

HOUSE BILL 254

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2001 Regular Session
11r0225
CF 11r1814

By: **Delegates Grosfeld, R. Baker, Barkley, Benson, Billings, Bobo, Boschert, Bronrott, Cadden, Cole, Cryor, D'Amato, Doory, Eckardt, Franchot, Frush, Giannetti, Gladden, Goldwater, Griffith, Healey, Hecht, Hixson, Howard, Hurson, Hutchins, Kagan, Kopp, Love, Mandel, Marriott, Menes, Moe, Morhaim, Pendergrass, Petzold, Phillips, Shriver, Stern, Turner, and Zirkin**

Introduced and read first time: January 24, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence - Out-of-State Orders for Protection - Enforcement**

3 FOR the purpose of specifying procedures for the enforcement of out-of-state orders
4 for protection; prohibiting a District Court commissioner from authorizing the
5 pretrial release of a defendant charged with violating certain provisions of an
6 out-of-state order for protection; defining a certain term; altering a certain
7 definition; providing certain immunity to a law enforcement officer under
8 certain circumstances; making certain clarifying and conforming changes; and
9 generally relating to domestic violence.

10 BY repealing and reenacting, with amendments,
11 Article 88B - Department of State Police
12 Section 7A(a)
13 Annotated Code of Maryland
14 (1998 Replacement Volume and 2000 Supplement)

15 BY adding to
16 Article - Courts and Judicial Proceedings
17 Section 5-610.1
18 Annotated Code of Maryland
19 (1998 Replacement Volume and 2000 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Criminal Procedure
22 Section 5-202(e)(1)
23 Annotated Code of Maryland
24 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2001)

1 BY repealing and reenacting, with amendments,
2 Article - Family Law
3 Section 4-508.1
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 2000 Supplement)

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

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

9 7A.

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

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

13 (i) An arrest warrant;

14 (ii) A bench warrant;

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

16 (iv) A warrant for failure to appear.

17 (3) "Civil protective order" means:

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

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

22 (iii) [A protective order] AN ORDER FOR PROTECTION, AS DEFINED
23 IN § 4-508.1 OF THE FAMILY LAW ARTICLE, issued by a court of another state or [an
24 Indian] A NATIVE AMERICAN tribe that has been filed with the District Court or a
25 circuit court under § 4-508.1 of the Family Law Article.

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

28 **Article - Courts and Judicial Proceedings**

29 5-610.1.

30 A LAW ENFORCEMENT OFFICER ENFORCING AN OUT-OF-STATE ORDER FOR
31 PROTECTION FROM DOMESTIC VIOLENCE IN ACCORDANCE WITH § 4-508.1 OF THE
32 FAMILY LAW ARTICLE SHALL BE IMMUNE FROM CIVIL LIABILITY IF THE LAW
33 ENFORCEMENT OFFICER ACTS IN GOOD FAITH AND IN A REASONABLE MANNER.

Article - Criminal Procedure

5-202.

(e) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with violating:

(i) the provisions of an ex parte order described in § 4-505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in § 4-506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief; or

(ii) the provisions of [a protective order] AN ORDER FOR PROTECTION, AS DEFINED IN § 4-508.1 OF THE FAMILY LAW ARTICLE, issued by a court of another state or of a Native American tribe that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief, if the order is enforceable under § 4-508.1 of the Family Law Article.

Article - Family Law

4-508.1.

(A) (1) IN THIS SECTION, "ORDER FOR PROTECTION" MEANS A TEMPORARY OR FINAL ORDER OR INJUNCTION THAT:

(I) IS ISSUED FOR THE PURPOSE OF PREVENTING VIOLENT OR THREATENING ACTS OR HARASSMENT AGAINST, CONTACT OR COMMUNICATION WITH, OR PHYSICAL PROXIMITY TO ANOTHER PERSON;

(II) IS ISSUED BY A CIVIL COURT IN RESPONSE TO A COMPLAINT, PETITION, OR MOTION FILED BY OR ON BEHALF OF A PERSON SEEKING PROTECTION OR BY A CRIMINAL COURT; AND

(III) IS OBTAINED BY FILING AN INDEPENDENT ACTION OR AS A PENDENTE LITE ORDER IN ANOTHER PROCEEDING.

(2) "ORDER FOR PROTECTION" DOES NOT INCLUDE A SUPPORT OR CHILD CUSTODY ORDER.

[(a)] (B) [A protective order] AN ORDER FOR PROTECTION issued by a court of another state or [an Indian] A NATIVE AMERICAN tribe shall be accorded full faith and credit by a court of this State and shall be enforced:

(1) IN THE CASE OF AN EX PARTE ORDER FOR PROTECTION, ONLY TO THE EXTENT THAT THE ORDER AFFORDS RELIEF THAT IS PERMITTED UNDER § 4-505 (A) OF THIS SUBTITLE; AND

(2) IN THE CASE OF AN ORDER FOR PROTECTION, OTHER THAN AN EX PARTE ORDER FOR PROTECTION, only to the extent that the order affords relief that is permitted under § 4-506(d) of this subtitle.

1 [(b)] (C) A law enforcement officer shall arrest with or without a warrant and
2 take into custody a person whom the officer has probable cause to believe is in
3 violation of [a protective order] AN ORDER FOR PROTECTION that was issued by a
4 court of another state or [an Indian] A NATIVE AMERICAN tribe and is in effect at the
5 time of the violation if the person seeking the assistance of the law enforcement
6 officer:

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

10 (2) displays or presents to the law enforcement officer a copy of the order
11 that [is authenticated in accordance with an act of Congress or statute of the issuing
12 state]APPEARS VALID ON ITS FACE.

13 (D) A LAW ENFORCEMENT OFFICER ACTING IN ACCORDANCE WITH THIS
14 SECTION SHALL BE IMMUNE FROM CIVIL LIABILITY IF THE LAW ENFORCEMENT
15 OFFICER ACTS IN GOOD FAITH AND IN A REASONABLE MANNER.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2001.