a petition under § 3–1503 of 15 this subtitle.
- 16 **[(g)] (I)** "Residence" includes the yard, grounds, outbuildings, and common areas surrounding the residence.
- [(h)] (J) "Respondent" means an individual alleged in a petition to have committed an act specified in § 3–1503(a) of this subtitle against a petitioner OR A PETITIONER'S EMPLOYEE.
- 21 **[(i)] (K)** "Temporary peace order" means a peace order issued by a judge under 22 § 3–1504 of this subtitle.
- 23 3–1502.
- 24 (a) By proceeding under this subtitle, a petitioner is not limited to or precluded 25 from pursuing any other legal remedy.
- 26 (b) This subtitle does not apply to:
- 27 (1) A petitioner **OR A PETITIONER'S EMPLOYEE** who is a person eligible for relief, as defined in § 4–501 of the Family Law Article; or





- 12 The nature and extent of the act specified in subsection (a) 1. 13 of this section for which the relief is being sought, including information known to the 14 petitioner concerning previous harm or injury resulting from an act specified in subsection 15 (a) of this section by the respondent;
- 16 2. Each previous and pending action between the parties in 17 any court; and
- The whereabouts of the respondent. 18 3.
- 19 If, in a proceeding under this subtitle, a petitioner OR A PETITIONER'S 20EMPLOYEE alleges, and the commissioner or judge finds, that the disclosure of the address 21of the petitioner OR THE PETITIONER'S EMPLOYEE would risk further harm to the 22petitioner OR THE PETITIONER'S EMPLOYEE, that address may be stricken from the 23petition and omitted from all other documents filed with the commissioner or filed with, or 24transferred to, a court.
- 25An individual who knowingly provides false information in a petition filed 26under this section is guilty of a misdemeanor and on conviction is subject to a fine not 27exceeding \$1,000 or imprisonment not exceeding 90 days or both.
- 28 **(E) (1)** AN EMPLOYER SHALL NOTIFY AN EMPLOYEE BEFORE AN 29 EMPLOYER FILES A PETITION UNDER THIS SUBTITLE.
- 30 **(2)** AN EMPLOYER SHALL BE IMMUNE FROM ANY CIVIL LIABILITY 31 THAT MAY RESULT FROM THE FAILURE OF THE EMPLOYER TO FILE A PETITION ON 32 BEHALF OF AN EMPLOYEE UNDER THE PROVISIONS OF THIS SUBTITLE.

1 AN EMPLOYER MAY NOT RETALIATE AGAINST AN EMPLOYEE WHO **(3)** 2 DOES NOT PROVIDE INFORMATION FOR OR TESTIFY AT A PROCEEDING UNDER THIS 3 SUBTITLE. 4 3-1503.1.A petition under this subtitle may be filed with a commissioner when the 5 (a) 6 Office of the District Court Clerk is not open for business. 7 If a petition is filed with a commissioner and the commissioner finds that there 8 are reasonable grounds to believe that the respondent has committed, and is likely to 9 commit in the future, an act specified in § 3–1503(a) of this subtitle against the petitioner OR THE PETITIONER'S EMPLOYEE, the commissioner may issue an interim peace order 10 to protect the petitioner OR THE PETITIONER'S EMPLOYEE. 11 12 (c) An interim peace order: 13 (1) Shall contain only the relief that is minimally necessary to protect the petitioner OR THE PETITIONER'S EMPLOYEE; and 14 15 (2) May order the respondent to: 16 (i) Refrain from committing or threatening to commit an act specified in § 3–1503(a) of this subtitle against the petitioner OR THE PETITIONER'S 17 18 EMPLOYEE; 19 Refrain from contacting, attempting to contact, or harassing the petitioner OR THE PETITIONER'S EMPLOYEE: 2021(iii) Refrain from entering the residence of the petitioner OR THE 22PETITIONER'S EMPLOYEE; and 23(iv) Remain away from the place of employment, school, or temporary residence of the petitioner OR THE PETITIONER'S EMPLOYEE. 2425 (d) (1)An interim peace order shall state the date, time, and location 26 for the temporary peace order hearing and a tentative date, time, and location for a final 27 peace order hearing. 28 Except as provided in subsection (g) of this section, or unless the 29court continues the hearing for good cause, a temporary peace order hearing shall be held 30 on the first or second day on which a District Court judge is sitting after issuance of the 31 interim peace order.

An interim peace order shall include in at least 10-point bold type:

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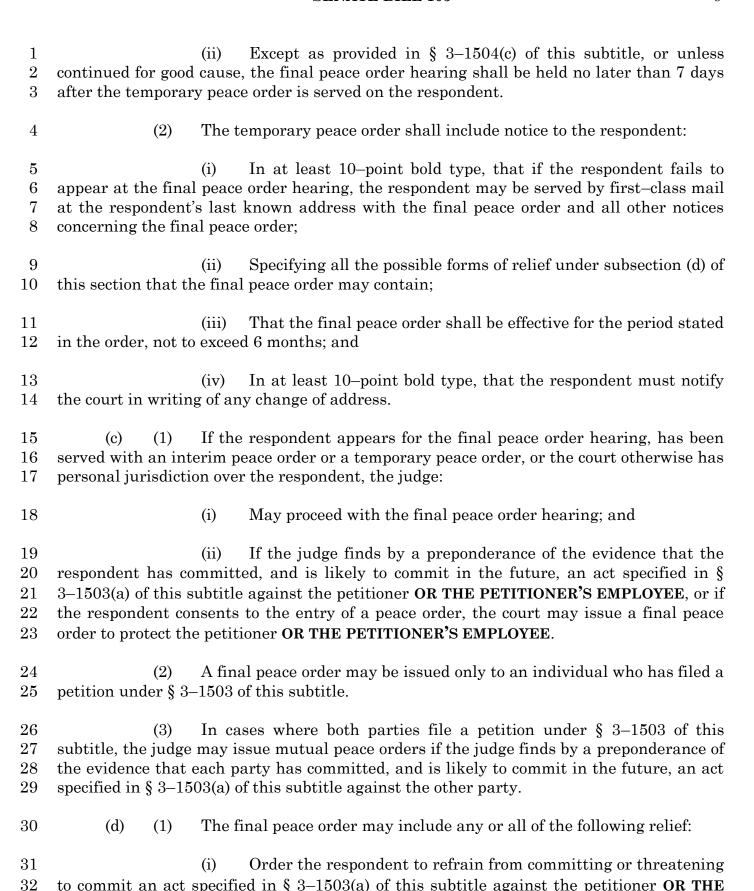
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them on the respondent named in the order; and

1	(i) Noti	ce to the respondent that:		
2 3	change of address;	1.	The respondent must give the court written notice of each		
4 5 6			If the respondent fails to appear at the temporary peace ring, the respondent may be served with any other orders or ss mail at the respondent's last known address;		
7 8	hearing is tentative	3. only, and s	The date, time, and location of the final peace order subject to change; and		
9 10 11 12	<u>.</u>	the order	If the respondent does not attend the temporary peace may call the Office of the Clerk of the District Court at the to find out the actual date, time, and location of any final		
13 14	`		atement of all possible forms and duration of relief that a peace order may contain;		
15 16 17 18	(iii) Notice to the petitioner, PETITIONER'S EMPLOYEE , and respondent that, at the hearing, a judge may issue a temporary peace order that grants any or all of the relief requested in the petition or may deny the petition, whether or not the respondent is in court;				
19 20 21 22	order is a crime and without a warrant,	d that a la	arning to the respondent that violation of an interim peace aw enforcement officer shall arrest the respondent, with or he respondent into custody if the officer has probable cause has violated any provision of the interim peace order; and		
23	(v) The	phone number of the Office of the District Court Clerk.		
24 25	(e) Whene shall:	ver a comi	missioner issues an interim peace order, the commissioner		
26 27	` '		ly forward a copy of the petition and interim peace order to ent agency for service on the respondent; and		
28 29	` '		hearing scheduled in the interim peace order, transfer the ice, if any, to the Office of the District Court Clerk.		
30	(f) A law e	nforcemen	nt officer shall:		
31	(1)	mmediate	ly on receipt of a petition and interim peace order, serve		

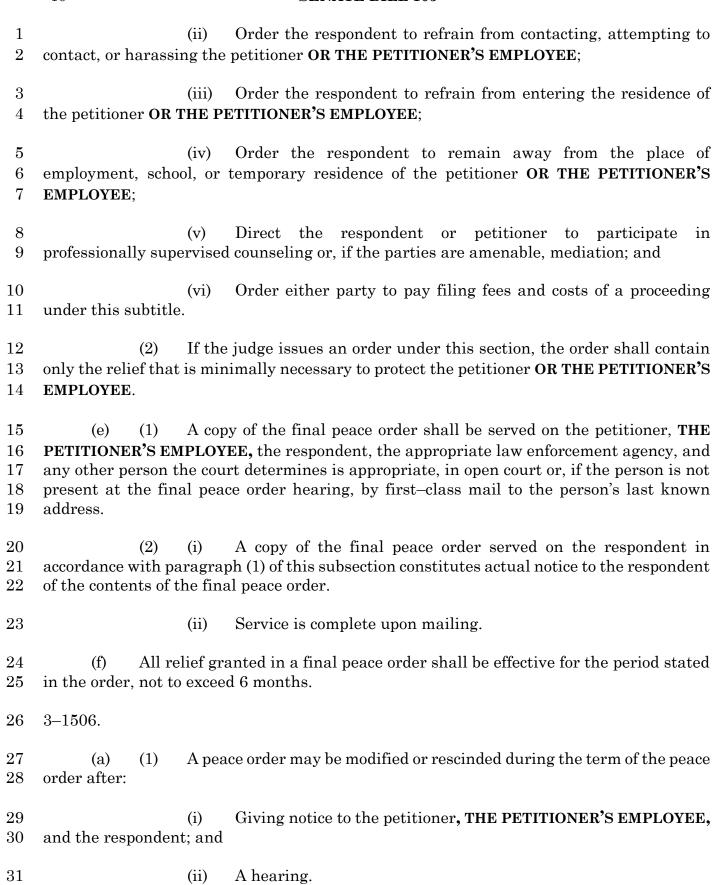
- 1 (2) Immediately after service, make a return of service to the 2 commissioner's office or, if the Office of the District Court Clerk is open for business, to the 3 clerk.
- 4 (g) (1) Except as otherwise provided in this subsection, an interim peace order 5 shall be effective until the earlier of:
- 6 (i) The temporary peace order hearing under $\$ 3–1504 of this 7 subtitle; or
- 8 (ii) The end of the second business day the Office of the Clerk of the 9 District Court is open following the issuance of an interim peace order.
- 10 (2) If the court is closed on the day on which the interim peace order is due 11 to expire, the interim peace order shall be effective until the next day on which the court is 12 open, at which time the court shall hold a temporary peace order hearing.
- 13 (h) A decision of a commissioner to grant or deny relief under this section is not 14 binding on, and does not affect any power granted to or duty imposed on, a judge of a circuit 15 court or the District Court under any law, including any power to grant or deny a petition 16 for a temporary peace order or final peace order.
- 17 (i) An individual who knowingly provides false information in a petition filed 18 under this section is guilty of a misdemeanor and on conviction is subject to a fine not 19 exceeding \$1,000 or imprisonment not exceeding 90 days or both.
- 20 3–1504.
- (a) (1) If after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that the respondent has committed, and is likely to commit in the future, an act specified in § 3–1503(a) of this subtitle against the petitioner OR THE PETITIONER'S EMPLOYEE, the judge may issue a temporary peace order to protect the petitioner OR THE PETITIONER'S EMPLOYEE.
- 26 (2) The temporary peace order may include any or all of the following relief:
- 27 (i) Order the respondent to refrain from committing or threatening 28 to commit an act specified in § 3–1503(a) of this subtitle against the petitioner **OR THE** 29 **PETITIONER'S EMPLOYEE**;
- 30 (ii) Order the respondent to refrain from contacting, attempting to contact, or harassing the petitioner **OR THE PETITIONER'S EMPLOYEE**;
- 32 (iii) Order the respondent to refrain from entering the residence of the petitioner **OR THE PETITIONER'S EMPLOYEE**; and

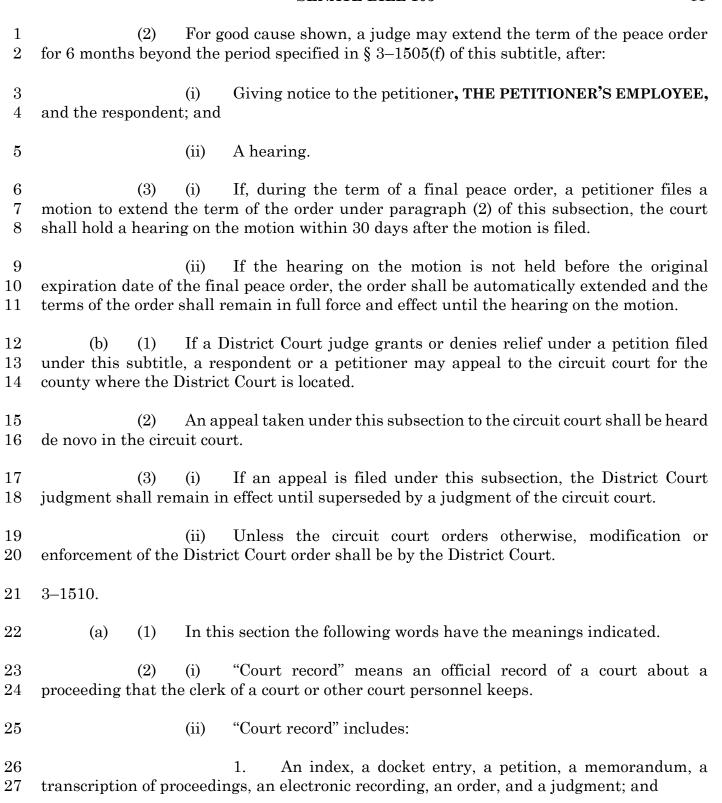
- 1 (iv) Order the respondent to remain away from the place of 2 employment, school, or temporary residence of the petitioner **OR THE PETITIONER'S** 3 **EMPLOYEE**.
- 4 (3) If the judge issues an order under this section, the order shall contain only the relief that is minimally necessary to protect the petitioner **OR THE PETITIONER'S EMPLOYEE**.
- 7 (b) (1) Except as provided in paragraph (2) of this subsection, a law 8 enforcement officer immediately shall serve the temporary peace order on the respondent.
- 9 (2) A respondent who has been served with an interim peace order under § 3–1503.1 of this subtitle shall be served with the temporary peace order in open court or, if the respondent is not present at the temporary peace order hearing, by first–class mail at the respondent's last known address.
- 13 (c) (1) Except as otherwise provided in this subsection, the temporary peace 14 order shall be effective for not more than 7 days after service of the order.
- 15 (2) The judge may extend the temporary peace order as needed, but not to 16 exceed 30 days, to effectuate service of the order where necessary to provide protection or 17 for other good cause.
- 18 (3) If the court is closed on the day on which the temporary peace order is 19 due to expire, the temporary peace order shall be effective until the second day on which 20 the court is open, by which time the court shall hold a final peace order hearing.
- 21 (d) The judge may proceed with a final peace order hearing instead of a temporary 22 peace order hearing if:
- 23 (1) (i) The respondent appears at the hearing;
- 24 (ii) The respondent has been served with an interim peace order; or
- 25 (iii) The court otherwise has personal jurisdiction over the 26 respondent; and
- 27 (2) The petitioner **OR THE PETITIONER'S EMPLOYEE** and the respondent expressly consent to waive the temporary peace order hearing.
- 29 3–1505.
- 30 (a) A respondent shall have an opportunity to be heard on the question of whether 31 the judge should issue a final peace order.
- 32 (b) (1) (i) The temporary peace order shall state the date and time of the 33 final peace order hearing.



PETITIONER'S EMPLOYEE:

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30 (3) "Shield" means to remove information from public inspection in accordance with this section.

website maintained by the Maryland Judiciary.

Any electronic information about a proceeding on the

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1 (4) "Shielding" means:

- (i) With respect to a record kept in a courthouse, removing the record to a separate secure area to which persons who do not have a legitimate reason for access are denied access; and
- (ii) With respect to electronic information about a proceeding on the website maintained by the Maryland Judiciary, completely removing all information concerning the proceeding from the public website, including the names of the parties, case numbers, and any reference to the proceeding or any reference to the removal of the proceeding from the public website.
- 10 (5) "Victim services provider" means a nonprofit or governmental organization that has been authorized by the Governor's Office of Crime Prevention, Youth, and Victim Services to have online access to records of shielded peace orders in order to assist victims of abuse.
 - (b) (1) Subject to subsection (c) of this section, if a petition filed under this subtitle was denied or dismissed at the interim, temporary, or final peace order stage of a proceeding under this subtitle, the petitioner, **THE PETITIONER'S EMPLOYEE**, or the respondent may file a written request to shield all court records relating to the proceeding in accordance with subsection (d) of this section.
 - (2) Subject to subsection (c) of this section, if the respondent consented to the entry of a peace order under this subtitle, the petitioner, **THE PETITIONER'S EMPLOYEE**, or the respondent may file a written request to shield all court records relating to the proceeding in accordance with subsection (e) of this section.
 - (c) A request for shielding under this section may not be filed within 3 years after the denial or dismissal of the petition or the consent to the entry of the peace order unless the requesting party files with the request a general waiver and release of all the party's tort claims related to the proceeding under this subtitle.
 - (d) (1) If a petition was denied or dismissed at the interim, temporary, or final peace order stage of a proceeding under this subtitle, on the filing of a written request for shielding under this section, the court shall schedule a hearing on the request.
- 30 (2) The court shall give notice of the hearing to the other party or the other 31 party's counsel of record.
- 32 (3) Except as provided in paragraphs (4) and (5) of this subsection, after 33 the hearing, the court shall order the shielding of all court records relating to the proceeding 34 if the court finds:
- 35 (i) That the petition was denied or dismissed at the interim, 36 temporary, or final peace order stage of the proceeding;

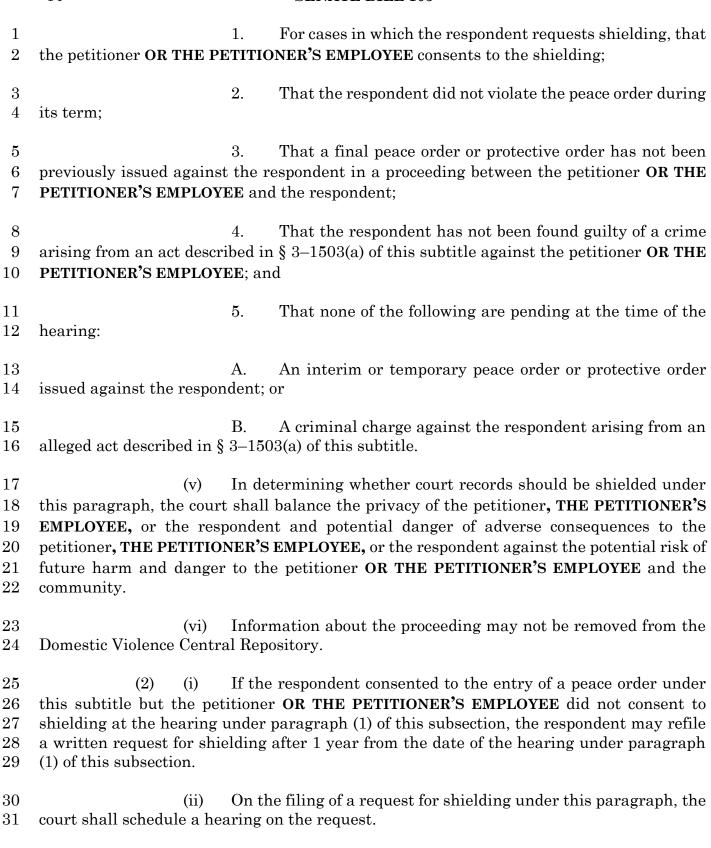
- 1 (ii) That a final peace order or protective order has not been previously issued against the respondent in a proceeding between the petitioner **OR THE** 3 **PETITIONER'S EMPLOYEE** and the respondent;
- 4 (iii) That the respondent has not been found guilty of a crime arising 5 from an act described in § 3–1503(a) of this subtitle against the petitioner **OR THE** 6 **PETITIONER'S EMPLOYEE**; and
- 7 (iv) That none of the following are pending at the time of the hearing:
- 8 1. An interim or temporary peace order or protective order 9 issued against the respondent in a proceeding between the petitioner **OR THE** 10 **PETITIONER'S EMPLOYEE** and the respondent; or
- 11 2. A criminal charge against the respondent arising from an alleged act described in § 3–1503(a) of this subtitle against the petitioner **OR THE** 13 **PETITIONER'S EMPLOYEE**.
- 14 (4) (i) On its own motion or on the objection of the other party, the court 15 may, for good cause, deny the shielding.
- (ii) In determining whether there is good cause under subparagraph
 (i) of this paragraph, the court shall balance the privacy of the petitioner, THE
 PETITIONER'S EMPLOYEE, or the respondent and potential danger of adverse
 consequences to the petitioner, THE PETITIONER'S EMPLOYEE, or the respondent against
 the potential risk of future harm and danger to the petitioner OR THE PETITIONER'S
 EMPLOYEE and the community.
- 22 (5) Information about the proceeding may not be removed from the 23 Domestic Violence Central Repository.
- 24 (e) (1) (i) If the respondent consented to the entry of a peace order under 25 this subtitle, the petitioner, **THE PETITIONER'S EMPLOYEE**, or the respondent may file a 26 written request for shielding at any time after the peace order expires.
- 27 (ii) On the filing of a request for shielding under this paragraph, the 28 court shall schedule a hearing on the request.
- 29 (iii) The court shall give notice of the hearing to the other party or 30 the other party's counsel of record.
- 31 (iv) Except as provided in subparagraph (vi) of this paragraph and 32 subject to subparagraph (v) of this paragraph, after the hearing, the court may order the 33 shielding of all court records relating to the proceeding if the court finds:

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(iii)

the other party's counsel of record.



The court shall give notice of the hearing to the other party or

- 1 Except as provided in subparagraph (vi) of this paragraph and 2 subject to subparagraph (v) of this paragraph, after the hearing, the court may order the 3 shielding of all court records relating to the proceeding if the court finds: 4 1. A. That the petitioner OR THE PETITIONER'S 5 EMPLOYEE consents to the shielding; or 6 В. That the petitioner OR THE PETITIONER'S EMPLOYEE 7 does not consent to the shielding, but that it is unlikely that the respondent will commit an 8 act specified in § 3–1503(a) of this subtitle against the petitioner OR THE PETITIONER'S 9 **EMPLOYEE** in the future: 10 2. That the respondent did not violate the peace order during 11 its term: 12 That a final peace order or protective order has not been 3. 13 previously issued against the respondent in a proceeding between the petitioner OR THE PETITIONER'S EMPLOYEE and the respondent; 14 15 4. That the respondent has not been found guilty of a crime 16 arising from an act described in § 3–1503(a) of this subtitle against the petitioner **OR THE** 17 PETITIONER'S EMPLOYEE; and 18 5. That none of the following are pending at the time of the 19 hearing: 20 An interim or temporary peace order or protective order Α. 21issued against the respondent; or 22В. A criminal charge against the respondent arising from an 23alleged act described in § 3–1503(a) of this subtitle. 24(v) In determining whether court records should be shielded under 25this paragraph, the court shall balance the privacy of the petitioner, THE PETITIONER'S 26EMPLOYEE, or the respondent and potential danger of adverse consequences to the 27 petitioner, THE PETITIONER'S EMPLOYEE, or the respondent against the potential risk of 28 future harm and danger to the petitioner OR THE PETITIONER'S EMPLOYEE and the 29 community. 30 Information about the proceeding may not be removed from the (vi) 31 Domestic Violence Central Repository.
 - (i) A law enforcement officer;

This section does not preclude the following persons from accessing a

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(f)

(1)

shielded record for a legitimate reason:

1 2	THE PETITIONER	(ii) R'S EM	An attorney who represents or has represented the petitioner, PLOYEE , or the respondent in a proceeding;		
3		(iii)	A State's Attorney;		
4		(iv)	An employee of a local department of social services; or		
5		(v)	A victim services provider.		
6 7	(2) (i) A person not listed in paragraph (1) of this subsection massubpoena, or file a motion for access to, a record shielded under this section.				
8 9 10	(ii) If the court finds that the person has a legitimate reason for access, the court may grant the person access to the shielded record under the terms and conditions that the court determines.				
11 12 13 14 15	(iii) In ruling on a motion under this paragraph, the court shall balance the person's need for access to the record with the petitioner's, THE PETITIONER'S EMPLOYEE'S, or the respondent's right to privacy and the potential harm of unwarranted adverse consequences to the petitioner, THE PETITIONER'S EMPLOYEE, or the respondent that the disclosure may create.				
16 17 18	(g) Within 60 days after entry of an order for shielding under this section, each custodian of court records that are subject to the order of shielding shall advise in writing the court and the respondent of compliance with the order.				
19 20 21	(h) The Governor's Office of Crime Control and Prevention, in consultation with the Maryland Judiciary, may adopt regulations governing online access to shielded records by a victim services provider.				
22 23	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.				