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By: **Delegate Doory**  
Introduced and read first time: January 28, 2002  
Assigned to: Judiciary

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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 2001 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 2001 Supplement)

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

25 **Article - Family Law**

26 4-505.

27 (a) (1) If a petition is filed under this subtitle and the court finds that there  
28 are reasonable grounds to believe that a person eligible for relief has been abused, the

1 court, in an ex parte proceeding, may enter a temporary order to protect any person  
2 eligible for relief from abuse.

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

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

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

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

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

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

26 1. ORDER THE RESPONDENT TO SURRENDER TO LAW  
27 ENFORCEMENT AUTHORITIES THE PARTICULAR FIREARM OR PARTICULAR  
28 FIREARMS; AND

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

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

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

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

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

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

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

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

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

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

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

17 4-509.

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

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

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

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

29 4-511.

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

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

35 (2) the law enforcement officer has observed the firearm on the scene  
36 during the response.

1 (b) If a firearm is removed from the scene under subsection (a) of this section,  
2 the law enforcement officer shall:

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

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

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

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2002.