
By: **Delegate Giannetti**
Introduced and read first time: February 15, 2001
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Courts - Peace Orders for Acts Committed Against Employees**

3 FOR the purpose of authorizing an employer to file a petition for a peace order for any
4 of certain acts committed against the employer's employee; authorizing a court
5 to issue a peace order or a temporary peace order to protect a petitioner's
6 employee under certain circumstances; defining certain terms; and generally
7 relating to peace orders and temporary peace orders for acts committed against
8 employees.

9 BY repealing and reenacting, with amendments,
10 Article - Courts and Judicial Proceedings
11 Section 3-1501 through 3-1505
12 Annotated Code of Maryland
13 (1998 Replacement Volume and 2000 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article - Courts and Judicial Proceedings
16 Section 3-1506 through 3-1509
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 2000 Supplement)

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

21 **Article - Courts and Judicial Proceedings**

22 3-1501.

23 (a) In this subtitle the following words have the meanings indicated.

24 (b) "Court" means the District Court of Maryland.

25 (c) "EMPLOYEE" MEANS:

26 (1) AN INDIVIDUAL WHO IS EMPLOYED BY AN EMPLOYER; OR

1 (2) A VOLUNTEER OR INDEPENDENT CONTRACTOR WHO PERFORMS
2 SERVICES FOR AN EMPLOYER AT THE EMPLOYER'S WORKSITE.

3 (D) (1) "EMPLOYER" MEANS A PERSON ENGAGED IN A BUSINESS, INDUSTRY,
4 PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE STATE.

5 (2) "EMPLOYER" INCLUDES A PERSON WHO ACTS DIRECTLY OR
6 INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

7 (E) "Petitioner" means an individual who files a petition under § 3-1503 of
8 this subtitle.

9 [(d)](F) "Residence" includes the yard, grounds, outbuildings, and common
10 areas surrounding the residence.

11 [(e)](G) "Respondent" means an individual alleged in a petition to have
12 committed an act specified in § 3-1503(a) of this subtitle against a petitioner.

13 3-1502.

14 (a) By proceeding under this subtitle, a petitioner is not limited to or
15 precluded from pursuing any other legal remedy.

16 (b) This subtitle does not apply to:

17 (1) A petitioner OR A PETITIONER'S EMPLOYEE who is a person eligible
18 for relief, as defined in § 4-501 of the Family Law Article; or

19 (2) A respondent who is a child at the time of the alleged commission of
20 an act specified in § 3-1503(a) of this subtitle.

21 3-1503.

22 (a) A petitioner may seek relief under this subtitle by filing with the court a
23 petition that alleges the commission of any of the following acts against the petitioner
24 OR THE PETITIONER'S EMPLOYEE by the respondent, if the act occurred within 30
25 days before the filing of the petition:

26 (1) An act that causes serious bodily harm;

27 (2) An act that places the petitioner OR THE PETITIONER'S EMPLOYEE in
28 fear of imminent serious bodily harm;

29 (3) Assault in any degree;

30 (4) Rape or sexual offense, as defined by Article 27, §§ 462 through 464C
31 of the Code or attempted rape or sexual offense in any degree;

32 (5) False imprisonment;

33 (6) Harassment, as described in Article 27, § 123 of the Code;

- 1 (7) Stalking, as described in Article 27, § 124 of the Code;
- 2 (8) Trespass, as described in the trespass subheading of Article 27 of the
3 Code; or
- 4 (9) Malicious destruction of property, as described in Article 27, § 111 of
5 the Code.

6 (b) (1) The petition shall:

7 (i) Be under oath and provide notice to the petitioner that an
8 individual who knowingly provides false information in the petition is guilty of a
9 misdemeanor and on conviction is subject to the penalties specified in subsection (d)
10 of this section;

11 (ii) Subject to the provisions of subsection (c) of this section, contain
12 the address of the petitioner; and

13 (iii) Include all information known to the petitioner of:

14 1. The nature and extent of the act specified in subsection (a)
15 of this section for which the relief is being sought, including information known to the
16 petitioner concerning previous harm or injury resulting from an act specified in
17 subsection (a) of this section by the respondent;

18 2. Each previous and pending action between the parties in
19 any court; and

20 3. The whereabouts of the respondent.

21 (c) In a proceeding under § 3-1504 or § 3-1505 of this subtitle, if the
22 petitioner alleges, and the court finds, that the disclosure of the address of the
23 petitioner would risk further harm to the petitioner, that address may be stricken
24 from the petition and omitted from all other documents filed with the court.

25 (d) An individual who knowingly provides false information in a petition filed
26 under this section is guilty of a misdemeanor and on conviction is subject to a fine not
27 exceeding \$1,000 or imprisonment not exceeding 90 days or both.

28 (E) THIS SECTION DOES NOT ALTER THE DUTY OF AN EMPLOYER TO PROVIDE
29 A SAFE WORKPLACE FOR EMPLOYEES AND OTHER PERSONS.

30 (F) AN EMPLOYER THAT ACTS IN ACCORDANCE WITH THE PROVISIONS OF
31 THIS SUBTITLE SHALL BE PRESUMED TO BE ACTING IN GOOD FAITH AND, UNLESS
32 LACK OF GOOD FAITH IS SHOWN BY CLEAR AND CONVINCING EVIDENCE, IS IMMUNE
33 FROM CIVIL LIABILITY.

34 (G) (1) THE FAILURE OF AN EMPLOYER TO ACT IN ACCORDANCE WITH THE
35 PROVISIONS OF THIS SUBTITLE IS NOT NEGLIGENCE.

1 (2) EVIDENCE THAT AN EMPLOYER DID NOT ACT IN ACCORDANCE WITH
2 THE PROVISIONS OF THIS SUBTITLE MAY NOT BE ADMISSIBLE AS EVIDENCE OF
3 NEGLIGENCE.

4 3-1504.

5 (a) (1) If a petition is filed under § 3-1503 of this subtitle and the court finds
6 that there are reasonable grounds to believe that the respondent has committed, and
7 is likely to commit in the future, an act specified in § 3-1503(a) of this subtitle against
8 the petitioner OR THE PETITIONER'S EMPLOYEE, the court, in an ex parte proceeding,
9 may issue a temporary peace order to protect the petitioner OR THE PETITIONER'S
10 EMPLOYEE.

11 (2) The temporary peace order may include any or all of the following
12 relief:

13 (i) Order the respondent to refrain from committing or threatening
14 to commit an act specified in § 3-1503(a) of this subtitle against the petitioner OR THE
15 PETITIONER'S EMPLOYEE;

16 (ii) Order the respondent to refrain from contacting, attempting to
17 contact, or harassing the petitioner OR THE PETITIONER'S EMPLOYEE;

18 (iii) Order the respondent to refrain from entering the residence of
19 the petitioner OR THE PETITIONER'S EMPLOYEE; and

20 (iv) Order the respondent to remain away from the place of
21 employment, school, or temporary residence of the petitioner OR THE PETITIONER'S
22 EMPLOYEE.

23 (3) If the court issues an order under this section, the order shall contain
24 only the relief that is minimally necessary to protect the petitioner OR THE
25 PETITIONER'S EMPLOYEE.

26 (b) A law enforcement officer immediately shall serve the temporary peace
27 order on the respondent.

28 (c) (1) The temporary peace order shall be effective for not more than 7 days
29 after service of the order.

30 (2) The court may extend the temporary peace order as needed, but not
31 to exceed 30 days, to effectuate service of the order where necessary to provide
32 protection or for other good cause.

33 3-1505.

34 (a) A respondent shall have an opportunity to be heard on the question of
35 whether the court should issue a peace order.

1 (b) (1) (i) The temporary peace order shall state the date and time of the
2 peace order hearing.

3 (ii) Unless continued for good cause, the peace order hearing shall
4 be held no later than 7 days after the temporary peace order is served on the
5 respondent.

6 (2) The temporary peace order shall include notice to the respondent:

7 (i) In at least 10-point bold type, that if the respondent fails to
8 appear at the peace order hearing, the respondent may be served by first-class mail
9 at the respondent's last known address with the peace order and all other notices
10 concerning the peace order;

11 (ii) Specifying all the possible forms of relief under subsection (d) of
12 this section that the peace order may contain;

13 (iii) That the peace order shall be effective for the period stated in
14 the order, not to exceed 6 months; and

15 (iv) In at least 10-point bold type, that the respondent must notify
16 the court in writing of any change of address.

17 (c) (1) If the respondent appears for the peace order hearing, has been
18 served with the temporary peace order, or the court otherwise has personal
19 jurisdiction over the respondent, the court:

20 (i) May proceed with the peace order hearing; and

21 (ii) If the court finds by clear and convincing evidence that the
22 respondent has committed, and is likely to commit in the future, an act specified in §
23 3-1503(a) of this subtitle against the petitioner, or if the respondent consents to the
24 entry of a peace order, the court may issue a peace order to protect the petitioner OR
25 THE PETITIONER'S EMPLOYEE.

26 (2) A peace order may be issued only to an individual who has filed a
27 petition under § 3-1503 of this subtitle.

28 (3) In cases where both parties file a petition under § 3-1503 of this
29 subtitle, the court may issue mutual peace orders if the court finds by clear and
30 convincing evidence that each party has committed, and is likely to commit in the
31 future, an act specified in § 3-1503(a) of this subtitle against the other party.

32 (d) (1) The peace order may include any or all of the following relief:

33 (i) Order the respondent to refrain from committing or threatening
34 to commit an act specified in § 3-1503(a) of this subtitle against the petitioner OR THE
35 PETITIONER'S EMPLOYEE;

1 (ii) Order the respondent to refrain from contacting, attempting to
2 contact, or harassing the petitioner OR THE PETITIONER'S EMPLOYEE;

3 (iii) Order the respondent to refrain from entering the residence of
4 the petitioner OR THE PETITIONER'S EMPLOYEE;

5 (iv) Order the respondent to remain away from the place of
6 employment, school, or temporary residence of the petitioner OR THE PETITIONER'S
7 EMPLOYEE;

8 (v) Direct the respondent, [or] petitioner, OR PETITIONER'S
9 EMPLOYEE to participate in professionally supervised counseling or, if the parties are
10 amenable, mediation; and

11 (vi) Order either party to pay filing fees and costs of a proceeding
12 under this subtitle.

13 (2) If the court issues an order under this section, the order shall contain
14 only the relief that is minimally necessary to protect the petitioner OR THE
15 PETITIONER'S EMPLOYEE.

16 (e) (1) A copy of the peace order shall be served on the petitioner, the
17 respondent, the appropriate law enforcement agency, and any other person the court
18 determines is appropriate, in open court or, if the person is not present at the peace
19 order hearing, by first-class mail to the person's last known address.

20 (2) (i) A copy of the peace order served on the respondent in
21 accordance with paragraph (1) of this subsection constitutes actual notice to the
22 respondent of the contents of the peace order.

23 (ii) Service is complete upon mailing.

24 (f) All relief granted in a peace order shall be effective for the period stated in
25 the order, not to exceed 6 months.

26 3-1506.

27 (a) The court that issued the peace order may modify or rescind the peace
28 order during the term of the peace order after:

29 (1) Giving notice to the petitioner and the respondent; and

30 (2) A hearing.

31 (b) (1) If the District Court grants or denies relief under a petition filed
32 under this subtitle, a respondent or a petitioner may appeal to the circuit court for the
33 county where the District Court is located.

34 (2) An appeal taken under this subsection to the circuit court shall be
35 heard de novo in the circuit court.

1 (3) (i) If an appeal is filed under this subsection, the District Court
2 judgment shall remain in effect until superseded by a judgment of the circuit court.

3 (ii) Unless the circuit court orders otherwise, modification or
4 enforcement of the District Court order shall be by the District Court.

5 3-1507.

6 The temporary peace order and peace order issued under this subtitle shall state
7 that a violation of the order may result in:

8 (1) A finding of contempt;

9 (2) Criminal prosecution; and

10 (3) Imprisonment or fine or both.

11 3-1508.

12 (a) An individual who fails to comply with the relief granted in a temporary
13 peace order under § 3-1504(a)(2) of this subtitle or in a peace order under §
14 3-1505(d)(1)(i), (ii), (iii), or (iv) of this subtitle is guilty of a misdemeanor and on
15 conviction is subject, for each offense, to a fine not exceeding \$1,000 or imprisonment
16 not exceeding 90 days or both.

17 (b) A law enforcement officer shall arrest with or without a warrant and take
18 into custody an individual whom the officer has probable cause to believe is in
19 violation of a temporary peace order or peace order in effect at the time of the
20 violation.

21 3-1509.

22 (a) The Court of Appeals may adopt rules and forms to implement the
23 provisions of this subtitle.

24 (b) (1) The Court of Appeals shall adopt a form for a petition under this
25 subtitle.

26 (2) A petition form shall contain notice to a petitioner that an individual
27 who knowingly provides false information in a petition filed under this subtitle is
28 guilty of a misdemeanor and on conviction is subject to the penalties specified in §
29 3-1503(d) of this subtitle.

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