Unofficial Copy D4 1998 Regular Session 8lr0890

By: Senator Ferguson (By Request)

Introduced and read first time: February 6, 1998

Assigned to: Judicial Proceedings

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### A BILL ENTITLED

### 1 AN ACT concerning

# 2 Family Law - Temporary Ex Parte Orders

- 3 FOR the purpose of authorizing a respondent in a proceeding for relief from abuse to
- 4 request assistance of a local law enforcement agency if the court has entered a
- 5 temporary ex parte order ordering the respondent to vacate the family home;
- 6 requiring a local law enforcement agency responding to a request for assistance
- to accompany the respondent to the family home so that the respondent may
- 8 remove certain items and attend to livestock needing attention; granting
- 9 immunity from civil liability under certain circumstances to a law enforcement
- officer responding to a request for assistance; prohibiting a person awarded
- custody of a minor child under a temporary ex parte order from taking a certain
- action without the written approval of the respondent; and generally relating to
- 13 certain temporary ex parte orders.
- 14 BY repealing and reenacting, with amendments,
- 15 Article 27 Crimes and Punishments
- 16 Section 798
- 17 Annotated Code of Maryland
- 18 (1996 Replacement Volume and 1997 Supplement)
- 19 BY repealing and reenacting, with amendments,
- 20 Article Courts and Judicial Proceedings
- 21 Section 5-610
- 22 Annotated Code of Maryland
- 23 (1995 Replacement Volume and 1997 Supplement)
- 24 BY repealing and reenacting, with amendments,
- 25 Article Family Law
- 26 Section 4-505
- 27 Annotated Code of Maryland
- 28 (1991 Replacement Volume and 1997 Supplement)

## SENATE BILL 540

1 2	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:					
3				Article 27 - Crimes and Punishments		
4	798.					
5	(a) (1)	In this s	section th	e following words have the meanings indicated.		
6	(2)	"Abuse	" has the	meaning stated in § 4-501 of the Family Law Article.		
7 8	(3) FAMILY LAW AF		ONDENT	" HAS THE MEANING STATED IN § 4-501 OF THE		
9 10	[(3)] § 4-501 of the Fam	(4) nily Law A		" includes a "person eligible for relief" as described in		
	(b) (1) Any person who alleges to have been a victim of abuse and who believes there is a danger of serious and immediate injury to himself or herself may request the assistance of a local law enforcement agency.					
14 15	(2) assistance shall:	A local	law enfo	rcement officer responding to the request for		
16 17	request; and	(i)	Protect	the complainant from harm when responding to the		
18 19	complainant may r	(ii) remove the		pany the complainant to the family home so that the gitems, regardless of who paid for the items:		
20 21	in the care of the c	omplainan	1. ;; and	The personal clothing of the complainant and of any child		
				The personal effects, including any medicine or medical child in the care of the complainant that are complainant or the child.		
27		A)(2)(IV) C E FAMILY	F THE F HOME,	HAS ENTERED A TEMPORARY EX PARTE ORDER AMILY LAW ARTICLE ORDERING THE RESPONDENT THE RESPONDENT MAY REQUEST THE ASSISTANCE IT AGENCY.		
		SSISTAN	CE SHAI	ENFORCEMENT OFFICER RESPONDING TO THE LACCOMPANY THE RESPONDENT TO THE FAMILY IT MAY:		
32 33	FOR THE ITEMS	(I)	REMO	VE THE FOLLOWING ITEMS, REGARDLESS OF WHO PAID		
34			1.	THE PERSONAL CLOTHING OF THE RESPONDENT;		

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	MEDICAL DEVICES OF NEEDS OF THE RESPON	2. THE PERSONAL EFFECTS, INCLUDING ANY MEDICINE OR THE RESPONDENT THAT ARE REQUIRED FOR THE IMMEDIATE IDENT; AND				
4 5	RESPONDENT'S EMPLO	3. ANY TOOLS OR EQUIPMENT NECESSARY FOR THE YMENT; AND				
6	(II)	ATTEND TO ANY LIVESTOCK NEEDING ATTENTION.				
7 8		law enforcement officer responding to such a request shall have described under § 5-610 of the Courts Article.				
9	Article - Courts and Judicial Proceedings					
10	5-610.					
13	A law enforcement officer who responds to a request under Article 27, § 798 of the Code for assistance [by an individual who alleges to have been a victim of spousal assault] shall be immune from civil liability in complying with the request if the law 4 enforcement officer acts in good faith and in a reasonable manner.					
15	5 Article - Family Law					
16	4-505.					
19	(a) (1) If a petition is filed under this subtitle and the court finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the court, in an ex parte proceeding, may enter a temporary order to protect any person eligible for relief from abuse.					
21 22	(2) The relief:	temporary ex parte order may order any or all of the following				
23 24	(i) abuse of a person eligible	order the respondent to refrain from further abuse or threats of for relief;				
25 26	(ii) contact, or harassing any I	order the respondent to refrain from contacting, attempting to person eligible for relief;				
27 28	(iii) person eligible for relief;	order the respondent to refrain from entering the residence of a				
31 32 33 34 35	home immediately and aw eligible for relief or in the vulnerable adult, award te in the home, provided that temporary use and possess	where the person eligible for relief and the respondent are ne of the alleged abuse, order the respondent to vacate the ard temporary use and possession of the home to the person case of alleged abuse of a child or alleged abuse of a mporary use and possession of the home to an adult living the court may not grant an order to vacate and award ion of the home to a nonspouse person eligible for relief son eligible for relief appears on the lease or deed to the				

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1 home or the person eligible for relief has resided in the home with the respondent for 2 a period of at least 90 days within 1 year before the filing of the petition; order the respondent to remain away from the place of 3 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 7 for relief and the respondent. A law enforcement officer immediately shall serve the temporary ex 8 (1) parte order on the alleged abuser under this section. 10 (2) There shall be no cost to the petitioner for service of the temporary ex 11 parte order. 12 (c) (1) The temporary ex parte order shall be effective for not more than 7 13 days after service of the order. 14 The court may extend the temporary ex parte order as needed, but 15 not to exceed 30 days, to effectuate service of the order where necessary to provide 16 protection or for other good cause. 17 IF THE COURT ENTERS A TEMPORARY EX PARTE ORDER AWARDING 18 CUSTODY OF A MINOR CHILD UNDER SUBSECTION (A)(2)(VI) OF THIS SECTION, THE 19 PERSON AWARDED CUSTODY MAY NOT MOVE OUT OF STATE WITHOUT THE WRITTEN 20 APPROVAL OF THE RESPONDENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect