
By: **Senators Grosfeld, Britt, Brochin, Conway, Currie, DeGrange, Dyson,
Forehand, Garagiola, Hogan, Hollinger, Jimeno, Kasemeyer, Kelley,
Kramer, Lawlah, McFadden, Pinsky, Ruben, and Teitelbaum**

Introduced and read first time: January 27, 2005

Assigned to: Judicial Proceedings

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.