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By: **Delegates Dumais, Barkley, Bobo, Carter, V. Clagett, Cryor, Feldman,  
Gaines, Goldwater, Gutierrez, Kaiser, Kelley, King, Lee, Love, Menes,  
Montgomery, Pendergrass, Petzold, Sossi, and Walkup**

Introduced and read first time: January 27, 2005

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Protective Orders - Evidence Standard**

3 FOR the purpose of altering the standard by which a judge in a protective order  
4 hearing may find that abuse has occurred from a clear and convincing standard  
5 to a preponderance of the evidence standard; and generally relating to the  
6 standard of evidence for a protective order hearing.

7 BY repealing and reenacting, with amendments,  
8 Article - Family Law  
9 Section 4-506(c)  
10 Annotated Code of Maryland  
11 (2004 Replacement Volume)

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

14 **Article - Family Law**

15 4-506.

16 (c) (1) If the respondent appears before the court at a protective order  
17 hearing or has been served with an interim or temporary protective order, or the court  
18 otherwise has personal jurisdiction over the respondent, the judge:

19 (i) may proceed with the final protective order hearing; and

20 (ii) if the judge finds by [clear and convincing] A PREPONDERANCE  
21 OF THE evidence that the alleged abuse has occurred, or if the respondent consents to  
22 the entry of a protective order, the judge may grant a final protective order to protect  
23 any person eligible for relief from abuse.

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

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

5                                 (ii)     The judge may issue mutual final protective orders only if the  
6 judge makes a detailed finding of fact that:

- 7   1.     both parties acted primarily as aggressors; and  
8   2.     neither party acted primarily in self-defense.

9     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2005.