

HOUSE BILL 663

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HB 763/01 - JUD

2002 Regular Session
2lr0990
CF 2lr0991

By: **Chairman, Judiciary Committee (Maryland Judicial Conference) and
Delegates Taylor, McIntosh, Arnick, Busch, Conway, Dewberry, Doory,
Harrison, Hixson, Hurson, Kopp, Menes, Montague, Owings, Rawlings,
Rosenberg, Wood, and Howard**

Introduced and read first time: February 4, 2002
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Interim Domestic Violence Orders and Interim Peace Orders - Issuance by**
3 **District Court Commissioners**

4 FOR the purpose of implementing the Constitutional amendment expanding the
5 authority of District Court commissioners to include the issuance of interim
6 orders for protection pending hearings on domestic violence and peace order
7 petitions; defining the scope of the authority of District Court commissioners to
8 issue interim orders; authorizing a petitioner for a domestic violence order or
9 peace order to file a petition with a District Court commissioner under certain
10 circumstances; establishing that a petitioner for a domestic violence order may
11 not be required to pay a filing fee or costs for the issuance or service of an
12 interim order issued by a District Court commissioner; specifying the types of
13 relief that may be granted in an interim domestic violence order or interim
14 peace order; requiring interim orders to contain certain statements; requiring a
15 temporary order hearing to be held within a certain time period after issuance of
16 an interim order except under certain circumstances; providing for the service
17 and return of service of interim orders; providing for the transfer of case files
18 from District Court commissioners to courts; requiring a law enforcement officer
19 to take certain actions on receipt of a petition and interim order; establishing
20 that an interim order is effective for a certain period of time; establishing that a
21 decision of a District Court commissioner to grant or deny interim relief is not
22 binding on and does not affect any power or duty of a judge; eliminating the
23 requirement that a hearing on a petition for a temporary domestic violence
24 order or a temporary peace order be ex parte; authorizing a court to proceed with
25 a protective order hearing or peace order hearing under certain circumstances;
26 authorizing the court to wave a certain hearing under certain circumstances;
27 making a violation of an interim domestic violence order or interim peace order
28 a crime subject to certain penalties; requiring a law enforcement officer to arrest
29 with or without a warrant an individual who violates an interim domestic
30 violence order or interim peace order under certain circumstances; clarifying
31 language; making certain conforming changes; making this Act subject to a
32 certain contingency; defining certain terms; and generally relating to interim

1 domestic violence orders and interim peace orders.

2 BY renumbering

3 Article - Courts and Judicial Proceedings

4 Section 2-607(d) and 3-1501(b), (c), (d), and (e), respectively

5 to be Section 2-607(c)(5) and 3-1501(c), (f), (g), and (h), respectively

6 Annotated Code of Maryland

7 (1998 Replacement Volume and 2001 Supplement)

8 BY renumbering

9 Article - Family Law

10 Section 4-501(e), (f), (g), (h), (i), (j), (k), (l), (m), and (n), respectively

11 to be Section 4-501(f), (g), (i), (k), (l), (m), (n), (o), (q), and (r), respectively

12 Annotated Code of Maryland

13 (1999 Replacement Volume and 2001 Supplement)

14 BY adding to

15 Article - Courts and Judicial Proceedings

16 Section 2-607(d), 3-1501(b), (d), (e), and (i), and 3-1503.1

17 Annotated Code of Maryland

18 (1998 Replacement Volume and 2001 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article - Courts and Judicial Proceedings

21 Section 3-1503(a) and (c), 3-1504, 3-1505, 3-1506, 3-1507, and 3-1508

22 Annotated Code of Maryland

23 (1998 Replacement Volume and 2001 Supplement)

24 BY adding to

25 Article - Family Law

26 Section 4-501(e), (h), (j), and (p), and 4-504.1

27 Annotated Code of Maryland

28 (1999 Replacement Volume and 2001 Supplement)

29 BY repealing and reenacting, with amendments,

30 Article - Family Law

31 Section 4-503(a)(2)(iii), 4-504, 4-505, 4-506, 4-507, 4-508, and 4-509

32 Annotated Code of Maryland

33 (1999 Replacement Volume and 2001 Supplement)

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

35 MARYLAND, That Section(s) 2-607(d) and 3-1501(b), (c), (d), and (e), respectively, of

36 Article - Courts and Judicial Proceedings of the Annotated Code of Maryland be

37 renumbered to be Section(s) 2-607(c)(5) and 3-1501(c), (f), (g), and (h), respectively.

1 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 4-501(e), (f),
2 (g), (h), (i), (j), (k), (l), (m), and (n), respectively, of Article - Family Law of the
3 Annotated Code of Maryland be renumbered to be Section(s) 4-501(f), (g), (i), (k), (l),
4 (m), (n), (o), (q), and (r), respectively.

5 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
6 read as follows:

7 **Article - Courts and Judicial Proceedings**

8 2-607.

9 (D) (1) THE AUTHORITY UNDER THIS SUBSECTION APPLIES ONLY TO A
10 RESPONDENT WHO IS AN ADULT.

11 (2) A COMMISSIONER MAY ISSUE AN INTERIM ORDER FOR PROTECTION
12 OF A PERSON ELIGIBLE FOR RELIEF IN ACCORDANCE WITH § 4-504.1 OF THE FAMILY
13 LAW ARTICLE OR A PETITIONER IN ACCORDANCE WITH § 3-1503.1 OF THIS ARTICLE.

14 3-1501.

15 (B) "COMMISSIONER" MEANS A DISTRICT COURT COMMISSIONER APPOINTED
16 IN ACCORDANCE WITH ARTICLE IV, § 41G OF THE MARYLAND CONSTITUTION.

17 (D) "FINAL PEACE ORDER" MEANS A PEACE ORDER ISSUED BY A JUDGE
18 UNDER § 3-1505 OF THIS SUBTITLE.

19 (E) "INTERIM PEACE ORDER" MEANS AN ORDER THAT A COMMISSIONER
20 ISSUES UNDER THIS SUBTITLE PENDING A HEARING BY A JUDGE ON A PETITION.

21 (I) "TEMPORARY PEACE ORDER" MEANS A PEACE ORDER ISSUED BY A JUDGE
22 UNDER § 3-1504 OF THIS SUBTITLE.

23 3-1503.

24 (a) A petitioner may seek relief under this subtitle by filing with the court, OR
25 WITH A COMMISSIONER UNDER THE CIRCUMSTANCES SPECIFIED IN § 3-1503.1(A) OF
26 THIS SUBTITLE, a petition that alleges the commission of any of the following acts
27 against the petitioner by the respondent, if the act occurred within 30 days before the
28 filing of the petition:

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

30 (2) An act that places the petitioner in fear of imminent serious bodily
31 harm;

32 (3) Assault in any degree;

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

- 1 (5) False imprisonment;
- 2 (6) Harassment, as described in Article 27, § 123 of the Code;
- 3 (7) Stalking, as described in Article 27, § 124 of the Code;
- 4 (8) Trespass, as described in the trespass subheading of Article 27 of the
5 Code; or
- 6 (9) Malicious destruction of property, as described in Article 27, § 111 of
7 the Code.

8 (c) [In] IF, IN a proceeding under [§ 3-1504 or § 3-1505 of] this subtitle, [if
9 the] A petitioner alleges, and the [court] COMMISSIONER OR JUDGE finds, that the
10 disclosure of the address of the petitioner would risk further harm to the petitioner,
11 that address may be stricken from the petition and omitted from all other documents
12 filed with the COMMISSIONER OR FILED WITH, OR TRANSFERRED TO, A court.

13 3-1503.1.

14 (A) A PETITION UNDER THIS SUBTITLE MAY BE FILED WITH A COMMISSIONER
15 WHEN THE OFFICE OF THE DISTRICT COURT CLERK IS NOT OPEN FOR BUSINESS.

16 (B) IF A PETITION IS FILED WITH A COMMISSIONER AND THE COMMISSIONER
17 FINDS THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE
18 RESPONDENT HAS COMMITTED, AND IS LIKELY TO COMMIT IN THE FUTURE, AN ACT
19 SPECIFIED IN § 3-1503(A) OF THIS SUBTITLE AGAINST THE PETITIONER, THE
20 COMMISSIONER MAY ISSUE AN INTERIM PEACE ORDER TO PROTECT THE
21 PETITIONER.

22 (C) AN INTERIM PEACE ORDER:

23 (1) SHALL CONTAIN ONLY THE RELIEF THAT IS MINIMALLY NECESSARY
24 TO PROTECT THE PETITIONER; AND

25 (2) MAY ORDER THE RESPONDENT TO:

26 (I) REFRAIN FROM COMMITTING OR THREATENING TO COMMIT AN
27 ACT SPECIFIED IN § 3-1503(A) OF THIS SUBTITLE AGAINST THE PETITIONER;

28 (II) REFRAIN FROM CONTACTING, ATTEMPTING TO CONTACT, OR
29 HARASSING THE PETITIONER;

30 (III) REFRAIN FROM ENTERING THE RESIDENCE OF THE
31 PETITIONER; AND

32 (IV) REMAIN AWAY FROM THE PLACE OF EMPLOYMENT, SCHOOL,
33 OR TEMPORARY RESIDENCE OF THE PETITIONER.

34 (D) (1) (I) AN INTERIM PEACE ORDER SHALL STATE THE DATE, TIME, AND
35 LOCATION FOR THE TEMPORARY PEACE ORDER HEARING.

1 (II) A TEMPORARY PEACE ORDER HEARING SHALL BE HELD ON THE
2 FIRST OR SECOND DAY ON WHICH A DISTRICT COURT JUDGE IS SITTING AFTER
3 ISSUANCE OF THE INTERIM PEACE ORDER, UNLESS THE COURT CONTINUES THE
4 HEARING FOR GOOD CAUSE.

5 (2) AN INTERIM PEACE ORDER SHALL INCLUDE IN AT LEAST 10-POINT
6 BOLD TYPE:

7 (I) NOTICE TO THE RESPONDENT THAT:

8 1. THE RESPONDENT MUST GIVE THE COURT WRITTEN
9 NOTICE OF EACH CHANGE OF ADDRESS; AND

10 2. IF THE RESPONDENT FAILS TO APPEAR AT THE
11 TEMPORARY PEACE ORDER HEARING OR ANY LATER HEARING, THE RESPONDENT
12 MAY BE SERVED WITH ANY OTHER ORDERS OR NOTICES IN THE CASE BY
13 FIRST-CLASS MAIL AT THE RESPONDENT'S LAST KNOWN ADDRESS;

14 (II) A STATEMENT OF ALL POSSIBLE FORMS AND DURATION OF
15 RELIEF THAT A TEMPORARY PEACE ORDER OR FINAL PEACE ORDER MAY CONTAIN;

16 (III) NOTICE TO THE PETITIONER AND RESPONDENT THAT, AT THE
17 HEARING, A JUDGE MAY ISSUE A TEMPORARY PEACE ORDER THAT GRANTS ANY OR
18 ALL OF THE RELIEF REQUESTED IN THE PETITION OR MAY DENY THE PETITION,
19 WHETHER OR NOT THE RESPONDENT IS IN COURT; AND

20 (IV) A WARNING TO THE RESPONDENT THAT VIOLATION OF AN
21 INTERIM PEACE ORDER IS A CRIME AND THAT A LAW ENFORCEMENT OFFICER SHALL
22 ARREST THE RESPONDENT, WITH OR WITHOUT A WARRANT, AND TAKE THE
23 RESPONDENT INTO CUSTODY IF THE OFFICER HAS PROBABLE CAUSE TO BELIEVE
24 THAT THE RESPONDENT HAS VIOLATED ANY PROVISION OF THE INTERIM PEACE
25 ORDER.

26 (E) WHENEVER A COMMISSIONER ISSUES AN INTERIM PEACE ORDER, THE
27 COMMISSIONER SHALL:

28 (1) IMMEDIATELY FORWARD A COPY OF THE PETITION AND INTERIM
29 PEACE ORDER TO THE APPROPRIATE LAW ENFORCEMENT AGENCY FOR SERVICE ON
30 THE RESPONDENT; AND

31 (2) BEFORE THE HEARING SCHEDULED IN THE INTERIM PEACE ORDER,
32 TRANSFER THE CASE FILE AND THE RETURN OF SERVICE, IF ANY, TO THE OFFICE OF
33 THE DISTRICT COURT CLERK.

34 (F) A LAW ENFORCEMENT OFFICER SHALL:

35 (1) IMMEDIATELY ON RECEIPT OF A PETITION AND INTERIM PEACE
36 ORDER, SERVE THEM ON THE RESPONDENT NAMED IN THE ORDER; AND

1 (2) IMMEDIATELY AFTER SERVICE, MAKE A RETURN OF SERVICE TO THE
2 COMMISSIONER'S OFFICE OR, IF THE OFFICE OF THE DISTRICT COURT CLERK IS
3 OPEN FOR BUSINESS, TO THE CLERK.

4 (G) AN INTERIM PEACE ORDER SHALL BE EFFECTIVE UNTIL A JUDGE RULES
5 ON THE PETITION AT THE TEMPORARY PEACE ORDER HEARING.

6 (H) A DECISION OF A COMMISSIONER TO GRANT OR DENY RELIEF UNDER THIS
7 SECTION IS NOT BINDING ON, AND DOES NOT AFFECT ANY POWER GRANTED TO OR
8 DUTY IMPOSED ON, A JUDGE OF A CIRCUIT COURT OR THE DISTRICT COURT UNDER
9 ANY LAW, INCLUDING ANY POWER TO GRANT OR DENY A PETITION FOR A
10 TEMPORARY PEACE ORDER OR FINAL PEACE ORDER.

11 3-1504.

12 (a) (1) If AFTER A HEARING ON a petition [is filed under § 3-1503 of this
13 subtitle and the court], WHETHER EX PARTE OR OTHERWISE, A JUDGE finds that
14 there are reasonable grounds to believe that the respondent has committed, and is
15 likely to commit in the future, an act specified in § 3-1503(a) of this subtitle against
16 the petitioner, the [court, in an ex parte proceeding,] JUDGE may issue a temporary
17 peace order to protect the petitioner.

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

20 (i) Order the respondent to refrain from committing or threatening
21 to commit an act specified in § 3-1503(a) of this subtitle against the petitioner;

22 (ii) Order the respondent to refrain from contacting, attempting to
23 contact, or harassing the petitioner;

24 (iii) Order the respondent to refrain from entering the residence of
25 the petitioner; and

26 (iv) Order the respondent to remain away from the place of
27 employment, school, or temporary residence of the petitioner.

28 (3) If the [court] JUDGE issues an order under this section, the order
29 shall contain only the relief that is minimally necessary to protect the petitioner.

30 (b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
31 law enforcement officer immediately shall serve the temporary peace order on the
32 respondent.

33 (2) A RESPONDENT WHO HAS BEEN SERVED WITH AN INTERIM PEACE
34 ORDER UNDER § 3-1503.1 OF THIS SUBTITLE SHALL BE SERVED WITH THE
35 TEMPORARY PEACE ORDER IN OPEN COURT OR, IF THE RESPONDENT IS NOT
36 PRESENT AT THE TEMPORARY PEACE ORDER HEARING, BY FIRST CLASS MAIL AT THE
37 RESPONDENT'S LAST KNOWN ADDRESS.

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

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

6 (D) THE JUDGE MAY PROCEED WITH A FINAL PEACE ORDER HEARING
7 INSTEAD OF A TEMPORARY PEACE ORDER HEARING IF:

8 (1) (I) THE RESPONDENT APPEARS AT THE HEARING;

9 (II) THE RESPONDENT HAS BEEN SERVED WITH AN INTERIM PEACE
10 ORDER; OR

11 (III) THE COURT OTHERWISE HAS PERSONAL JURISDICTION OVER
12 THE RESPONDENT; AND

13 (2) THE PETITIONER AND THE RESPONDENT EXPRESSLY CONSENT TO
14 WAIVE THE TEMPORARY PEACE ORDER HEARING.

15 3-1505.

16 (a) A respondent shall have an opportunity to be heard on the question of
17 whether the [court] JUDGE should issue a FINAL peace order.

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

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

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

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

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

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

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

1 (c) (1) If the respondent appears for the FINAL peace order hearing, has
2 been served with [the] AN INTERIM PEACE ORDER OR A temporary peace order, or the
3 court otherwise has personal jurisdiction over the respondent, the [court] JUDGE:

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

5 (ii) If the [court] JUDGE finds by clear and convincing evidence
6 that the respondent has committed, and is likely to commit in the future, an act
7 specified in § 3-1503(a) of this subtitle against the petitioner, or if the respondent
8 consents to the entry of a peace order, the court may issue a FINAL peace order to
9 protect the petitioner.

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

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

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

18 (i) Order the respondent to refrain from committing or threatening
19 to commit an act specified in § 3-1503(a) of this subtitle against the petitioner;

20 (ii) Order the respondent to refrain from contacting, attempting to
21 contact, or harassing the petitioner;

22 (iii) Order the respondent to refrain from entering the residence of
23 the petitioner;

24 (iv) Order the respondent to remain away from the place of
25 employment, school, or temporary residence of the petitioner;

26 (v) Direct the respondent or petitioner to participate in
27 professionally supervised counseling or, if the parties are amenable, mediation; and

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

30 (2) If the [court] JUDGE issues an order under this section, the order
31 shall contain only the relief that is minimally necessary to protect the petitioner.

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

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

4 (ii) Service is complete upon mailing.

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

7 3-1506.

8 (a) [The court that issued the] A peace order may [modify or rescind the
9 peace order] BE MODIFIED OR RESCINDED during the term of the peace order after:

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

11 (2) A hearing.

12 (b) (1) If [the] A District Court JUDGE grants or denies relief under a
13 petition filed under this subtitle, a respondent or a petitioner may appeal to the
14 circuit court for the county where the District Court is located.

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

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

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

21 3-1507.

22 (A) [The] AN INTERIM PEACE ORDER, temporary peace [order] ORDER, and
23 FINAL peace order issued under this subtitle shall state that a violation of the order
24 may result in:

25 (1) [A finding of contempt;

26 (2)] Criminal prosecution; and

27 [(3)] (2) Imprisonment or fine or both.

28 (B) A TEMPORARY PEACE ORDER AND FINAL PEACE ORDER ISSUED UNDER
29 THIS SUBTITLE SHALL STATE THAT A VIOLATION OF THE ORDER MAY RESULT IN A
30 FINDING OF CONTEMPT.

31 3-1508.

32 (a) An individual who fails to comply with the relief granted in AN INTERIM
33 PEACE ORDER UNDER § 3-1503.1 OF THIS SUBTITLE, a temporary peace order under §

1 3-1504(a)(2) of this [subtitle] SUBTITLE, or [in] a FINAL peace order under §
2 3-1505(d)(1)(i), (ii), (iii), or (iv) of this subtitle is guilty of a misdemeanor and on
3 conviction is subject, for each offense, to a fine not exceeding \$1,000 or imprisonment
4 not exceeding 90 days or both.

5 (b) A law enforcement officer shall arrest with or without a warrant and take
6 into custody an individual [whom] WHO the officer has probable cause to believe is in
7 violation of [a] AN INTERIM PEACE ORDER, temporary peace [order] ORDER, or
8 FINAL peace order in effect at the time of the violation.

9 **Article - Family Law**

10 4-501.

11 (E) "COMMISSIONER" MEANS A DISTRICT COURT COMMISSIONER APPOINTED
12 IN ACCORDANCE WITH ARTICLE IV § 41G OF THE MARYLAND CONSTITUTION.

13 (H) "FINAL PROTECTIVE ORDER" MEANS A PROTECTIVE ORDER ISSUED
14 UNDER § 4-506 OF THIS SUBTITLE.

15 (J) "INTERIM PROTECTIVE ORDER" MEANS AN ORDER THAT A COMMISSIONER
16 ISSUES UNDER THIS SUBTITLE PENDING A HEARING BY A JUDGE ON A PETITION.

17 (P) "TEMPORARY PROTECTIVE ORDER" MEANS A PROTECTIVE ORDER ISSUED
18 UNDER § 4-505 OF THIS SUBTITLE.

19 4-503.

20 (a) A law enforcement officer who responds to a request for help under § 4-502
21 of this Part I of this subtitle shall give the victim a written notice that:

22 (2) states that:

23 (iii) the victim may file in the District Court or a circuit court
24 [under this subtitle] OR, WHEN NEITHER THE OFFICE OF THE CLERK OF THE
25 CIRCUIT COURT NOR THE OFFICE OF THE DISTRICT COURT CLERK IS OPEN, WITH A
26 COMMISSIONER, a petition [for relief from abuse] UNDER THIS SUBTITLE; and

27 4-504.

28 (a) A petitioner may seek relief from abuse by filing with a court, OR WITH A
29 COMMISSIONER UNDER THE CIRCUMSTANCES SPECIFIED IN § 4-504.1(A) OF THIS
30 SUBTITLE, a petition that alleges abuse of any person eligible for relief by the
31 respondent.

32 (b) (1) The petition shall:

33 (i) be under oath; and

34 (ii) include any information known to the petitioner of:

- 1 1. the nature and extent of the abuse for which the relief is
 2 being sought, including information known to the petitioner concerning previous
 3 injury resulting from abuse by the respondent;
- 4 2. each previous action between the parties in any court;
- 5 3. each pending action between the parties in any court;
- 6 4. the whereabouts of the respondent, if known;
- 7 5. if financial relief is requested, information known to the
 8 petitioner regarding the financial resources of the respondent; and
- 9 6. in a case of alleged child abuse or alleged abuse of a
 10 vulnerable adult, the whereabouts of the child or vulnerable adult and any other
 11 information relating to the abuse of the child or vulnerable adult.

12 (2) If the petition states that disclosure of the address of a person eligible
 13 for relief would risk further abuse of a person eligible for relief, or reveal the
 14 confidential address of a shelter for domestic violence victims, that address may be
 15 omitted from all documents filed with [the] A COMMISSIONER OR FILED WITH, OR
 16 TRANSFERRED TO, A court. If disclosure is necessary to determine jurisdiction or
 17 consider any venue issue, it shall be made orally and in camera and may not be
 18 disclosed to the respondent.

19 (c) The petitioner may not be required to pay a filing fee or costs for the
 20 issuance or service of:

- 21 (1) AN INTERIM PROTECTIVE ORDER;
- 22 [(1)] (2) a temporary [ex parte] PROTECTIVE order;
- 23 [(2)] (3) a FINAL protective order; or
- 24 [(3)] (4) a witness subpoena.

25 [(d) (1) When the court finds reasonable grounds to believe that abuse of a
 26 child, as defined in Title 5, Subtitle 7 of this article, or abuse of a vulnerable adult, as
 27 defined in Title 14, Subtitle 1 of this article, has occurred, the court shall forward a
 28 copy of the petition and the ex parte order to the local department.

29 (2) When the local department receives the petition and the ex parte
 30 order from the court, the local department shall:

- 31 (i) 1. investigate the alleged abuse as provided in Title 5,
 32 Subtitle 7 of this article; or
- 33 2. investigate the alleged abuse as provided in Title 14,
 34 Subtitle 3 of this article; and

1 (ii) forward a copy of the report of the investigation to the court by
2 the date of the protective order hearing.]

3 4-504.1.

4 (A) A PETITION UNDER THIS SUBTITLE MAY BE FILED WITH A COMMISSIONER
5 WHEN NEITHER THE OFFICE OF THE CLERK OF THE CIRCUIT COURT NOR THE
6 OFFICE OF THE DISTRICT COURT CLERK IS OPEN FOR BUSINESS.

7 (B) IF A PETITION IS FILED WITH A COMMISSIONER AND THE COMMISSIONER
8 FINDS THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE
9 RESPONDENT HAS ABUSED A PERSON ELIGIBLE FOR RELIEF, THE COMMISSIONER
10 MAY ISSUE AN INTERIM PROTECTIVE ORDER TO PROTECT A PERSON ELIGIBLE FOR
11 RELIEF.

12 (C) AN INTERIM PROTECTIVE ORDER MAY:

13 (1) ORDER THE RESPONDENT TO REFRAIN FROM FURTHER ABUSE OR
14 THREATS OF ABUSE OF A PERSON ELIGIBLE FOR RELIEF;

15 (2) ORDER THE RESPONDENT TO REFRAIN FROM CONTACTING,
16 ATTEMPTING TO CONTACT, OR HARASSING A PERSON ELIGIBLE FOR RELIEF;

17 (3) ORDER THE RESPONDENT TO REFRAIN FROM ENTERING THE
18 RESIDENCE OF A PERSON ELIGIBLE FOR RELIEF;

19 (4) IF A PERSON ELIGIBLE FOR RELIEF AND THE RESPONDENT ARE
20 RESIDING TOGETHER AT THE TIME OF THE ALLEGED ABUSE:

21 (I) ORDER THE RESPONDENT TO VACATE THE HOME
22 IMMEDIATELY;

23 (II) AWARD TO A PERSON ELIGIBLE FOR RELIEF CUSTODY OF ANY
24 CHILD OF THE PERSON ELIGIBLE FOR RELIEF AND RESPONDENT THEN RESIDING IN
25 THE HOME; AND

26 (III) SUBJECT TO THE LIMITS AS TO A NONSPOUSE SPECIFIED IN §
27 4-505(A)(2)(IV) OF THIS SUBTITLE, AWARD TEMPORARY USE AND POSSESSION OF THE
28 HOME TO THE PERSON ELIGIBLE FOR RELIEF;

29 (5) IN A CASE ALLEGING ABUSE OF A CHILD, AWARD TEMPORARY
30 CUSTODY OF A MINOR CHILD OF THE RESPONDENT AND A PERSON ELIGIBLE FOR
31 RELIEF;

32 (6) IN A CASE ALLEGING ABUSE OF A VULNERABLE ADULT, SUBJECT TO
33 THE LIMITS AS TO A NONSPOUSE SPECIFIED IN § 4-505(A)(2)(IV) OF THIS SUBTITLE,
34 AWARD TEMPORARY USE AND POSSESSION OF THE HOME TO AN ADULT LIVING IN
35 THE HOME;

1 (7) ORDER THE RESPONDENT TO REMAIN AWAY FROM THE PLACE OF
2 EMPLOYMENT, SCHOOL, OR TEMPORARY RESIDENCE OF A PERSON ELIGIBLE FOR
3 RELIEF; OR

4 (8) ORDER THE RESPONDENT TO REMAIN AWAY FROM THE RESIDENCE
5 OF ANY FAMILY MEMBER OF A PERSON ELIGIBLE FOR RELIEF.

6 (D) (1) (I) AN INTERIM PROTECTIVE ORDER SHALL STATE THE DATE,
7 TIME, AND LOCATION FOR THE TEMPORARY PROTECTIVE ORDER HEARING.

8 (II) A TEMPORARY PROTECTIVE ORDER HEARING SHALL BE HELD
9 ON THE FIRST OR SECOND DAY ON WHICH A DISTRICT COURT JUDGE IS SITTING
10 AFTER ISSUANCE OF THE INTERIM PROTECTIVE ORDER, UNLESS THE JUDGE
11 CONTINUES THE HEARING FOR GOOD CAUSE.

12 (2) AN INTERIM PROTECTIVE ORDER SHALL INCLUDE IN AT LEAST
13 10-POINT BOLD TYPE:

14 (I) NOTICE TO THE RESPONDENT THAT:

15 1. THE RESPONDENT MUST GIVE THE COURT WRITTEN
16 NOTICE OF EACH CHANGE OF ADDRESS; AND

17 2. IF THE RESPONDENT FAILS TO APPEAR AT THE
18 TEMPORARY PROTECTIVE ORDER HEARING OR ANY LATER HEARING, THE
19 RESPONDENT MAY BE SERVED WITH ANY ORDERS OR NOTICES IN THE CASE BY
20 FIRST-CLASS MAIL AT THE RESPONDENT'S LAST KNOWN ADDRESS;

21 (II) A STATEMENT OF ALL POSSIBLE FORMS AND DURATION OF
22 RELIEF THAT A TEMPORARY PROTECTIVE ORDER OR FINAL PROTECTIVE ORDER MAY
23 CONTAIN;

24 (III) NOTICE TO THE PETITIONER AND RESPONDENT THAT, AT THE
25 HEARING, A JUDGE MAY ISSUE A TEMPORARY PROTECTIVE ORDER THAT GRANTS
26 ANY OR ALL OF THE RELIEF REQUESTED IN THE PETITION OR MAY DENY THE
27 PETITION, WHETHER OR NOT THE RESPONDENT IS IN COURT; AND

28 (IV) A WARNING TO THE RESPONDENT THAT VIOLATION OF AN
29 INTERIM PROTECTIVE ORDER IS A CRIME AND THAT A LAW ENFORCEMENT OFFICER
30 SHALL ARREST THE RESPONDENT, WITH OR WITHOUT A WARRANT, AND TAKE THE
31 RESPONDENT INTO CUSTODY IF THE OFFICER HAS PROBABLE CAUSE TO BELIEVE
32 THAT THE RESPONDENT HAS VIOLATED ANY PROVISION OF THE INTERIM
33 PROTECTIVE ORDER.

34 (E) WHENEVER A COMMISSIONER ISSUES AN INTERIM PROTECTIVE ORDER,
35 THE COMMISSIONER SHALL:

36 (1) IMMEDIATELY FORWARD A COPY OF THE PETITION AND INTERIM
37 PROTECTIVE ORDER TO THE APPROPRIATE LAW ENFORCEMENT AGENCY FOR
38 SERVICE ON THE RESPONDENT; AND

1 (2) BEFORE THE HEARING SCHEDULED IN THE INTERIM PROTECTIVE
2 ORDER, TRANSFER THE CASE FILE AND THE RETURN OF SERVICE, IF ANY, TO THE
3 OFFICE OF THE DISTRICT COURT CLERK.

4 (F) A LAW ENFORCEMENT OFFICER SHALL:

5 (1) IMMEDIATELY ON RECEIPT OF A PETITION AND INTERIM
6 PROTECTIVE ORDER, SERVE THEM ON THE RESPONDENT NAMED IN THE ORDER; AND

7 (2) IMMEDIATELY AFTER SERVICE, MAKE A RETURN OF SERVICE TO THE
8 COMMISSIONER'S OFFICE OR, IF THE OFFICE OF THE DISTRICT COURT CLERK IS
9 OPEN FOR BUSINESS, TO THE CLERK.

10 (G) AN INTERIM PROTECTIVE ORDER SHALL BE EFFECTIVE UNTIL ISSUANCE
11 OR DENIAL OF A TEMPORARY PROTECTIVE ORDER UNDER § 4-505 OF THIS SUBTITLE.

12 (H) A DECISION OF A COMMISSIONER TO GRANT OR DENY RELIEF UNDER THIS
13 SECTION IS NOT BINDING ON, AND DOES NOT AFFECT ANY POWER GRANTED TO OR
14 DUTY IMPOSED ON, A JUDGE OF A CIRCUIT COURT OR THE DISTRICT COURT UNDER
15 ANY LAW, INCLUDING ANY POWER TO GRANT OR DENY A PETITION FOR A
16 TEMPORARY PROTECTIVE ORDER OR FINAL PROTECTIVE ORDER.

17 4-505.

18 (a) (1) If, AFTER A HEARING ON a petition [is filed under this subtitle and
19 the], WHETHER EX PARTE OR OTHERWISE, A [court] JUDGE finds that there are
20 reasonable grounds to believe that a person eligible for relief has been abused, the
21 [court, in an ex parte proceeding,] JUDGE may enter a temporary PROTECTIVE order
22 to protect any person eligible for relief from abuse.

23 (2) The temporary [ex parte] PROTECTIVE order may order any or all of
24 the following relief:

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

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

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

31 (iv) where the person eligible for relief and the respondent are
32 residing together at the time of the alleged abuse, order the respondent to vacate the
33 home immediately and award temporary use and possession of the home to the person
34 eligible for relief or in the case of alleged abuse of a child or alleged abuse of a
35 vulnerable adult, award temporary use and possession of the home to an adult living
36 in the home, provided that the court may not grant an order to vacate and award
37 temporary use and possession of the home to a nonspouse person eligible for relief
38 unless the name of the person eligible for relief appears on the lease or deed to the

1 home or the person eligible for relief has resided in the home with the respondent for
2 a period of at least 90 days within 1 year before the filing of the petition;

3 (v) order the respondent to remain away from the place of
4 employment, school, or temporary residence of a person eligible for relief or home of
5 other family members;

6 (vi) order the respondent to remain away from a child care provider
7 of a person eligible for relief while a child of the person is in the care of the child care
8 provider; and

9 (vii) award temporary custody of a minor child of the person eligible
10 for relief and the respondent.

11 (b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
12 law enforcement officer immediately shall serve the temporary [ex parte]
13 PROTECTIVE order on the alleged abuser under this section.

14 (2) A RESPONDENT WHO HAS BEEN SERVED WITH AN INTERIM
15 PROTECTIVE ORDER UNDER § 4-504.1 OF THIS SUBTITLE SHALL BE SERVED WITH THE
16 TEMPORARY PROTECTIVE ORDER IN OPEN COURT OR, IF THE RESPONDENT IS NOT
17 PRESENT AT THE TEMPORARY PROTECTIVE ORDER HEARING, BY FIRST CLASS MAIL
18 AT THE RESPONDENT'S LAST KNOWN ADDRESS.

19 [(2)] (3) There shall be no cost to the petitioner for service of the
20 temporary [ex parte] PROTECTIVE order.

21 (c) (1) The temporary [ex parte] PROTECTIVE order shall be effective for
22 not more than 7 days after service of the order.

23 (2) The [court] JUDGE may extend the temporary [ex parte]
24 PROTECTIVE order as needed, but not to exceed 30 days, to effectuate service of the
25 order where necessary to provide protection or for other good cause.

26 (D) THE JUDGE MAY PROCEED WITH A FINAL PROTECTIVE ORDER HEARING
27 INSTEAD OF A TEMPORARY PROTECTIVE ORDER HEARING, IF:

28 (1) (I) THE RESPONDENT APPEARS AT THE HEARING;

29 (II) THE RESPONDENT HAS BEEN SERVED WITH AN INTERIM
30 PROTECTIVE ORDER; OR

31 (III) THE COURT OTHERWISE HAS PERSONAL JURISDICTION OVER
32 THE RESPONDENT; AND

33 (2) THE PETITIONER AND THE RESPONDENT EXPRESSLY CONSENT TO
34 WAIVE THE TEMPORARY PROTECTIVE ORDER HEARING.

35 (E) (1) WHENEVER A JUDGE FINDS REASONABLE GROUNDS TO BELIEVE
36 THAT ABUSE OF A CHILD, AS DEFINED IN TITLE 5, SUBTITLE 7 OF THIS ARTICLE, OR

1 ABUSE OF A VULNERABLE ADULT, AS DEFINED IN TITLE 14, SUBTITLE 1 OF THIS
2 ARTICLE, HAS OCCURRED, THE COURT SHALL FORWARD TO THE LOCAL
3 DEPARTMENT A COPY OF THE PETITION AND TEMPORARY PROTECTIVE ORDER.

4 (2) WHENEVER A LOCAL DEPARTMENT RECEIVES A PETITION AND
5 TEMPORARY PROTECTIVE ORDER FROM A COURT, THE LOCAL DEPARTMENT SHALL:

6 (I) INVESTIGATE THE ALLEGED ABUSE AS PROVIDED IN:

7 1. TITLE 5, SUBTITLE 7 OF THIS ARTICLE; OR

8 2. TITLE 14, SUBTITLE 3 OF THIS ARTICLE; AND

9 (II) BY THE DATE OF THE FINAL PROTECTIVE ORDER HEARING,
10 SEND TO THE COURT A COPY OF THE REPORT OF THE INVESTIGATION.

11 4-506.

12 (a) A respondent under § 4-505 of this subtitle shall have an opportunity to be
13 heard on the question of whether the [court] JUDGE should issue a FINAL protective
14 order.

15 (b) (1) (i) The temporary [ex parte] PROTECTIVE order shall state the
16 date and time of the FINAL protective order hearing.

17 (ii) Unless continued for good cause, the FINAL protective order
18 hearing shall be held no later than 7 days after the temporary [ex parte]
19 PROTECTIVE order is served on the respondent.

20 (2) The temporary [ex parte] PROTECTIVE order shall include notice to
21 the respondent:

22 (i) in at least 10-point bold type, that if the respondent fails to
23 appear at the FINAL protective order hearing, the respondent may be served by
24 first-class mail at the respondent's last known address with the FINAL protective
25 order and all other notices concerning the FINAL protective order;

26 (ii) specifying all the possible forms of relief under subsection (d) of
27 this section that the FINAL protective order may contain;

28 (iii) that the FINAL protective order shall be effective for the period
29 stated in the order, not to exceed 12 months, unless the [court] JUDGE extends the
30 term of the order, under § 4-507(a)(2) of this subtitle; and

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

33 (c) (1) If the respondent appears [for the] BEFORE THE COURT AT A
34 protective order hearing[,] OR has been served with [the] AN INTERIM OR temporary
35 [ex parte] PROTECTIVE order, or the court otherwise has personal jurisdiction over
36 the respondent, the [court] JUDGE:

1 (i) may proceed with the FINAL protective order hearing; and

2 (ii) if the [court] JUDGE finds by clear and convincing evidence
3 that the alleged abuse has occurred, or if the respondent consents to the entry of a
4 protective order, the [court] JUDGE may grant a FINAL protective order to protect
5 any person eligible for relief from abuse.

6 (2) A FINAL protective order may be issued only to a person who has filed
7 a petition under § 4-504 of this subtitle.

8 (3) (i) Subject to the provisions of subparagraph (ii) of this paragraph,
9 in cases where both parties file a petition under § 4-504 of this subtitle, the [court]
10 JUDGE may issue mutual protective orders if the [court] JUDGE finds by clear and
11 convincing evidence that mutual abuse has occurred.

12 (ii) The [court] JUDGE may issue mutual FINAL protective orders
13 only if the [court] JUDGE makes a detailed finding of fact that:

14 1. both parties acted primarily as aggressors; and

15 2. neither party acted primarily in self-defense.

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

17 (1) order the respondent to refrain from abusing or threatening to abuse
18 any person eligible for relief;

19 (2) order the respondent to refrain from contacting, attempting to
20 contact, or harassing any person eligible for relief;

21 (3) order the respondent to refrain from entering the residence of any
22 person eligible for relief;

23 (4) where the person eligible for relief and the respondent are residing
24 together at the time of the abuse, order the respondent to vacate the home
25 immediately and award temporary use and possession of the home to the person
26 eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a
27 vulnerable adult, award temporary use and possession of the home to an adult living
28 in the home, provided that the court may not grant an order to vacate and award
29 temporary use and possession of the home to a nonspouse person eligible for relief
30 unless the name of the person eligible for relief appears on the lease or deed to the
31 home or the person eligible for relief has shared the home with the respondent for a
32 period of at least 90 days within 1 year before the filing of the petition;

33 (5) order the respondent to remain away from the place of employment,
34 school, or temporary residence of a person eligible for relief or home of other family
35 members;

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

4 (7) award temporary custody of a minor child of the respondent and a
5 person eligible for relief;

6 (8) establish temporary visitation with a minor child of the respondent
7 and a person eligible for relief on a basis which gives primary consideration to the
8 welfare of the minor child and the safety of any other person eligible for relief. If the
9 court finds that the safety of a person eligible for relief will be jeopardized by
10 unsupervised or unrestricted visitation, the court shall condition or restrict visitation
11 as to time, place, duration, or supervision, or deny visitation entirely, as needed to
12 guard the safety of any person eligible for relief;

13 (9) award emergency family maintenance as necessary to support any
14 person eligible for relief to whom the respondent has a duty of support under this
15 article, including an immediate and continuing withholding order on all earnings of
16 the respondent in the amount of the ordered emergency family maintenance in
17 accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

18 (10) award temporary use and possession of a vehicle jointly owned by the
19 respondent and a person eligible for relief to the person eligible for relief if necessary
20 for the employment of the person eligible for relief or for the care of a minor child of
21 the respondent or a person eligible for relief;

22 (11) direct the respondent or any or all of the persons eligible for relief to
23 participate in professionally supervised counseling or a domestic violence program;

24 (12) order the respondent to surrender to law enforcement authorities any
25 firearm in the respondent's possession for the duration of the protective order; or

26 (13) order the respondent to pay filing fees and costs of a proceeding
27 under this subtitle.

28 (e) In determining whether to order the respondent to vacate the home under
29 § 4-505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the [court] JUDGE
30 shall consider the following factors:

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

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

34 (3) title to the home;

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

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

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

3 (7) the financial resources of the respondent and the person eligible for
4 relief.

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

10 (2) A copy of the FINAL protective order served on the respondent in
11 accordance with paragraph (1) of this subsection constitutes actual notice to the
12 respondent of the contents of the FINAL protective order. Service is complete upon
13 mailing.

14 (g) (1) Except as provided in paragraph (2) of this subsection, all relief
15 granted in a FINAL protective order shall be effective for the period stated in the
16 order, not to exceed 12 months.

17 (2) A subsequent circuit court order pertaining to any of the provisions
18 included in the FINAL protective order shall supersede those provisions in the FINAL
19 protective order.

20 4-507.

21 (a) (1) [The court that issued the] A protective order may [modify or
22 rescind the protective order] BE MODIFIED OR RESCINDED during the term of the
23 protective order after:

24 (i) giving notice to all affected persons eligible for relief and the
25 respondent; and

26 (ii) a hearing.

27 (2) For good cause shown, [the court that issued a protective order] A
28 JUDGE may extend the term of the protective order for 6 months beyond the period
29 specified in § 4-506(g) of this subtitle, after:

30 (i) giving notice to all affected persons eligible for relief and the
31 respondent; and

32 (ii) a hearing.

33 (b) (1) If [the] A District Court JUDGE grants or denies relief under a
34 petition filed under this subtitle, a respondent, any person eligible for relief, or a
35 petitioner may appeal to the circuit court for the county where the District Court is
36 located.

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

3 (3) If an appeal is filed under this subsection, the District Court
4 judgment shall remain in effect until superseded by a judgment of the circuit court.
5 Unless the circuit court orders otherwise, modification or enforcement of the District
6 Court order shall be by the District Court.

7 4-508.

8 (A) [The] AN INTERIM PROTECTIVE ORDER, temporary [ex parte order]
9 PROTECTIVE ORDER, and FINAL protective order issued under this subtitle shall state
10 that a violation of the order may result in:

11 (1) [a finding of contempt;

12 (2)] criminal prosecution; and

13 [(3)] (2) imprisonment or fine or both.

14 (B) A TEMPORARY PROTECTIVE ORDER AND FINAL PROTECTIVE ORDER
15 ISSUED UNDER THIS SUBTITLE SHALL STATE THAT A VIOLATION OF THE ORDER MAY
16 RESULT IN A FINDING OF CONTEMPT.

17 4-509.

18 (a) A person who fails to comply with the relief granted in an [ex parte]
19 INTERIM PROTECTIVE ORDER UNDER § 4-504.1(C)(1), (2), (3), (4)(I), (7), OR (8) OF THIS
20 SUBTITLE, A TEMPORARY PROTECTIVE order under § 4-505(a)(2)(i), (ii), (iii), (iv), or
21 (v) of this [subtitle] SUBTITLE, or [in] a FINAL protective order under § 4-506(d)(1),
22 (2), (3), (4), or (5) of this subtitle is guilty of a misdemeanor and on conviction is
23 subject, for each offense, to:

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

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

28 (b) An officer shall arrest with or without a warrant and take into custody a
29 person [whom] WHO the officer has probable cause to believe is in violation of an [ex
30 parte order] INTERIM, TEMPORARY, or FINAL protective order in effect at the time of
31 the violation.

32 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is contingent on
33 the passage of Chapter ____ (S.B./H.B. __) (2lr0989/0988) of the Acts of the General
34 Assembly of 2002, a Constitutional Amendment, and its ratification by the voters of
35 the State.

1 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the
2 provisions of Section 4 of this Act, this Act shall take effect on the date of certification
3 of the election results or the question of ratification of the Constitutional Amendment
4 by the voters of the State.