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By: **Delegates Anderson and Doory**

Introduced and read first time: February 10, 2006

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **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

1 Section 4-501(a), (b), (h), (l), (m), and (p), 4-504, and 4-513  
2 Annotated Code of Maryland  
3 (2004 Replacement Volume and 2005 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
5 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;

10 (2) may pass orders and impose terms as to costs, recognizance for  
11 appearance, or matters relating to the residence or conduct of the defendant who is  
12 convicted as may be deemed proper;

13 (3) may order confinement in any care or custody as may be deemed  
14 proper; or

15 (4) may order a person to a term of custodial confinement as a condition  
16 of a suspended sentence.

17 (d) The court may impose a sentence of imprisonment as a condition of  
18 probation.

19 (f) If an individual violates the terms of probation, any time served by the  
20 individual in custodial confinement shall be credited against any sentence of  
21 incarceration imposed by the court.

22 (G) IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS BEEN  
23 CONVICTED OF A CRIME AGAINST A VICTIM OF DOMESTIC VIOLENCE AS DEFINED IN  
24 § 4-513 OF THE FAMILY LAW ARTICLE THAT IS CONSISTENT WITH AN ACT OF ABUSE  
25 AS DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE, ON MOTION BY THE VICTIM OF  
26 THE CRIME OR AN INDIVIDUAL WHO MAY SEEK RELIEF FROM ABUSE ON BEHALF OF  
27 THE VICTIM UNDER THE FAMILY LAW ARTICLE, THE COURT MAY ISSUE TO THE  
28 VICTIM A TEMPORARY PROTECTIVE ORDER UNDER § 4-505 OF THE FAMILY LAW  
29 ARTICLE AND REQUIRE THE DEFENDANT TO COMPLY WITH THE ORDER AS A  
30 CONDITION OF PROBATION.

31 6-220.

32 (b) (1) When a defendant pleads guilty or nolo contendere or is found guilty  
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

1 (ii) the defendant gives written consent after determination of guilt  
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 (5) As a condition of probation, the court may order a person to a term of  
16 custodial confinement or imprisonment.

17 (6) IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS  
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 (b) (1) "Abuse" means any of the following acts:

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;

1 (v) false imprisonment; or

2 (vi) stalking under § 3-802 of the Criminal Law Article.

3 (2) If the person for whom relief is sought is a child, "abuse" may also  
4 include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this  
5 subtitle shall be construed to prohibit reasonable punishment, including reasonable  
6 corporal punishment, in light of the age and condition of the child, from being  
7 performed by a parent or stepparent of the child.

8 (3) If the person for whom relief is sought is a vulnerable adult, "abuse"  
9 may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this  
10 article.

11 (h) "Final protective order" means a protective order issued under § 4-506 of  
12 this subtitle.

13 (l) "Person eligible for relief" includes:

14 (1) the current or former spouse of the respondent;

15 (2) a cohabitant 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 vulnerable adult; or

21 (6) an individual who has a child in common with the respondent.

22 (m) (1) "Petitioner" means an individual who files a petition.

23 (2) "Petitioner" 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:

27 1. the State's Attorney for the county where the child or  
28 vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

29 2. the department of social services that has jurisdiction in  
30 the county where the child or vulnerable adult lives, or, if different, where the abuse  
31 is alleged to have taken place;

32 3. a person related to the child or vulnerable adult by blood,  
33 marriage, or adoption; or



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.