

(PRE-FILED)

By: **Senator Stone**
Requested: October 26, 2005
Introduced and read first time: January 11, 2006
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence - Ex Parte Orders - Expungement**

3 FOR the purpose of authorizing a person who was a respondent in a certain petition
4 seeking relief from abuse to file a petition to expunge a certain ex parte order
5 under certain circumstances; requiring a petition to be filed in the court in
6 which the ex parte order was issued; authorizing the court to order the
7 expungement of all court records and police records about the ex parte order
8 under certain circumstances; requiring certain custodians to notify the court
9 and the person seeking expungement of compliance with the order; requiring a
10 court to state the reasons for denying a certain petition on the record; defining
11 certain terms; and generally relating to expungement of certain ex parte orders.

12 BY adding to
13 Article - Family Law
14 Section 4-505(f), 4-506(h), and 4-512
15 Annotated Code of Maryland
16 (2004 Replacement Volume and 2005 Supplement)

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

19 **Article - Family Law**

20 4-505.

21 (F) IF, AFTER A HEARING, THE COURT DENIES A PETITION, THE COURT SHALL
22 STATE THE REASONS FOR THE DENIAL ON THE RECORD.

23 4-506.

24 (H) IF, AFTER A HEARING, THE COURT DENIES A PETITION, THE COURT SHALL
25 STATE THE REASONS FOR THE DENIAL ON THE RECORD.

1 4-512.

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) (I) "COURT RECORD" MEANS AN OFFICIAL RECORD OF A COURT
5 ABOUT A PROCEEDING THAT THE CLERK OF A COURT OR OTHER COURT PERSONNEL
6 KEEPS.

7 (II) "COURT RECORD" INCLUDES AN INDEX, DOCKET ENTRY,
8 PETITION, MEMORANDUM, TRANSCRIPTION OF PROCEEDINGS, ELECTRONIC
9 RECORDING, ORDER, AND JUDGMENT.

10 (3) "EX PARTE ORDER" MEANS:

11 (I) A TEMPORARY EX PARTE ORDER ISSUED BEFORE DECEMBER
12 18, 2002;

13 (II) AN INTERIM PROTECTIVE ORDER ISSUED ON OR AFTER
14 DECEMBER 18, 2002; OR

15 (III) A TEMPORARY PROTECTIVE ORDER ISSUED AFTER AN EX
16 PARTE HEARING ON OR AFTER DECEMBER 18, 2002.

17 (4) "EXPUNGE" MEANS TO REMOVE INFORMATION FROM PUBLIC
18 INSPECTION IN ACCORDANCE WITH THIS SECTION.

19 (5) "EXPUNGEMENT" WITH RESPECT TO A COURT RECORD OR A POLICE
20 RECORD MEANS REMOVAL FROM PUBLIC INSPECTION:

21 (I) BY OBLITERATION;

22 (II) BY REMOVAL TO A SEPARATE SECURE AREA TO WHICH
23 PERSONS WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE DENIED
24 ACCESS; OR

25 (III) IF ACCESS TO A COURT RECORD OR POLICE RECORD CAN BE
26 OBTAINED ONLY BY REFERENCE TO ANOTHER COURT RECORD OR POLICE RECORD,
27 BY THE EXPUNGEMENT OF IT OR THE PART OF IT THAT PROVIDES ACCESS.

28 (6) "LAW ENFORCEMENT UNIT" MEANS A STATE, COUNTY, OR
29 MUNICIPAL POLICE DEPARTMENT OR UNIT, THE OFFICE OF A SHERIFF, OR THE
30 CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IN THE
31 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

32 (7) "POLICE RECORD" MEANS AN OFFICIAL RECORD THAT A LAW
33 ENFORCEMENT UNIT MAINTAINS ABOUT A PROCEEDING UNDER THIS SUBTITLE.

34 (B) A PERSON WHO WAS THE RESPONDENT IN A PROCEEDING UNDER THIS
35 SUBTITLE MAY FILE A PETITION TO EXPUNGE AN EX PARTE ORDER IF A FINAL
36 PROTECTIVE ORDER WAS NOT ISSUED IN THE PROCEEDING.

1 (C) A PERSON SHALL FILE A PETITION IN THE COURT IN WHICH THE EX PARTE
2 ORDER WAS ISSUED.

3 (D) IF THE COURT FINDS THAT THE PETITION FOR RELIEF FROM ABUSE
4 UNDER THIS SUBTITLE WAS IN BAD FAITH OR WITHOUT SUBSTANTIAL
5 JUSTIFICATION, THE COURT SHALL ORDER THE EXPUNGEMENT OF ALL POLICE
6 RECORDS AND COURT RECORDS ABOUT THE EX PARTE ORDER.

7 (E) WITHIN 60 DAYS AFTER ENTRY OF THE ORDER, EACH CUSTODIAN OF THE
8 POLICE RECORDS AND COURT RECORDS THAT ARE SUBJECT TO THE ORDER OF
9 EXPUNGEMENT SHALL ADVISE, IN WRITING, THE COURT AND THE PERSON WHO IS
10 SEEKING EXPUNGEMENT OF COMPLIANCE WITH THE ORDER.

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