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

Introduced and read first time: January 16, 2006

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Protective Orders - Burden of Persuasion**

3 FOR the purpose of altering the standard of proof by which a judge in a protective
4 order hearing must find that abuse has occurred before the judge may grant a
5 final protective order; and generally relating to the standard of proof in a
6 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 and 2005 Supplement)

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, 2006.