

# HOUSE BILL 659

D4

8lr1501

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By: **Delegates Waldstreicher and Levi**  
Introduced and read first time: February 1, 2008  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence – Temporary Protective Order – Additional Relief**

3 FOR the purpose of authorizing a court in a certain proceeding for relief from abuse to  
4 order the respondent to surrender certain firearms and to refrain from  
5 possessing certain firearms under certain circumstances; requiring a law  
6 enforcement officer to provide certain information to a respondent when a  
7 firearm is surrendered and to provide for the safe storage of the firearm;  
8 providing for the retaking of surrendered firearms by the respondent under  
9 certain circumstances; establishing certain penalties for certain violations;  
10 providing certain immunity to a law enforcement officer under certain  
11 circumstances; and generally relating to domestic violence.

12 BY repealing and reenacting, with amendments,  
13 Article – Family Law  
14 Section 4–505(a), 4–509, and 4–511  
15 Annotated Code of Maryland  
16 (2006 Replacement Volume and 2007 Supplement)

17 BY adding to  
18 Article – Family Law  
19 Section 4–505(f) and (g)  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2007 Supplement)

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

24 **Article – Family Law**

25 4–505.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1           (a)   (1)   If, after a hearing on a petition, whether ex parte or otherwise, a  
2 judge finds that there are reasonable grounds to believe that a person eligible for relief  
3 has been abused, the judge may enter a temporary protective order to protect any  
4 person eligible for relief from abuse.

5                   (2)   The temporary protective order may order any or all of the  
6 following relief:

7                           (i)   order the respondent to refrain from further abuse or threats  
8 of abuse of a person eligible for relief;

9                           (ii)   order the respondent to refrain from contacting, attempting  
10 to contact, or harassing any person eligible for relief;

11                           (iii)   order the respondent to refrain from entering the residence  
12 of a person eligible for relief;

13                           (iv)   where the person eligible for relief and the respondent are  
14 residing together at the time of the alleged abuse, order the respondent to vacate the  
15 home immediately and award temporary use and possession of the home to the person  
16 eligible for relief or in the case of alleged abuse of a child or alleged abuse of a  
17 vulnerable adult, award temporary use and possession of the home to an adult living  
18 in the home, provided that the court may not grant an order to vacate and award  
19 temporary use and possession of the home to a nonspouse person eligible for relief  
20 unless the name of the person eligible for relief appears on the lease or deed to the  
21 home or the person eligible for relief has resided in the home with the respondent for a  
22 period of at least 90 days within 1 year before the filing of the petition;

23                           (v)   **CONSISTENT WITH THE SECOND AMENDMENT TO THE**  
24 **CONSTITUTION OF THE UNITED STATES, IF THE COURT HAS PROBABLE CAUSE**  
25 **TO BELIEVE AN ACT OF DOMESTIC VIOLENCE UTILIZING A FIREARM HAS**  
26 **OCCURRED OR HAS PROBABLE CAUSE TO BELIEVE THAT THE RESPONDENT HAS**  
27 **MADE AN IMPLICIT OR EXPLICIT THREAT OF DOMESTIC VIOLENCE UTILIZING A**  
28 **FIREARM:**

29                                   **1.   ORDER THE RESPONDENT TO SURRENDER TO LAW**  
30 **ENFORCEMENT AUTHORITIES ALL FIREARMS WITHIN THE RESPONDENT'S**  
31 **POSSESSION OR CONTROL; AND**

32                                   **2.   ORDER THE RESPONDENT TO REFRAIN FROM**  
33 **POSSESSING OR CONTROLLING ANY FIREARMS FOR THE DURATION OF THE**  
34 **TEMPORARY PROTECTIVE ORDER;**

35                           [(v)] (vi)   order the respondent to remain away from the place of  
36 employment, school, or temporary residence of a person eligible for relief or home of  
37 other family members;

1                    [(vi)] (VII) order the respondent to remain away from a child care  
2 provider of a person eligible for relief while a child of the person is in the care of the  
3 child care provider; and

4                    [(vii)] (VIII) award temporary custody of a minor child of the  
5 person eligible for relief and the respondent.

6            **(F) (1) IF A RESPONDENT SURRENDERS A FIREARM UNDER THIS**  
7 **SECTION, THE LAW ENFORCEMENT OFFICER SHALL:**

8                    **(I) PROVIDE TO THE RESPONDENT INFORMATION ON THE**  
9 **PROCESS FOR RETAKING POSSESSION OF THE FIREARM; AND**

10                    **(II) PROVIDE FOR THE SAFE STORAGE OF THE FIREARM**  
11 **DURING THE TIME THE TEMPORARY PROTECTIVE ORDER IS IN EFFECT.**

12                    **(2) THE RESPONDENT MAY RETAKE POSSESSION OF THE**  
13 **FIREARM AT THE EXPIRATION OF THE TEMPORARY PROTECTIVE ORDER**  
14 **UNLESS:**

15                    **(I) THE RESPONDENT IS ORDERED TO SURRENDER THE**  
16 **FIREARM IN A PROTECTIVE ORDER ISSUED UNDER § 4-506 OF THIS SUBTITLE;**  
17 **OR**

18                    **(II) THE RESPONDENT IS NOT OTHERWISE LEGALLY**  
19 **ENTITLED TO OWN OR POSSESS THE FIREARM.**

20            **(G) IF A FIREARM IS SURRENDERED UNDER THIS SECTION, A LAW**  
21 **ENFORCEMENT OFFICER SHALL BE IMMUNE FROM ANY AND ALL CIVIL**  
22 **LIABILITY IN COMPLYING WITH THIS SECTION IF THE LAW ENFORCEMENT**  
23 **OFFICER ACTED IN GOOD FAITH AND IN A REASONABLE MANNER.**

24 4-509.

25            (a) A person who fails to comply with the relief granted in an interim  
26 protective order under § 4-504.1(c)(1), (2), (3), (4)(i), (7), or (8) of this subtitle, a  
27 temporary protective order under § 4-505(a)(2)(i), (ii), (iii), (iv), [or] (v), **OR (VI)** of this  
28 subtitle, or a final protective order under § 4-506(d)(1), (2), (3), (4), (5), or (12) of this  
29 subtitle is guilty of a misdemeanor and on conviction is subject, for each offense, to:

30                    (1) for a first offense, a fine not exceeding \$1,000 or imprisonment not  
31 exceeding 90 days or both; and

1                   (2)     for a second or subsequent offense, a fine not exceeding \$2,500 or  
2 imprisonment not exceeding 1 year or both.

3                   (b)     An officer shall arrest with or without a warrant and take into custody a  
4 person who the officer has probable cause to believe is in violation of an interim,  
5 temporary, or final protective order in effect at the time of the violation.

6     4-511.

7                   (a)     When responding to the scene of an alleged act of domestic violence, as  
8 described in this subtitle, a law enforcement officer may remove a firearm from the  
9 scene if:

10                   (1)     the law enforcement officer has probable cause to believe that an  
11 act of domestic violence has occurred; and

12                   (2)     the law enforcement officer has observed the firearm on the scene  
13 during the response.

14                   (b)     If a firearm is removed from the scene under subsection (a) of this  
15 section, the law enforcement officer shall:

16                   (1)     provide to the owner of the firearm information on the process for  
17 retaking possession of the firearm; and

18                   (2)     provide for the safe storage of the firearm during the pendency of  
19 any proceeding related to the alleged act of domestic violence.

20                   (c)     At the conclusion of a proceeding on the alleged act of domestic violence,  
21 the owner of the firearm may retake possession of the firearm unless ordered to  
22 surrender the firearm under § 4-506 of this subtitle **OR THE OWNER IS NOT**  
23 **OTHERWISE LEGALLY ENTITLED TO OWN OR POSSESS A FIREARM.**

24                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2008.