
By: Delegates Harkins, Preis, and Hubbard

Introduced and read first time: January 23, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence - Civil Protective Orders**

3 FOR the purpose of requiring the Maryland Interagency Law Enforcement System to
4 segregate civil protective orders issued in domestic violence cases from other
5 information in the system; requiring certain persons who relay information relating
6 to an individual in the System to specify certain information concerning civil
7 protective orders; prohibiting a judge from including terms or conditions in
8 protective orders in addition to those specified in law; providing for certain forms
9 concerning civil protective orders under certain circumstances; requiring by a
10 certain date that the Court of Appeals Standing Committee on Rules of Practice
11 and Procedure recommend to the Court of Appeals a form or forms for inclusion in
12 the Maryland Rules concerning protective orders; and generally relating to civil
13 protective orders in domestic violence cases.

14 BY repealing and reenacting, with amendments,
15 Article 88B - Department of State Police
16 Section 7A
17 Annotated Code of Maryland
18 (1995 Replacement Volume and 1996 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Family Law
21 Section 4-505(a) and 4-506(d)
22 Annotated Code of Maryland
23 (1991 Replacement Volume and 1996 Supplement)

24 BY adding to
25 Article - Family Law
26 Section 4-512
27 Annotated Code of Maryland
28 (1991 Replacement Volume and 1996 Supplement)

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

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1 **Article 88B - Department of State Police**

2 7A.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Civil child support warrant" means any of the following, when issued
5 for the enforcement of a child support order:

6 (i) An arrest warrant;

7 (ii) A bench warrant;

8 (iii) A body attachment issued by a circuit court; or

9 (iv) A warrant for failure to appear.

10 (3) "Civil protective order" means:

11 (i) An ex parte order issued under § 4-505 of the Family Law Article;

12 (ii) A protective order issued under § 4-506 of the Family Law Article;

13 or

14 (iii) A protective order issued by a court of another state or an Indian
15 tribe that has been filed with the District Court or a circuit court under § 4-508.1 of the
16 Family Law Article.

17 (4) "System" means the Maryland Interagency Law Enforcement System.

18 (b) The Department shall:

19 (1) Cooperate with local child support enforcement offices and law
20 enforcement agencies to receive, accept, and incorporate civil child support warrants in
21 the System; [and]

22 (2) Cooperate with the Administrative Office of the Courts, the Chief Clerk
23 of the District Court of Maryland, and the clerks of the circuit courts to receive, accept,
24 and incorporate civil protective orders in the System; AND

25 (3) SEGREGATE CIVIL PROTECTIVE ORDERS FROM THE OTHER ARREST
26 INFORMATION AND CIVIL CHILD SUPPORT WARRANTS IN THE SYSTEM.

27 (c) (1) Any judge or any law enforcement agency or officer may access the
28 System to determine the status of any outstanding civil child support warrant issued by a
29 court of the State.

30 (2) Any judge or any law enforcement agency or officer may access the
31 System to determine the status of any outstanding civil protective order issued by a court
32 of the State or issued by a court of another state or an Indian tribe and filed with the
33 District Court or a circuit court.

34 (3) IF A LAW ENFORCEMENT OFFICER OR OTHER PERSON OBTAINS
35 ACCESS TO THE SYSTEM FOR PURPOSES OF RELAYING TO ANOTHER LAW
36 ENFORCEMENT OFFICER WHETHER THERE IS ANY INFORMATION IN THE SYSTEM

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1 CONCERNING A PARTICULAR INDIVIDUAL, THE OFFICER OR PERSON RELAYING
2 THE INFORMATION SHALL CLEARLY COMMUNICATE:

3 (I) WHETHER THE INFORMATION IN THE SYSTEM CONCERNS A
4 CIVIL PROTECTIVE ORDER;

5 (II) IF THE INFORMATION CONCERNS A CIVIL PROTECTIVE ORDER,
6 DETAILS CONCERNING THE CIVIL PROTECTIVE ORDER, INCLUDING WHETHER
7 THERE IS AN OUTSTANDING ARREST WARRANT, BENCH WARRANT, OR BODY
8 ATTACHMENT IN CONNECTION WITH THE CIVIL PROTECTIVE ORDER; AND

9 (III) IF THE CIVIL PROTECTIVE ORDER IS A TEMPORARY EX PARTE
10 ORDER UNDER § 4-505 OF THE FAMILY LAW ARTICLE, WHETHER THE INDIVIDUAL
11 HAS BEEN SERVED WITH THE TEMPORARY EX PARTE ORDER.

12 (d) (1) Local child support enforcement offices and appropriate local law
13 enforcement agencies shall be responsible for entry, maintenance, and prompt validation
14 of civil child support warrants in the System in accordance with procedures adopted by
15 the Department.

16 (2) The clerks of the courts and appropriate local law enforcement agencies
17 shall be responsible for entry, maintenance, and prompt validation of civil protective
18 orders in the System in accordance with procedures adopted by the Department.

19 **Article - Family Law**

20 4-505.

21 (a) (1) If a petition is filed under this subtitle and the court finds that there are
22 reasonable grounds to believe that a person eligible for relief has been abused, the court,
23 in an ex parte proceeding, may enter a temporary order to protect any person eligible for
24 relief from abuse.

25 (2) The temporary ex parte order may order any or all of the following
26 relief:

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

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

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

33 (iv) where the person eligible for relief and the respondent are residing
34 together at the time of the alleged abuse, order the respondent to vacate the home
35 immediately and award temporary use and possession of the home to the person eligible
36 for relief or in the case of alleged abuse of a child or alleged abuse of a vulnerable adult,
37 award temporary use and possession of the home to an adult living in the home, provided
38 that the court may not grant an order to vacate and award temporary use and possession
39 of the home to a nonspouse person eligible for relief unless the name of the person
40 eligible for relief appears on the lease or deed to the home or the person eligible for relief

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1 has resided in the home with the respondent for a period of at least 90 days within 1 year
2 before the filing of the petition;

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

6 (vi) award temporary custody of a minor child of the person eligible for
7 relief and the respondent.

8 (3) A TEMPORARY EX PARTE ORDER MAY NOT INCLUDE ANY TERMS
9 OR CONDITIONS IN ADDITION TO THOSE SPECIFIED IN PARAGRAPH (2) OF THIS
10 SUBSECTION.

11 4-506.

12 (d) (1) The protective order may include any or all of the following relief:

13 [(1)] (I) order the respondent to refrain from abusing or threatening to
14 abuse any person eligible for relief;

15 [(2)] (II) order the respondent to refrain from contacting, attempting to
16 contact, or harassing any person eligible for relief;

17 [(3)] (III) order the respondent to refrain from entering the residence of any
18 person eligible for relief;

19 [(4)] (IV) where the person eligible for relief and the respondent are residing
20 together at the time of the abuse, order the respondent to vacate the home immediately
21 and award temporary use and possession of the home to the person eligible for relief or,
22 in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award
23 temporary use and possession of the home to an adult living in the home, provided that
24 the court may not grant an order to vacate and award temporary use and possession of the
25 home to a nonspouse person eligible for relief unless the name of the person eligible for
26 relief appears on the lease or deed to the home or the person eligible for relief has shared
27 the home with the respondent for a period of at least 90 days within 1 year before the
28 filing of the petition;

29 [(5)] (V) order the respondent to remain away from the place of
30 employment, school, or temporary residence of a person eligible for relief or home of
31 other family members;

32 [(6)] (VI) award temporary custody of a minor child of the respondent and a
33 person eligible for relief;

34 [(7)] (VII) establish temporary visitation with a minor child of the respondent
35 and a person eligible for relief on a basis which gives primary consideration to the welfare
36 of the minor child and the safety of any other person eligible for relief. If the court finds
37 that the safety of a person eligible for relief will be jeopardized by unsupervised or
38 unrestricted visitation, the court shall condition or restrict visitation as to time, place,
39 duration, or supervision, or deny visitation entirely, as needed to guard the safety of any
40 person eligible for relief;

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1 [(8)] (VIII) award emergency family maintenance as necessary to support any
2 person eligible for relief to whom the respondent has a duty of support under this article,
3 including an immediate and continuing withholding order on all earnings of the
4 respondent in the amount of the ordered emergency family maintenance in accordance
5 with the procedures specified in Title 10, Subtitle 1, Part III of this article;

6 [(9)] (IX) award temporary use and possession of a vehicle jointly owned by
7 the respondent and a person eligible for relief to the person eligible for relief if necessary
8 for the employment of the person eligible for relief or for the care of a minor child of the
9 respondent or a person eligible for relief;

10 [(10)] (X) direct the respondent or any or all of the persons eligible for relief
11 to participate in professionally supervised counseling or a domestic violence program;

12 [(11)] (XI) order the respondent to surrender to law enforcement authorities
13 any firearm in the respondent's possession for the duration of the protective order; or

14 [(12)] (XII) order the respondent to pay filing fees and costs of a proceeding
15 under this subtitle.

16 (2) A PROTECTIVE ORDER MAY NOT INCLUDE ANY TERMS OR
17 CONDITIONS IN ADDITION TO THOSE SPECIFIED IN PARAGRAPH (1) OF THIS
18 SUBSECTION.

19 4-512.

20 (A) THE COURT OF APPEALS MAY ADOPT A FORM IN THE MARYLAND RULES
21 FOR USE BY A COURT WHEN ISSUING AN EX PARTE OR PROTECTIVE ORDER UNDER
22 THIS SUBTITLE.

23 (B) IF THE COURT OF APPEALS ADOPTS A FORM UNDER THIS SECTION, A
24 JUDGE OF A CIRCUIT COURT OR THE DISTRICT COURT SHALL USE THE FORM WHEN
25 ISSUING AN EX PARTE OR PROTECTIVE ORDER UNDER THIS SUBTITLE.

26 SECTION 2. AND BE IT FURTHER ENACTED, That by July 1, 1997, the Court
27 of Appeals Standing Committee on Rules of Practice and Procedure shall recommend to
28 the Court of Appeals a form or forms for inclusion in the Maryland Rules for use by a
29 court when issuing a protective order in a domestic violence case.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 1997.