

SENATE BILL 501

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SB 658/01 - JPR

2002 Regular Session
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By: **Chairman, Judicial Proceedings Committee (Maryland Judicial Conference) and Senators Astle, Baker, Blount, Bromwell, Colburn, Collins, Conway, DeGrange, Della, Dorman, Ferguson, Forehand, Frosh, Green, Hafer, Haines, Hoffman, Hogan, Hollinger, Hooper, Hughes, Jacobs, Jimeno, Kasemeyer, Kelley, Lawlah, McFadden, Middleton, Mitchell, Neall, Pinsky, Ruben, Sfikas, Stone, Teitelbaum, and Van Hollen**

Introduced and read first time: February 1, 2002
Assigned to: Judicial Proceedings

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

1 violence order or interim peace order under certain circumstances; clarifying
2 language; making certain conforming changes; making this Act subject to a
3 certain contingency; defining certain terms; and generally relating to interim
4 domestic violence orders and interim peace orders.

5 BY renumbering

6 Article - Courts and Judicial Proceedings
7 Section 2-607(d) and 3-1501(b), (c), (d), and (e), respectively
8 to be Section 2-607(c)(5) and 3-1501(c), (f), (g), and (h), respectively
9 Annotated Code of Maryland
10 (1998 Replacement Volume and 2001 Supplement)

11 BY renumbering

12 Article - Family Law
13 Section 4-501(e), (f), (g), (h), (i), (j), (k), (l), (m), and (n), respectively
14 to be Section 4-501(f), (g), (i), (k), (l), (m), (n), (o), (q), and (r), respectively
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2001 Supplement)

17 BY adding to

18 Article - Courts and Judicial Proceedings
19 Section 2-607(d), 3-1501(b), (d), (e), and (i), and 3-1503.1
20 Annotated Code of Maryland
21 (1998 Replacement Volume and 2001 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article - Courts and Judicial Proceedings
24 Section 3-1503 (a) and (c), 3-1504, 3-1505, 3-1506, 3-1507, and 3-1508
25 Annotated Code of Maryland
26 (1998 Replacement Volume and 2001 Supplement)

27 BY adding to

28 Article - Family Law
29 Section 4-501(e), (h), (j), and (p), and 4-504.1
30 Annotated Code of Maryland
31 (1999 Replacement Volume and 2001 Supplement)

32 BY repealing and reenacting, with amendments,

33 Article - Family Law
34 Section 4-503(a)(2)(iii), 4-504, 4-505, 4-506, 4-507, 4-508, and 4-509
35 Annotated Code of Maryland
36 (1999 Replacement Volume and 2001 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 2 MARYLAND, That Section(s) 2-607(d) and 3-1501(b), (c), (d), and (e), respectively, of
 3 Article - Courts and Judicial Proceedings of the Annotated Code of Maryland be
 4 renumbered to be Section(s) 2-607(c)(5) and 3-1501(c), (f), (g), and (h), respectively.

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

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

11 **Article - Courts and Judicial Proceedings**

12 2-607.

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

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

18 3-1501.

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

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

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

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

27 3-1503.

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

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

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

- 1 (3) Assault in any degree;
- 2 (4) Rape or sexual offense, as defined by Article 27, §§ 462 through 464C
3 of the Code or attempted rape or sexual offense in any degree;
- 4 (5) False imprisonment;
- 5 (6) Harassment, as described in Article 27, § 123 of the Code;
- 6 (7) Stalking, as described in Article 27, § 124 of the Code;
- 7 (8) Trespass, as described in the trespass subheading of Article 27 of the
8 Code; or
- 9 (9) Malicious destruction of property, as described in Article 27, § 111 of
10 the Code.

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

16 3-1503.1.

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

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

25 (C) AN INTERIM PEACE ORDER:

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

28 (2) MAY ORDER THE RESPONDENT TO:

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

31 (II) REFRAIN FROM CONTACTING, ATTEMPTING TO CONTACT, OR
32 HARASSING THE PETITIONER;

33 (III) REFRAIN FROM ENTERING THE RESIDENCE OF THE
34 PETITIONER; AND

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

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

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

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

11 (I) NOTICE TO THE RESPONDENT THAT:

12 1. THE RESPONDENT MUST GIVE THE COURT WRITTEN
13 NOTICE OF EACH CHANGE OF ADDRESS; AND

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

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

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

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

30 (E) WHENEVER A COMMISSIONER ISSUES AN INTERIM PEACE ORDER, THE
31 COMMISSIONER SHALL:

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

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

1 (F) A LAW ENFORCEMENT OFFICER SHALL:

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

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

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

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

14 3-1504.

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

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

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

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

27 (iii) Order the respondent to refrain from entering the residence of
28 the petitioner; and

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

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

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

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

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

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

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

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

14 (II) THE RESPONDENT HAS BEEN SERVED WITH AN INTERIM PEACE
15 ORDER; OR

16 (III) THE COURT OTHERWISE HAS PERSONAL JURISDICTION OVER
17 THE RESPONDENT; AND

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

20 3-1505.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (d) (1) The FINAL peace order may include any or all of the following 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;

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

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

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

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

34 (e) (1) A copy of the FINAL peace order shall be served on the petitioner, the
35 respondent, the appropriate law enforcement agency, and any other person the court

1 determines is appropriate, in open court or, if the person is not present at the FINAL
2 peace order hearing, by first-class mail to the person's last known address.

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

6 (ii) Service is complete upon mailing.

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

9 3-1506.

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

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

13 (2) A hearing.

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

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

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

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

23 3-1507.

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

27 (1) [A finding of contempt;

28 (2)] Criminal prosecution; and

29 [(3)] (2) Imprisonment or fine or both.

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

1 3-1508.

2 (a) An individual who fails to comply with the relief granted in AN INTERIM
3 PEACE ORDER UNDER § 3-1503.1 OF THIS SUBTITLE, a temporary peace order under §
4 3-1504(a)(2) of this [subtitle] SUBTITLE, or [in] a FINAL peace order under §
5 3-1505(d)(1)(i), (ii), (iii), or (iv) of this subtitle is guilty of a misdemeanor and on
6 conviction is subject, for each offense, to a fine not exceeding \$1,000 or imprisonment
7 not exceeding 90 days or both.

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

12 **Article - Family Law**

13 4-501.

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

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

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

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

22 4-503.

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

25 (2) states that:

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

30 4-504.

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

35 (b) (1) The petition shall:

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

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

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

- 23 (1) AN INTERIM PROTECTIVE ORDER;
- 24 [(1)] (2) a temporary [ex parte] PROTECTIVE order;
- 25 [(2)] (3) a FINAL protective order; or
- 26 [(3)] (4) a witness subpoena.

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

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

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

1 AWARD TEMPORARY USE AND POSSESSION OF THE HOME TO AN ADULT LIVING IN
2 THE HOME;

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

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

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

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

14 (2) AN INTERIM PROTECTIVE ORDER SHALL INCLUDE IN AT LEAST
15 10-POINT BOLD TYPE:

16 (I) NOTICE TO THE RESPONDENT THAT:

17 1. THE RESPONDENT MUST GIVE THE COURT WRITTEN
18 NOTICE OF EACH CHANGE OF ADDRESS; AND

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

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

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

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

36 (E) WHENEVER A COMMISSIONER ISSUES AN INTERIM PROTECTIVE ORDER,
37 THE COMMISSIONER SHALL:

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

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

7 (F) A LAW ENFORCEMENT OFFICER SHALL:

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

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

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

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

20 4-505.

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

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

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

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

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

34 (iv) where the person eligible for relief and the respondent are
35 residing together at the time of the alleged abuse, order the respondent to vacate the
36 home immediately and award temporary use and possession of the home to the person
37 eligible for relief or in the case of alleged abuse of a child or alleged abuse of a

1 vulnerable adult, award temporary use and possession of the home to an adult living
2 in the home, provided that the court may not grant an order to vacate and award
3 temporary use and possession of the home to a nonspouse person eligible for relief
4 unless the name of the person eligible for relief appears on the lease or deed to the
5 home or the person eligible for relief has resided in the home with the respondent for
6 a period of at least 90 days within 1 year before the filing of the petition;

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

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

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

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

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

23 [(2)] (3) There shall be no cost to the petitioner for service of the
24 temporary [ex parte] PROTECTIVE order.

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

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

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

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

33 (II) THE RESPONDENT HAS BEEN SERVED WITH AN INTERIM
34 PROTECTIVE ORDER; OR

35 (III) THE COURT OTHERWISE HAS PERSONAL JURISDICTION OVER
36 THE RESPONDENT; AND

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

3 (E) (1) WHENEVER A JUDGE FINDS REASONABLE GROUNDS TO BELIEVE
4 THAT ABUSE OF A CHILD, AS DEFINED IN TITLE 5, SUBTITLE 7 OF THIS ARTICLE, OR
5 ABUSE OF A VULNERABLE ADULT, AS DEFINED IN TITLE 14, SUBTITLE 1 OF THIS
6 ARTICLE, HAS OCCURRED, THE COURT SHALL FORWARD TO THE LOCAL
7 DEPARTMENT A COPY OF THE PETITION AND TEMPORARY PROTECTIVE ORDER.

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

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

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

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

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

15 4-506.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 1. both parties acted primarily as aggressors; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (e) In determining whether to order the respondent to vacate the home under
32 § 4-505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the [court] JUDGE
33 shall consider the following factors:

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

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

37 (3) title to the home;

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

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

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

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

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

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

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

20 (2) A subsequent circuit court order pertaining to any of the provisions
21 included in the FINAL protective order shall supersede those provisions in the FINAL
22 protective order.

23 4-507.

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

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

29 (ii) a hearing.

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

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

35 (ii) a hearing.

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

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

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

11 4-508.

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

15 (1) [a finding of contempt;

16 (2)] criminal prosecution; and

17 [(3)] (2) imprisonment or fine or both.

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

21 4-509.

22 (a) A person who fails to comply with the relief granted in an [ex parte]
23 INTERIM PROTECTIVE ORDER UNDER § 4-504.1(C)(1), (2), (3), (4)(I), (7), OR (8) OF THIS
24 SUBTITLE, A TEMPORARY PROTECTIVE order under § 4-505(a)(2)(i), (ii), (iii), (iv), or
25 (v) of this [subtitle] SUBTITLE, or [in] a FINAL protective order under § 4-506(d)(1),
26 (2), (3), (4), or (5) of this subtitle is guilty of a misdemeanor and on conviction is
27 subject, for each offense, to:

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

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

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

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

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