

HOUSE BILL 990

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HB 595/00 - JUD

2001 Regular Session
11r0529

By: **Delegates Doory, Kopp, Bobo, Cryor, V. Jones, Marriott, Frush, R. Baker, Menes, Rosso, Finifter, Morhaim, Burns, Healey, McIntosh, Pendergrass, Barkley, Dobson, Harrison, Hecht, Kagan, Rawlings, Love, Hutchins, Griffith, Pitkin, Goldwater, Shriver, Montague, Grosfeld, Hubbard, Rosenberg, Howard, Petzold, Clagett, Zirkin, Valderrama, and Stern**

Introduced and read first time: February 9, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence - Temporary Ex Parte Order - Additional Relief**

3 FOR the purpose of authorizing a court in an ex parte proceeding for relief from abuse
4 to order the respondent to surrender certain firearms and to refrain from
5 possessing certain firearms under certain circumstances; requiring a law
6 enforcement officer to provide certain information to a respondent when a
7 firearm is surrendered and to provide for the safe storage of the firearm;
8 providing for the retaking of surrendered firearms by the respondent under
9 certain circumstances; establishing certain penalties for certain violations;
10 providing certain immunity to a law enforcement officer under certain
11 circumstances; and generally relating to temporary ex parte orders for
12 protection from domestic violence.

13 BY repealing and reenacting, with amendments,
14 Article - Family Law
15 Section 4-505(a), 4-509, and 4-511
16 Annotated Code of Maryland
17 (1999 Replacement Volume and 2000 Supplement)

18 BY adding to
19 Article - Family Law
20 Section 4-505(d) and (e)
21 Annotated Code of Maryland
22 (1999 Replacement Volume and 2000 Supplement)

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

1

Article - Family Law

2 4-505.

3 (a) (1) If a petition is filed under this subtitle and the court finds that there
4 are reasonable grounds to believe that a person eligible for relief has been abused, the
5 court, in an ex parte proceeding, may enter a temporary order to protect any person
6 eligible for relief from abuse.

7 (2) The temporary ex parte order may order any or all of the following
8 relief:

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

11 (ii) order the respondent to refrain from contacting, attempting to
12 contact, or harassing any person eligible for relief;

13 (iii) order the respondent to refrain from entering the residence of a
14 person eligible for relief;

15 (iv) where the person eligible for relief and the respondent are
16 residing together at the time of the alleged abuse, order the respondent to vacate the
17 home immediately and award temporary use and possession of the home to the person
18 eligible for relief or in the case of alleged abuse of a child or alleged abuse of a
19 vulnerable adult, award temporary use and possession of the home to an adult living
20 in the home, provided that the court may not grant an order to vacate and award
21 temporary use and possession of the home to a nonspouse person eligible for relief
22 unless the name of the person eligible for relief appears on the lease or deed to the
23 home or the person eligible for relief has resided in the home with the respondent for
24 a period of at least 90 days within 1 year before the filing of the petition;

25 (V) IF THE COURT MAKES A FINDING ON THE RECORD THAT THERE
26 ARE REASONABLE GROUNDS TO BELIEVE THAT A PARTICULAR FIREARM OR
27 PARTICULAR FIREARMS IN THE POSSESSION OF THE RESPONDENT MAY HAVE BEEN
28 USED OR ARE LIKELY TO BE USED IN AN INCIDENT OF ABUSE AGAINST A PERSON
29 ELIGIBLE FOR RELIEF:

30 1. ORDER THE RESPONDENT TO SURRENDER TO LAW
31 ENFORCEMENT AUTHORITIES THE PARTICULAR FIREARM OR PARTICULAR
32 FIREARMS; AND

33 2. ORDER THE RESPONDENT TO REFRAIN FROM
34 POSSESSING ANY FIREARMS FOR THE DURATION OF THE EX PARTE ORDER;

35 [(v)] (VI) order the respondent to remain away from the place of
36 employment, school, or temporary residence of a person eligible for relief or home of
37 other family members;

1 [(vi)] (VII) order the respondent to remain away from a child care
2 provider of a person eligible for relief while a child of the person is in the care of the
3 child care provider; and

4 [(vii)] (VIII) award temporary custody of a minor child of the person
5 eligible for relief and the respondent.

6 (D) (1) IF A RESPONDENT SURRENDERS A FIREARM UNDER THIS SECTION,
7 THE LAW ENFORCEMENT OFFICER SHALL:

8 (I) PROVIDE TO THE RESPONDENT INFORMATION ON THE
9 PROCESS FOR RETAKING POSSESSION OF THE FIREARM; AND

10 (II) PROVIDE FOR THE SAFE STORAGE OF THE FIREARM DURING
11 THE TIME THE EX PARTE ORDER IS IN EFFECT.

12 (2) THE RESPONDENT MAY RETAKE POSSESSION OF THE FIREARM AT
13 THE EXPIRATION OF THE EX PARTE ORDER UNLESS:

14 (I) THE RESPONDENT IS ORDERED TO SURRENDER THE FIREARM
15 IN A PROTECTIVE ORDER ISSUED UNDER § 4-506 OF THIS SUBTITLE; OR

16 (II) THE RESPONDENT IS NOT OTHERWISE LEGALLY ENTITLED TO
17 OWN OR POSSESS THE FIREARM.

18 (E) IF A FIREARM IS SURRENDERED UNDER THIS SECTION, A LAW
19 ENFORCEMENT OFFICER SHALL BE IMMUNE FROM CIVIL LIABILITY IN COMPLYING
20 WITH THIS SECTION IF THE LAW ENFORCEMENT OFFICER ACTED IN GOOD FAITH
21 AND IN A REASONABLE MANNER.

22 4-509.

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

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

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

31 (b) An officer shall arrest with or without a warrant and take into custody a
32 person whom the officer has probable cause to believe is in violation of an ex parte
33 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 the law enforcement officer shall:

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

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

15 (c) At the conclusion of a proceeding on the alleged act of domestic violence,
16 the owner of the firearm may retake possession of the firearm unless ordered to
17 surrender the firearm under § 4-506 of this subtitle OR THE OWNER IS NOT
18 OTHERWISE LEGALLY ENTITLED TO OWN OR POSSESS A FIREARM.

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