
By: **Delegate C. Davis**
Rules suspended
Introduced and read first time: March 10, 1999
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Pretrial Release - Violators of Ex Parte Orders or Protective Orders - Civil**
3 **Actions**

4 FOR the purpose of prohibiting a District Court commissioner from authorizing the
5 pretrial release of a defendant charged with violating certain provisions of an ex
6 parte order or protective order on suitable bail or on any other conditions that
7 will reasonably assure that the person will not flee or pose a danger to another
8 person or the community prior to the trial; requiring a judge to order the
9 continued detention of the defendant under certain circumstances; providing
10 that certain persons have a civil cause of action against a person making
11 frivolous or fraudulent statements under certain circumstances; and generally
12 relating to violating certain provisions of an ex parte order or protective order.

13 BY adding to
14 Article 27 - Crimes and Punishments
15 Section 616 1/2(n)
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1998 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article - Family Law
20 Section 4-505(a)(2)(i), 4-506(d)(1), and 4-508.1
21 Annotated Code of Maryland
22 (1999 Replacement Volume)

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

1

Article 27 - Crimes and Punishments

2 616 1/2.

3 (N) (1) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE
4 PRETRIAL RELEASE OF A DEFENDANT CHARGED WITH VIOLATING:

5 (I) THE PROVISIONS OF AN EX PARTE ORDER DESCRIBED IN §
6 4-505(A)(2)(I) OF THE FAMILY LAW ARTICLE OR THE PROVISIONS OF A PROTECTIVE
7 ORDER DESCRIBED IN § 4-506(D)(1) OF THE FAMILY LAW ARTICLE THAT ORDER THE
8 DEFENDANT TO REFRAIN FROM ABUSING OR THREATENING TO ABUSE A PERSON
9 ELIGIBLE FOR RELIEF; OR

10 (II) THE PROVISIONS OF A PROTECTIVE ORDER ISSUED BY A COURT
11 OF ANOTHER STATE OR OF A NATIVE AMERICAN TRIBE THAT ORDER THE
12 DEFENDANT TO REFRAIN FROM ABUSING OR THREATENING TO ABUSE A PERSON
13 ELIGIBLE FOR RELIEF, IF THE ORDER IS ENFORCEABLE UNDER § 4-508.1 OF THE
14 FAMILY LAW ARTICLE.

15 (2) (I) A JUDGE MAY ALLOW THE PRETRIAL RELEASE OF A
16 DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION PENDING TRIAL ON
17 SUITABLE BAIL, ANY OTHER CONDITIONS THAT WILL REASONABLY ASSURE THAT
18 THE DEFENDANT WILL NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OF THE
19 COMMUNITY, OR BOTH.

20 (II) AFTER A DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS
21 SUBSECTION HAS BEEN PRESENTED TO THE COURT PURSUANT TO MARYLAND RULE
22 4-216(G), THE JUDGE SHALL ORDER THE CONTINUED DETENTION OF THE
23 DEFENDANT IF THE JUDGE DETERMINES THAT NEITHER SUITABLE BAIL NOR ANY
24 CONDITION OR COMBINATION OF CONDITIONS WILL REASONABLY ASSURE THAT
25 THE DEFENDANT WILL NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OF THE
26 COMMUNITY PRIOR TO THE TRIAL.

27 (3) A PERSON DETAINED OR ARRESTED UNDER PARAGRAPH (1) OF THIS
28 SUBSECTION SHALL HAVE A CIVIL CAUSE OF ACTION AGAINST A PERSON MAKING
29 FRIVOLOUS OR FRAUDULENT STATEMENTS WHICH RESULTED IN THE ARREST,
30 INJURY, ECONOMIC HARDSHIP, OR DEFAMATION OF THE PERSON DETAINED OR
31 ARRESTED.

32

Article - Family Law

33 4-505.

34 (a) (2) The temporary ex parte order may order any or all of the following
35 relief:

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

1 4-506.

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

3 (1) order the respondent to refrain from abusing or threatening to abuse
4 any person eligible for relief;

5 4-508.1.

6 (a) A protective order issued by a court of another state or an Indian tribe
7 shall be accorded full faith and credit by a court of this State and shall be enforced
8 only to the extent that the order affords relief that is permitted under § 4-506(d) of
9 this subtitle.

10 (b) A law enforcement officer shall arrest with or without a warrant and take
11 into custody a person whom the officer has probable cause to believe is in violation of
12 a protective order that was issued by a court of another state or an Indian tribe and
13 is in effect at the time of the violation if the person seeking the assistance of the law
14 enforcement officer:

15 (1) has filed with the District Court or circuit court for the jurisdiction in
16 which the person seeks assistance a copy of the order that is authenticated in
17 accordance with an act of Congress or statute of the issuing state; or

18 (2) displays or presents to the law enforcement officer a copy of the order
19 that is authenticated in accordance with an act of Congress or statute of the issuing
20 state.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 1999.