

HOUSE BILL 606

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SB 407/99 - JPR

2000 Regular Session
0lr1778
CF 0lr1110

By: **Delegates Doory, R. Baker, Menes, Marriott, Burns, Kirk, Cole, Dobson, Grosfeld, Montague, Petzold, Harrison, Howard, Rawlings, Valderrama, Morhaim, DeCarlo, Stern, Pitkin, Bobo, Krysiak, Griffith, Frush, Zirkin, Hurson, Hecht, Hammen, Carlson, Nathan-Pulliam, Hixson, Love, Hutchins, Benson, Mandel, Healey, and V. Jones**

Introduced and read first time: February 9, 2000
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence - Protective Order - Surrender of Firearms**

3 FOR the purpose of altering a protective order for relief from abuse that orders a
4 respondent to surrender to law enforcement authorities any firearm in the
5 respondent's possession for the duration of the protective order to require the
6 immediate surrender of the firearm; requiring a court to determine whether a
7 respondent owns or possesses a firearm at each protective order hearing;
8 requiring a law enforcement officer to monitor the compliance with a certain
9 protective order under certain circumstances; requiring a law enforcement
10 officer to proceed in a certain manner under certain circumstances; requiring a
11 law enforcement officer to provide certain information to a respondent when a
12 firearm is surrendered and to provide for the safe storage of the firearm;
13 providing for the retaking of a surrendered firearm by the owner under certain
14 circumstances; providing certain penalties for certain violations; providing
15 certain immunity to a law enforcement officer under certain circumstances; and
16 generally relating to orders for protection from domestic violence.

17 BY repealing and reenacting, with amendments,
18 Article - Family Law
19 Section 4-506(d)(12), (e), (f), and (g), 4-509, and 4-511
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 1999 Supplement)

22 BY adding to
23 Article - Family Law
24 Section 4-506(e) and (h)
25 Annotated Code of Maryland
26 (1999 Replacement Volume and 1999 Supplement)

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

3 **Article - Family Law**

4 4-506.

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

6 (12) UPON A FINDING OF PROBABLE CAUSE TO BELIEVE THAT THE
7 RESPONDENT OWNS OR POSSESSES ANY FIREARMS, order the respondent to
8 IMMEDIATELY surrender to law enforcement authorities any firearm in the
9 respondent's possession for the duration of the protective order; or

10 (E) AT EACH PROTECTIVE ORDER HEARING, THE COURT SHALL DETERMINE
11 WHETHER THERE IS PROBABLE CAUSE TO BELIEVE THAT THE RESPONDENT OWNS
12 OR POSSESSES ANY FIREARMS.

13 [(e)] (F) In determining whether to order the respondent to vacate the home
14 under § 4-505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the court
15 shall consider the following factors:

16 (1) the housing needs of any minor child living in the home;

17 (2) the duration of the relationship between the respondent and any
18 person eligible for relief;

19 (3) title to the home;

20 (4) pendency and type of criminal charges against the respondent;

21 (5) the history and severity of abuse in the relationship between the
22 respondent and any person eligible for relief;

23 (6) the existence of alternative housing for the respondent and any
24 person eligible for relief; and

25 (7) the financial resources of the respondent and the person eligible for
26 relief.

27 [(f)] (G) (1) A copy of the protective order shall be served on the petitioner,
28 the respondent, any affected person eligible for relief, the appropriate law
29 enforcement agency, and any other person the court determines is appropriate, in
30 open court or, if the person is not present at the protective order hearing, by first class
31 mail to the person's last known address.

32 (2) A copy of the protective order served on the respondent in accordance
33 with paragraph (1) of this subsection constitutes actual notice to the respondent of the
34 contents of the protective order. Service is complete upon mailing.

1 (3) WHEN A LAW ENFORCEMENT OFFICER RECEIVES A COPY OF A
2 PROTECTIVE ORDER FOR RELIEF ORDERING THE RELIEF UNDER SUBSECTION (D)(12)
3 OF THIS SECTION, THE LAW ENFORCEMENT OFFICER SHALL MONITOR THE
4 RESPONDENT'S COMPLIANCE WITH THE PROTECTIVE ORDER.

5 (4) IF A RESPONDENT VIOLATES A PROTECTIVE ORDER TO
6 IMMEDIATELY SURRENDER ANY FIREARM IN THE RESPONDENT'S POSSESSION
7 UNDER SUBSECTION (D)(12) OF THIS SECTION, THE LAW ENFORCEMENT OFFICER
8 SHALL PROCEED UNDER § 4-509(B) OF THIS SUBTITLE.

9 (H) (1) IF A FIREARM IS SURRENDERED BY A RESPONDENT UNDER THIS
10 SECTION, THE LAW ENFORCEMENT OFFICER SHALL:

11 (I) PROVIDE TO THE OWNER OF THE FIREARM INFORMATION ON
12 THE PROCESS OF RETAKING POSSESSION OF THE FIREARM; AND

13 (II) PROVIDE FOR THE SAFE STORAGE OF THE FIREARM DURING
14 THE PENDENCY OF ANY PROCEEDING RELATED TO THE ALLEGED DOMESTIC
15 VIOLENCE.

16 (2) THE OWNER OF THE FIREARM MAY RETAKE POSSESSION OF THE
17 FIREARM AT THE TERMINATION OF THE PROTECTIVE ORDER UNLESS THE OWNER IS
18 NOT OTHERWISE LEGALLY ENTITLED TO OWN OR POSSESS A FIREARM.

19 [(g)] (I) (1) Except as provided in paragraph (2) of this subsection, all relief
20 granted in a protective order shall be effective for the period stated in the order, not to
21 exceed 12 months.

22 (2) A subsequent circuit court order pertaining to any of the provisions
23 included in the protective order shall supersede those provisions in the protective
24 order.

25 4-509.

26 (a) A person who fails to comply with the relief granted in an ex parte order
27 under § 4-505(a)(2)(i), (ii), (iii), (iv), or (v) of this subtitle or in a protective order under
28 § 4-506(d)(1), (2), (3), (4), [or] (5), OR (12) of this subtitle is guilty of a misdemeanor
29 and on conviction is subject, for each offense, to:

30 (1) for a first offense, a fine not exceeding \$1,000 or imprisonment not
31 exceeding 90 days or both; and

32 (2) for a second or subsequent offense, a fine not exceeding \$2,500 or
33 imprisonment not exceeding 1 year or both.

34 (b) An officer shall arrest with or without a warrant and take into custody a
35 person whom the officer has probable cause to believe is in violation of an ex parte
36 order or protective order in effect at the time of the violation.

1 4-511.

2 (a) When responding to the scene of an alleged act of domestic violence, as
3 described in this subtitle, a law enforcement officer may remove a firearm from the
4 scene if:

5 (1) the law enforcement officer has probable cause to believe that an act
6 of domestic violence has occurred; and

7 (2) the law enforcement officer has observed the firearm on the scene
8 during the response.

9 (b) If a firearm is removed from the scene under subsection (a) of this section,
10 OR IS SURRENDERED UNDER § 4-506 OF THIS SUBTITLE, the law enforcement officer
11 shall:

12 (1) provide to the owner of the firearm information on the process for
13 retaking possession of the firearm; and

14 (2) provide for the safe storage of the firearm during the pendency of any
15 proceeding related to the alleged act of domestic violence.

16 (c) At the conclusion of a proceeding on the alleged act of domestic violence,
17 the owner of the firearm may retake possession of the firearm unless ordered to
18 surrender the firearm under § 4-506 of this subtitle.

19 (D) IF A FIREARM IS SURRENDERED UNDER § 4-506 OF THIS SUBTITLE, THE
20 LAW ENFORCEMENT OFFICER SHALL BE IMMUNE FROM CIVIL LIABILITY IN
21 COMPLYING WITH THE COURT ORDER IF THE LAW ENFORCEMENT OFFICER ACTED
22 IN GOOD FAITH AND IN A REASONABLE MANNER.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2000.