6lr2655 CF 6lr2783

### By: **Delegates Anderson and Doory** Introduced and read first time: February 10, 2006 Assigned to: Judiciary

# A BILL ENTITLED

#### 1 AN ACT concerning

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# **Criminal Procedure - Conditions of Probation - Protective Orders**

3 FOR the purpose of authorizing a court, when placing on probation a defendant who

4 has been convicted of a certain crime, to issue a certain protective order to the

5 victim of the crime on the motion of the victim or a certain other individual and

6 to require the defendant to comply with the order as a condition of probation;

7 authorizing a court, when placing a defendant on probation before judgment

8 who has been convicted of a certain crime, to issue a certain protective order to

9 the victim of the crime on the motion of the victim or a certain other individual

10 and to require the defendant to comply with the order as a condition of

11 probation; and generally relating to conditions of probation and protective

12 orders.

13 BY repealing and reenacting, without amendments,

- 14 Article Criminal Procedure
- 15 Section 6-219(b), (d), and (f)
- 16 Annotated Code of Maryland
- 17 (2001 Volume and 2005 Supplement)

18 BY adding to

- 19 Article Criminal Procedure
- 20 Section 6-219(g)
- 21 Annotated Code of Maryland
- 22 (2001 Volume and 2005 Supplement)

23 BY repealing and reenacting, with amendments,

- 24 Article Criminal Procedure
- 25 Section 6-220(b)
- 26 Annotated Code of Maryland
- 27 (2001 Volume and 2005 Supplement)
- 28 BY repealing and reenacting, without amendments,
- 29 Article Family Law

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1 2 3							
4 5	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:						
6		Article - Criminal Procedure					
7	6-219.						
8	(b)	Subject to subsection (c) of this section, a court:					
9		(1) may suspend a sentence generally or for a definite time;					
	appearance,	(2) may pass orders and impose terms as to costs, recognizance for or matters relating to the residence or conduct of the defendant who is may be deemed proper;					
13 14	proper; or	(3) may order confinement in any care or custody as may be deemed					
15 16	of a suspend	(4) may order a person to a term of custodial confinement as a condition led sentence.					
17 18	(d) b probation.	The court may impose a sentence of imprisonment as a condition of					
20	<ul> <li>(f) If an individual violates the terms of probation, any time served by the</li> <li>individual in custodial confinement shall be credited against any sentence of</li> <li>incarceration imposed by the court.</li> </ul>						
24 25 26 27 28	CONVICTI § 4-513 OF AS DEFINI THE CRIM THE VICTI VICTIM A	IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS BEEN ED OF A CRIME AGAINST A VICTIM OF DOMESTIC VIOLENCE AS DEFINED IN THE FAMILY LAW ARTICLE THAT IS CONSISTENT WITH AN ACT OF ABUSE ED IN § 4-501 OF THE FAMILY LAW ARTICLE, ON MOTION BY THE VICTIM OF E OR AN INDIVIDUAL WHO MAY SEEK RELIEF FROM ABUSE ON BEHALF OF M UNDER THE FAMILY LAW ARTICLE, THE COURT MAY ISSUE TO THE TEMPORARY PROTECTIVE ORDER UNDER § 4-505 OF THE FAMILY LAW AND REQUIRE THE DEFENDANT TO COMPLY WITH THE ORDER AS A					

30 CONDITION OF PROBATION.

31 6-220.

32 (b) When a defendant pleads guilty or nolo contendere or is found guilty (1) 33 of a crime, a court may stay the entering of judgment, defer further proceedings, and
34 place the defendant on probation subject to reasonable conditions if:

35 (i) the court finds that the best interests of the defendant and the 36 public welfare would be served; and

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1 the defendant gives written consent after determination of guilt (ii) 2 or acceptance of a nolo contendere plea. 3 (2)Subject to paragraphs (3) and (4) of this subsection, the conditions 4 may include an order that the defendant: 5 (i) pay a fine or monetary penalty to the State or make restitution; 6 or 7 (ii) participate in a rehabilitation program, the parks program, or a 8 voluntary hospital program. 9 (3)Before the court orders a fine, monetary penalty, or restitution, the 10 defendant is entitled to notice and a hearing to determine the amount of the fine, 11 monetary penalty, or restitution, what payment will be required, and how payment 12 will be made. 13 (4)Any fine or monetary penalty imposed as a condition of probation 14 shall be within the amount set by law for a violation resulting in conviction. 15 As a condition of probation, the court may order a person to a term of (5)16 custodial confinement or imprisonment. 17 IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS (6)18 BEEN CONVICTED OF A CRIME AGAINST A VICTIM OF DOMESTIC VIOLENCE AS 19 DEFINED IN § 4-513 OF THE FAMILY LAW ARTICLE THAT IS CONSISTENT WITH AN ACT 20 OF ABUSE AS DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE, ON MOTION BY THE 21 VICTIM OF THE CRIME OR AN INDIVIDUAL WHO MAY SEEK RELIEF FROM ABUSE ON 22 BEHALF OF THE VICTIM UNDER THE FAMILY LAW ARTICLE, THE COURT MAY ISSUE 23 TO THE VICTIM A TEMPORARY PROTECTIVE ORDER UNDER § 4-505 OF THE FAMILY 24 LAW ARTICLE AND REQUIRE THE DEFENDANT TO COMPLY WITH THE ORDER AS A 25 CONDITION OF PROBATION. 26 Article - Family Law 27 4-501. 28 (a) In this subtitle the following words have the meanings indicated. 29 "Abuse" means any of the following acts: (b) (1)30 (i) an act that causes serious bodily harm; 31 (ii) an act that places a person eligible for relief in fear of imminent 32 serious bodily harm; 33 (iii) assault in any degree;

34 (iv) rape or sexual offense under §§ 3-303 through 3-308 of the
35 Criminal Law Article or attempted rape or sexual offense in any degree;

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4			UNOFF	FICIAL COPY OF HOUSE BILL 1250		
1			(v)	false imprisonment; or		
2			(vi)	stalking under § 3-802 of the Criminal Law Article.		
5 6	(2) If the person for whom relief is sought is a child, "abuse" may also include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this subtitle shall be construed to prohibit reasonable punishment, including reasonable corporal punishment, in light of the age and condition of the child, from being performed by a parent or stepparent of the child.					
	(3) If the person for whom relief is sought is a vulnerable adult, "abuse" may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article.					
11 12	<ul><li>(h) "Final protective order" means a protective order issued under § 4-506 of</li><li>this subtitle.</li></ul>					
13	(1)	"Person eligible for relief" includes:				
14		(1)	the curre	ent or former spouse of the respondent;		
15		(2)	a cohabi	itant of the respondent;		
16		(3)	a person	related to the respondent by blood, marriage, or adoption;		
17 (4) a parent, stepparent, child, or stepchild of the respondent or the 18 person eligible for relief who resides or resided with the respondent or person eligible 19 for relief for at least 90 days within 1 year before the filing of the petition;						
20		(5)	a vulner	able adult; or		
21		(6)	an indiv	idual who has a child in common with the respondent.		
22	(m)	(1)	"Petition	ner" means an individual who files a petition.		
23		(2)	"Petition	ner" includes:		
24			(i)	a person eligible for relief; or		
25 (ii) the following persons who may seek relief from abuse on behalf 26 of a minor or vulnerable adult:						
<ul> <li>27 1. the State's Attorney for the county where the child or</li> <li>28 vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;</li> </ul>						
<ul> <li>29</li> <li>2. the department of social services that has jurisdiction in</li> <li>30 the county where the child or vulnerable adult lives, or, if different, where the abuse</li> <li>31 is alleged to have taken place;</li> </ul>						
<ul> <li>32 3. a person related to the child or vulnerable adult by blood,</li> <li>33 marriage, or adoption; or</li> </ul>						

#### 5 **UNOFFICIAL COPY OF HOUSE BILL 1250** 1 4. an adult who resides in the home. "Temporary protective order" means a protective order issued under § 2 (p) 3 4-505 of this subtitle. 4 4-504. A petitioner may seek relief from abuse by filing with a court, or with a 5 (a) 6 commissioner under the circumstances specified in § 4-504.1(a) of this subtitle, a petition that alleges abuse of any person eligible for relief by the respondent. 7 8 (b) The petition shall: (1)9 (i) be under oath; and 10 (ii) include any information known to the petitioner of: 11 1. the nature and extent of the abuse for which the relief is 12 being sought, including information known to the petitioner concerning previous 13 injury resulting from abuse by the respondent; 14 each previous action between the parties in any court; 2. 3. 15 each pending action between the parties in any court; 16 4. the whereabouts of the respondent, if known; 17 5. if financial relief is requested, information known to the 18 petitioner regarding the financial resources of the respondent; and 19 6. in a case of alleged child abuse or alleged abuse of a 20 vulnerable adult, the whereabouts of the child or vulnerable adult and any other 21 information relating to the abuse of the child or vulnerable adult. 22 If the petition states that disclosure of the address of a person eligible (2)23 for relief would risk further abuse of a person eligible for relief, or reveal the 24 confidential address of a shelter for domestic violence victims, that address may be 25 omitted from all documents filed with a commissioner or filed with, or transferred to, 26 a court. If disclosure is necessary to determine jurisdiction or consider any venue 27 issue, it shall be made orally and in camera and may not be disclosed to the 28 respondent. 29 The petitioner may not be required to pay a filing fee or costs for the (c) 30 issuance or service of: 31 an interim protective order; (1)32 (2)a temporary protective order;

33 (3) a final protective order; or

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1 (4) a witness subpoena.

2 4-513.

3 In this Part III of this subtitle, "victim of domestic violence" means an individual

4 who has received deliberate, severe, and demonstrable physical injury, or is in fear of

5 imminent deliberate, severe, and demonstrable physical injury from a current or

 $6\,$  former spouse, or a current or former cohabitant, as defined in § 4-501 of this

7 subtitle.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 9 October 1, 2006.

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