

HB0233/262304/1

LCAS

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 233

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike in its entirety line 2 and substitute “Courts and Judicial Proceedings - Peace Orders”; strike beginning with “providing” in line 3 down through “violence.” in line 5 and substitute “authorizing an individual to seek certain relief by filing with the court a petition that alleges the commission of any of certain acts against the individual by a respondent; requiring a petition to be under oath and specifying the contents of the petition; authorizing the address of a petitioner to be stricken or omitted from certain documents under certain circumstances; establishing a criminal penalty for knowingly providing false information in a petition; authorizing the court to issue a temporary peace order to protect a petitioner under certain circumstances; specifying the forms of relief in a temporary peace order; providing for the service of a temporary peace order; establishing the duration of a temporary peace order; authorizing a court to extend a temporary peace order under certain circumstances; granting a respondent an opportunity to be heard on the question of whether the court should issue a peace order; specifying the information that a temporary peace order must contain; requiring a peace order hearing to be held within a certain period of time, except under certain circumstances; authorizing the court to issue a peace order to protect the petitioner under certain circumstances; authorizing the court to issue mutual peace orders under certain circumstances; specifying the forms of relief in a peace order; providing for the service of a peace order; establishing the duration of a peace order; providing for the modification and rescission of a peace order; establishing certain appeal procedures; requiring a temporary peace order and peace order to state certain consequences of a violation; establishing a criminal penalty for a violation of certain provisions of a temporary peace order or peace order; requiring a law enforcement officer to make a certain arrest for a violation of a temporary peace order or peace order under certain circumstances; establishing that a petitioner is not limited to or precluded from pursuing other legal remedies except under certain circumstances; providing for the application of certain provisions of this Act; authorizing the Court of Appeals to adopt certain rules and forms; requiring the Court of Appeals to adopt a certain form and provide certain notice in the form; expanding the exclusive original civil jurisdiction of the District Court; defining certain terms; and generally relating to

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temporary peace orders and peace orders.

BY adding to

Article - Courts and Judicial Proceedings

Section 3-1501 through 3-1509, inclusive, to be under the new subtitle “Subtitle 15. Peace Orders.”

Annotated Code of Maryland
(1998 Replacement Volume)

BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings

Section 4-401

Annotated Code of Maryland
(1998 Replacement Volume)”;

and in line 8, strike “4-501” and substitute “4-510”.

AMENDMENT NO. 2

On pages 1 through 4, strike in their entirety the lines beginning with line 13 on page 1 through line 4 on page 4, inclusive, and substitute:

“Article - Courts and Judicial Proceedings

SUBTITLE 15. PEACE ORDERS.

3-1501.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “COURT” MEANS THE DISTRICT COURT OF MARYLAND.

(C) “PETITIONER” MEANS AN INDIVIDUAL WHO FILES A PETITION UNDER § 3-1503 OF THIS SUBTITLE.

(D) "RESIDENCE" INCLUDES THE YARD, GROUNDS, OUTBUILDINGS, AND COMMON AREAS SURROUNDING THE RESIDENCE.

(E) "RESPONDENT" MEANS AN INDIVIDUAL ALLEGED IN A PETITION TO HAVE COMMITTED AN ACT SPECIFIED IN § 3-1503(A) OF THIS SUBTITLE AGAINST A PETITIONER.

3-1502.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, BY PROCEEDING UNDER THIS SUBTITLE, A PETITIONER IS NOT LIMITED TO OR PRECLUDED FROM PURSUING ANY OTHER LEGAL REMEDY.

(B) THIS SUBTITLE DOES NOT APPLY TO AN INDIVIDUAL WHO IS ENTITLED TO PETITION FOR RELIEF FROM ABUSE UNDER TITLE 4, SUBTITLE 5 OF THE FAMILY LAW ARTICLE.

3-1503.

(A) A PETITIONER MAY SEEK RELIEF UNDER THIS SUBTITLE BY FILING WITH THE COURT A PETITION THAT ALLEGES THE COMMISSION OF ANY OF THE FOLLOWING ACTS AGAINST THE PETITIONER BY THE RESPONDENT, IF THE ACT OCCURRED WITHIN 30 DAYS BEFORE THE FILING OF THE PETITION:

(1) AN ACT THAT CAUSES SERIOUS BODILY HARM;

(2) AN ACT THAT PLACES THE PETITIONER IN FEAR OF IMMINENT SERIOUS BODILY HARM;

(3) ASSAULT IN ANY DEGREE;

(4) RAPE OR SEXUAL OFFENSE, AS DEFINED BY ARTICLE 27, §§ 462

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THROUGH 464C OF THE CODE OR ATTEMPTED RAPE OR SEXUAL OFFENSE IN ANY DEGREE;

(5) FALSE IMPRISONMENT;

(6) HARASSMENT, AS DESCRIBED IN ARTICLE 27, § 123 OF THE CODE;

(7) STALKING, AS DESCRIBED IN ARTICLE 27, § 124 OF THE CODE;

(8) TRESPASS, AS DESCRIBED IN THE TRESPASS SUBHEADING OF ARTICLE 27 OF THE CODE; OR

(9) MALICIOUS DESTRUCTION OF PROPERTY, AS DESCRIBED IN ARTICLE 27, § 111 OF THE CODE.

(B) (1) THE PETITION SHALL:

(I) BE UNDER OATH AND PROVIDE NOTICE TO THE PETITIONER THAT AN INDIVIDUAL WHO KNOWINGLY PROVIDES FALSE INFORMATION IN THE PETITION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO THE PENALTIES SPECIFIED IN SUBSECTION (D) OF THIS SECTION;

(II) SUBJECT TO THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION, CONTAIN THE ADDRESS OF THE PETITIONER; AND

(III) INCLUDE ALL INFORMATION KNOWN TO THE PETITIONER
OF:

1. THE NATURE AND EXTENT OF THE ACT SPECIFIED IN SUBSECTION (A) OF THIS SECTION FOR WHICH THE RELIEF IS BEING SOUGHT, INCLUDING INFORMATION KNOWN TO THE PETITIONER CONCERNING PREVIOUS HARM OR INJURY RESULTING FROM AN ACT SPECIFIED IN SUBSECTION (A) OF THIS SECTION BY THE RESPONDENT;

2. EACH PREVIOUS AND PENDING ACTION BETWEEN THE PARTIES IN ANY COURT; AND

3. THE WHEREABOUTS OF THE RESPONDENT.

(C) IN A PROCEEDING UNDER § 3-1504 OR § 3-1505 OF THIS SUBTITLE, IF THE PETITIONER ALLEGES, AND THE COURT FINDS, THAT THE DISCLOSURE OF THE ADDRESS OF THE PETITIONER WOULD RISK FURTHER HARM TO THE PETITIONER, THAT ADDRESS MAY BE STRICKEN FROM THE PETITION AND OMITTED FROM ALL OTHER DOCUMENTS FILED WITH THE COURT.

(D) AN INDIVIDUAL WHO KNOWINGLY PROVIDES FALSE INFORMATION IN A PETITION FILED UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR BOTH.

3-1504.

(A) (1) IF A PETITION IS FILED UNDER § 3-1503 OF THIS SUBTITLE AND THE COURT 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, THE COURT, IN AN EX PARTE PROCEEDING, MAY ISSUE A TEMPORARY PEACE ORDER TO PROTECT THE PETITIONER.

(2) THE TEMPORARY PEACE ORDER MAY INCLUDE ANY OR ALL OF THE FOLLOWING RELIEF:

(I) ORDER THE RESPONDENT TO REFRAIN FROM COMMITTING OR THREATENING TO COMMIT AN ACT SPECIFIED IN § 3-1503(A) OF THIS SUBTITLE AGAINST THE PETITIONER;

(II) ORDER THE RESPONDENT TO REFRAIN FROM CONTACTING,

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ATTEMPTING TO CONTACT, OR HARASSING THE PETITIONER;

(III) ORDER THE RESPONDENT TO REFRAIN FROM ENTERING THE RESIDENCE OF THE PETITIONER; AND

(IV) ORDER THE RESPONDENT TO REMAIN AWAY FROM THE PLACE OF EMPLOYMENT, SCHOOL, OR TEMPORARY RESIDENCE OF THE PETITIONER.

(3) IF THE COURT ISSUES AN ORDER UNDER THIS SECTION, THE ORDER SHALL CONTAIN ONLY THE RELIEF THAT IS MINIMALLY NECESSARY TO PROTECT THE PETITIONER.

(B) A LAW ENFORCEMENT OFFICER IMMEDIATELY SHALL SERVE THE TEMPORARY PEACE ORDER ON THE RESPONDENT.

(C) (1) THE TEMPORARY PEACE ORDER SHALL BE EFFECTIVE FOR NOT MORE THAN 7 DAYS AFTER SERVICE OF THE ORDER.

(2) THE COURT MAY EXTEND THE TEMPORARY PEACE ORDER AS NEEDED, BUT NOT TO EXCEED 30 DAYS, TO EFFECTUATE SERVICE OF THE ORDER WHERE NECESSARY TO PROVIDE PROTECTION OR FOR OTHER GOOD CAUSE.

3-1505.

(A) A RESPONDENT SHALL HAVE AN OPPORTUNITY TO BE HEARD ON THE QUESTION OF WHETHER THE COURT SHOULD ISSUE A PEACE ORDER.

(B) (1) (I) THE TEMPORARY PEACE ORDER SHALL STATE THE DATE AND TIME OF THE PEACE ORDER HEARING.

(II) UNLESS CONTINUED FOR GOOD CAUSE, THE PEACE ORDER HEARING SHALL BE HELD NO LATER THAN 7 DAYS AFTER THE TEMPORARY PEACE ORDER IS SERVED ON THE RESPONDENT.

(2) THE TEMPORARY PEACE ORDER SHALL INCLUDE NOTICE TO THE RESPONDENT:

(I) IN AT LEAST 10-POINT BOLD TYPE, THAT IF THE RESPONDENT FAILS TO APPEAR AT THE PEACE ORDER HEARING, THE RESPONDENT MAY BE SERVED BY FIRST-CLASS MAIL AT THE RESPONDENT'S LAST KNOWN ADDRESS WITH THE PEACE ORDER AND ALL OTHER NOTICES CONCERNING THE PEACE ORDER;

(II) SPECIFYING ALL THE POSSIBLE FORMS OF RELIEF UNDER SUBSECTION (D) OF THIS SECTION THAT THE PEACE ORDER MAY CONTAIN;

(III) THAT THE PEACE ORDER SHALL BE EFFECTIVE FOR THE PERIOD STATED IN THE ORDER, NOT TO EXCEED 6 MONTHS; AND

(IV) IN AT LEAST 10-POINT BOLD TYPE, THAT THE RESPONDENT MUST NOTIFY THE COURT IN WRITING OF ANY CHANGE OF ADDRESS.

(C) (1) IF THE RESPONDENT APPEARS FOR THE PEACE ORDER HEARING, HAS BEEN SERVED WITH THE TEMPORARY PEACE ORDER, OR THE COURT OTHERWISE HAS PERSONAL JURISDICTION OVER THE RESPONDENT, THE COURT:

(I) MAY PROCEED WITH THE PEACE ORDER HEARING; AND

(II) IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE 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 IF THE RESPONDENT CONSENTS TO THE ENTRY OF A PEACE ORDER, THE COURT MAY ISSUE A PEACE ORDER TO PROTECT THE PETITIONER.

(2) A PEACE ORDER MAY BE ISSUED ONLY TO AN INDIVIDUAL WHO HAS FILED A PETITION UNDER § 3-1503 OF THIS SUBTITLE.

(3) IN CASES WHERE BOTH PARTIES FILE A PETITION UNDER § 3-1503 OF THIS SUBTITLE, THE COURT MAY ISSUE MUTUAL PEACE ORDERS IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT EACH PARTY HAS COMMITTED, AND IS LIKELY TO COMMIT IN THE FUTURE, AN ACT SPECIFIED IN § 3-1503(A) OF THIS SUBTITLE AGAINST THE OTHER PARTY.

(D) (1) THE PEACE ORDER MAY INCLUDE ANY OR ALL OF THE FOLLOWING RELIEF:

(I) ORDER THE RESPONDENT TO REFRAIN FROM COMMITTING OR THREATENING TO COMMIT AN ACT SPECIFIED IN § 3-1503(A) OF THIS SUBTITLE AGAINST THE PETITIONER;

(II) ORDER THE RESPONDENT TO REFRAIN FROM CONTACTING, ATTEMPTING TO CONTACT, OR HARASSING THE PETITIONER;

(III) ORDER THE RESPONDENT TO REFRAIN FROM ENTERING THE RESIDENCE OF THE PETITIONER;

(IV) ORDER THE RESPONDENT TO REMAIN AWAY FROM THE PLACE OF EMPLOYMENT, SCHOOL, OR TEMPORARY RESIDENCE OF THE PETITIONER;

(V) DIRECT THE RESPONDENT OR PETITIONER TO PARTICIPATE IN PROFESSIONALLY SUPERVISED COUNSELING OR, IF THE PARTIES ARE AMENABLE, MEDIATION; AND

(VI) ORDER EITHER PARTY TO PAY FILING FEES AND COSTS OF A PROCEEDING UNDER THIS SUBTITLE.

(2) IF THE COURT ISSUES AN ORDER UNDER THIS SECTION, THE ORDER SHALL CONTAIN ONLY THE RELIEF THAT IS MINIMALLY NECESSARY TO PROTECT THE PETITIONER.

(E) (1) A COPY OF THE PEACE ORDER SHALL BE SERVED ON THE PETITIONER, THE RESPONDENT, THE APPROPRIATE LAW ENFORCEMENT AGENCY, AND ANY OTHER PERSON THE COURT DETERMINES IS APPROPRIATE, IN OPEN COURT OR, IF THE PERSON IS NOT PRESENT AT THE PEACE ORDER HEARING, BY FIRST-CLASS MAIL TO THE PERSON'S LAST KNOWN ADDRESS.

(2) (I) A COPY OF THE PEACE ORDER SERVED ON THE RESPONDENT IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION CONSTITUTES ACTUAL NOTICE TO THE RESPONDENT OF THE CONTENTS OF THE PEACE ORDER.

(II) SERVICE IS COMPLETE UPON MAILING.

(F) ALL RELIEF GRANTED IN A PEACE ORDER SHALL BE EFFECTIVE FOR THE PERIOD STATED IN THE ORDER, NOT TO EXCEED 6 MONTHS.

3-1506.

(A) THE COURT THAT ISSUED THE PEACE ORDER MAY MODIFY OR RESCIND THE PEACE ORDER DURING THE TERM OF THE PEACE ORDER AFTER:

(1) GIVING NOTICE TO THE PETITIONER AND THE RESPONDENT; AND

(2) A HEARING.

(B) (1) IF THE DISTRICT COURT GRANTS OR DENIES RELIEF UNDER A PETITION FILED UNDER THIS SUBTITLE, A RESPONDENT OR A PETITIONER MAY APPEAL TO THE CIRCUIT COURT FOR THE COUNTY WHERE THE DISTRICT COURT IS LOCATED.

(2) AN APPEAL TAKEN UNDER THIS SUBSECTION TO THE CIRCUIT COURT SHALL BE HEARD DE NOVO IN THE CIRCUIT COURT.

(3) (I) IF AN APPEAL IS FILED UNDER THIS SUBSECTION, THE

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DISTRICT COURT JUDGMENT SHALL REMAIN IN EFFECT UNTIL SUPERSEDED BY A JUDGMENT OF THE CIRCUIT COURT.

(II) UNLESS THE CIRCUIT COURT ORDERS OTHERWISE, MODIFICATION OR ENFORCEMENT OF THE DISTRICT COURT ORDER SHALL BE BY THE DISTRICT COURT.

3-1507.

THE TEMPORARY PEACE ORDER AND PEACE ORDER ISSUED UNDER THIS SUBTITLE SHALL STATE THAT A VIOLATION OF THE ORDER MAY RESULT IN:

- (1) A FINDING OF CONTEMPT;
- (2) CRIMINAL PROSECUTION; AND
- (3) IMPRISONMENT OR FINE OR BOTH.

3-1508.

(A) AN INDIVIDUAL WHO FAILS TO COMPLY WITH THE RELIEF GRANTED IN A TEMPORARY PEACE ORDER UNDER § 3-1504(A)(2) OF THIS SUBTITLE OR IN A PEACE ORDER UNDER § 3-1505(D)(1)(I), (II), (III), OR (IV) OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT, FOR EACH OFFENSE, TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR BOTH.

(B) A LAW ENFORCEMENT OFFICER SHALL ARREST WITH OR WITHOUT A WARRANT AND TAKE INTO CUSTODY AN INDIVIDUAL WHOM THE OFFICER HAS PROBABLE CAUSE TO BELIEVE IS IN VIOLATION OF A TEMPORARY PEACE ORDER OR PEACE ORDER IN EFFECT AT THE TIME OF THE VIOLATION.

3-1509.

(A) THE COURT OF APPEALS MAY ADOPT RULES AND FORMS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

(B) (1) THE COURT OF APPEALS SHALL ADOPT A FORM FOR A PETITION UNDER THIS SUBTITLE.

(2) A PETITION FORM SHALL CONTAIN NOTICE TO A PETITIONER THAT AN INDIVIDUAL WHO KNOWINGLY PROVIDES FALSE INFORMATION IN A PETITION FILED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO THE PENALTIES SPECIFIED IN § 3-1503(D) OF THIS SUBTITLE.

4-401.

Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(1) An action in contract or tort, if the debt or damages claimed do not exceed \$25,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract;

(2) An action of replevin, regardless of the value of the thing in controversy;

(3) A matter of attachment before judgment, if the sum claimed does not exceed \$25,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract;

(4) An action involving landlord and tenant, distraint, or forcible entry and detainer, regardless of the amount involved;

(5) A grantee suit brought under § 14-109 of the Real Property Article;

(6) A petition for injunction relating to the use, disposition, encumbrances, or preservation of property that is:

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(i) Claimed in a replevin action, until seizure under the writ; or
(ii) Sought to be levied upon in an action of distress, until levy and any
removal;

(7) A petition of injunction filed by:

(i) A tenant in an action under § 8-211 of the Real Property Article or a
local rent escrow law; or

(ii) A person who brings an action under § 14-120 of the Real Property
Article;

(8) A petition filed by a county or municipality, including Baltimore City, for
enforcement of local health, housing, fire, building, electric, licenses and permits, plumbing, animal
control, and zoning codes for which equitable relief is provided;

(9) Proceedings under Article 27, § 264 or § 297 of the Code for the forfeiture or
return of moneys involved in a gambling or controlled dangerous substances seizure where the
amount involved, excluding any interest and attorney's fees, if attorney's fees are recoverable by law
or contract, does not exceed \$20,000;

(10) A proceeding for adjudication of:

(i) A municipal infraction as defined in Article 23A, § 3(b)(1) of the
Code;

(ii) A Commission infraction as defined in Article 28, § 5-113 of the
Code;

(iii) A WSSC infraction as defined in Article 29, § 18-104.1 of the Code,
concerning rules and regulations governing publicly owned watershed property;

(iv) A WSSC infraction as defined in Article 29, § 18-104.2 of the Code,
concerning WSSC regulations governing;

1. Erosion and sediment control for utility construction; and
2. Plumbing, gasfitting, and sewer cleaning;

(v) A zoning violation for which a civil penalty has been provided pursuant to Article 66B, § 7.01 or Article 28, § 8-120(c) of the Code;

(vi) A violation of an ordinance enacted:

1. By a charter county for which a civil penalty is provided under Article 25A, § 5(A) of the Code; or

2. By the Mayor and City Council of Baltimore for which a civil penalty is provided by ordinance;

(vii) A citation for a Code violation issued under Article 27, § 403 of the Code;

(viii) A civil infraction relating to a violation of the Fair Election Practices Act of the election laws as provided under Article 33, § 13-604 of the Code;

(ix) A violation of an ordinance or regulation enacted by a county without home rule, under authority granted under Article 25 of the Code, or any provision of the Code of Public Local Laws for that county, for which a civil penalty is provided;

(x) A civil infraction that is authorized by law to be prosecuted by a sanitary commission; or

(xi) A subdivision violation for which a civil penalty has been provided in accordance with Article 66B, § 5.05(d) of the Code;

(11) A proceeding for adjudication of a civil penalty for any violation under § 5-1001 of the Environment Article, § 21-1122 of the Transportation Article, § 21-1414 of the

Transportation Article, or Article 41, § 2-101(c-1) of the Code or any rule or regulation issued pursuant to those sections;

(12) A proceeding to enforce a civil penalty assessed by the Maryland Division of Labor and Industry under Title 5 of the Labor and Employment Article where the amount involved does not exceed \$20,000; [and]

(13) A proceeding for a civil infraction under § 21-202.1 of the Transportation Article; AND

(14) A PROCEEDING FOR A TEMPORARY PEACE ORDER OR PEACE ORDER UNDER TITLE 3, SUBTITLE 15 OF THIS ARTICLE.

Article - Family Law

4-510.

(A) [By] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, BY proceeding under this subtitle, a petitioner, including a petitioner who acts on behalf of a child or vulnerable adult, is not limited to or precluded from pursuing any other legal remedy.

(B) AN INDIVIDUAL WHO IS ELIGIBLE TO PETITION FOR RELIEF UNDER THIS SUBTITLE MAY NOT PETITION FOR RELIEF UNDER TITLE 3, SUBTITLE 15 OF THE COURTS ARTICLE.”.