

# HOUSE BILL 1257

E1, D4

8lr2717

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By: **Delegates McComas, Eckardt, Frank, George, Haddaway, McDonough, Shank, and Shewell**

Introduced and read first time: February 8, 2008

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Stalking and Domestic Violence – Cruelty Toward a Pet or Service Animal**

3 FOR the purpose of altering a certain definition of “stalking” to include a malicious  
4 course of conduct that puts another person in reasonable fear that a certain pet  
5 or service animal likely will suffer cruelty or aggravated cruelty; authorizing a  
6 District Court Commissioner, in a certain interim protective order, and a judge  
7 in a temporary protective order or final protective order, to order a respondent  
8 to remain away from a certain pet or service animal, to refrain from cruelty or  
9 aggravated cruelty toward the pet or service animal, or in certain  
10 circumstances, to give the pet or service animal to a certain person; providing  
11 certain penalties for failure to comply with certain relief ordered in a certain  
12 interim protective order, temporary protective order, or final protective order;  
13 amending a certain definition; defining certain terms; and generally relating to  
14 stalking and domestic violence and cruelty toward a pet or service animal.

15 BY repealing and reenacting, with amendments,  
16 Article – Criminal Law  
17 Section 3–802  
18 Annotated Code of Maryland  
19 (2002 Volume and 2007 Supplement)

20 BY repealing and reenacting, without amendments,  
21 Article – Criminal Law  
22 Section 10–601(a), (b), and (c), 10–604(a), and 10–606(a)  
23 Annotated Code of Maryland  
24 (2002 Volume and 2007 Supplement)

25 BY repealing and reenacting, without amendments,  
26 Article – Family Law  
27 Section 4–501(a) and (1)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2006 Replacement Volume and 2007 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – Family Law  
5 Section 4–501(m), (n), (o), (p), (q), and (r), 4–504.1(c)(7) and (8), 4–505(a)(2)(vi)  
6 and (vii), 4–506(d)(12) and (13), and 4–509(a)  
7 Annotated Code of Maryland  
8 (2006 Replacement Volume and 2007 Supplement)

9 BY adding to  
10 Article – Family Law  
11 Section 4–501(m) and (q), 4–504.1(c)(9), 4–505(a)(2)(viii), and 4–506(d)(14)  
12 Annotated Code of Maryland  
13 (2006 Replacement Volume and 2007 Supplement)

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

16 **Article – Criminal Law**

17 3–802.

18 (a) (1) In this section[, “stalking”] **THE FOLLOWING WORDS HAVE THE**  
19 **MEANINGS INDICATED.**

20 (2) (I) **“PET” MEANS A DOMESTICATED ANIMAL.**

21 (II) **“PET” DOES NOT INCLUDE LIVESTOCK.**

22 (3) **“SERVICE ANIMAL” MEANS A GUIDE DOG, SIGNAL DOG, OR**  
23 **OTHER ANIMAL INDIVIDUALLY TRAINED TO DO WORK OR PERFORM TASKS FOR**  
24 **THE BENEFIT OF AN INDIVIDUAL WITH A DISABILITY, INCLUDING:**

25 (I) **GUIDING INDIVIDUALS WITH IMPAIRED VISION;**

26 (II) **ALERTING INDIVIDUALS WITH IMPAIRED HEARING TO**  
27 **AN INTRUDER OR SOUNDS;**

28 (III) **PROVIDING MINIMAL PROTECTION OR RESCUE WORK;**

29 (IV) **PULLING A WHEELCHAIR; OR**

30 (V) **FETCHING DROPPED ITEMS.**

1           (4) “**STALKING**” means a malicious course of conduct that includes  
2 approaching or pursuing another where the person intends to place or knows or  
3 reasonably should have known the conduct would place another in reasonable fear:

4           [(1)] (i)    **1.**    of serious bodily injury;

5                   [(ii)] **2.**    of an assault in any degree;

6                   [(iii)] **3.**    of rape or sexual offense as defined by §§ 3–303  
7 through 3–308 of this article or attempted rape or sexual offense in any degree;

8                   [(iv)] **4.**    of false imprisonment; or

9                   [(v)] **5.**    of death; [or]

10           [(2)] **(II)**   that a third person likely will suffer any of the acts listed in  
11 item [(1)] **(I)** of this [subsection] **PARAGRAPH; OR**

12                           **(III) THAT A PET OR A SERVICE ANIMAL OF THE OTHER OR A**  
13 **THIRD PERSON LIKELY WILL SUFFER CRUELTY OR AGGRAVATED CRUELTY AS**  
14 **PROHIBITED UNDER § 10–604(A) OR § 10–606(A) OF THIS ARTICLE.**

15           (b)    The provisions of this section do not apply to conduct that is:

16                   (1)    performed to ensure compliance with a court order;

17                   (2)    performed to carry out a specific lawful commercial purpose; or

18                   (3)    authorized, required, or protected by local, State, or federal law.

19           (c)    A person may not engage in stalking.

20           (d)    A person who violates this section is guilty of a misdemeanor and on  
21 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding  
22 \$5,000 or both.

23           (e)    A sentence imposed under this section may be separate from and  
24 consecutive to or concurrent with a sentence for any other crime based on the acts  
25 establishing a violation of this section.

26    10–601.

27           (a)    In this subtitle the following words have the meanings indicated.

28           (b)    “Animal” means a living creature except a human being.

1 (c) (1) "Cruelty" means the unnecessary or unjustifiable physical pain or  
2 suffering caused or allowed by an act, omission, or neglect.

3 (2) "Cruelty" includes torture and torment.

4 10-604.

5 (a) A person may not:

6 (1) overdrive or overload an animal;

7 (2) deprive an animal of necessary sustenance;

8 (3) inflict unnecessary suffering or pain on an animal;

9 (4) cause, procure, or authorize an act prohibited under item (1), (2), or  
10 (3) of this subsection; or

11 (5) if the person has charge or custody of an animal, as owner or  
12 otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient  
13 quantity, necessary veterinary care, proper drink, air, space, shelter, or protection  
14 from the weather.

15 10-606.

16 (a) A person may not:

17 (1) intentionally mutilate, torture, cruelly beat, or cruelly kill an  
18 animal;

19 (2) cause, procure, or authorize an act prohibited under item (1) of this  
20 subsection; or

21 (3) except in the case of self-defense, intentionally inflict bodily harm,  
22 permanent disability, or death on an animal owned or used by a law enforcement unit.

### 23 Article - Family Law

24 4-501.

25 (a) In this subtitle the following words have the meanings indicated.

26 (1) "Person eligible for relief" includes:

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

28 (2) a cohabitant of the respondent;

1 (3) a person related to the respondent by blood, marriage, or adoption;

2 (4) a parent, stepparent, child, or stepchild of the respondent or the  
3 person eligible for relief who resides or resided with the respondent or person eligible  
4 for relief for at least 90 days within 1 year before the filing of the petition;

5 (5) a vulnerable adult; or

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

7 **(M) (1) "PET" MEANS A DOMESTICATED ANIMAL.**

8 **(2) "PET" DOES NOT INCLUDE LIVESTOCK.**

9 [(m)] **(N) (1) "Petitioner" means an individual who files a petition.**

10 (2) "Petitioner" includes:

11 (i) a person eligible for relief; or

12 (ii) the following persons who may seek relief from abuse on  
13 behalf of a minor or vulnerable adult:

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

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

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

21 4. an adult who resides in the home.

22 [(n)]**(O) "Residence" includes the yard, grounds, outbuildings, and common**  
23 **areas surrounding the residence.**

24 [(o)]**(P) "Respondent" means the person alleged in the petition to have**  
25 **committed the abuse.**

26 **(Q) "SERVICE ANIMAL" MEANS A GUIDE DOG, SIGNAL DOG, OR OTHER**  
27 **ANIMAL INDIVIDUALLY TRAINED TO DO WORK OR PERFORM TASKS FOR THE**  
28 **BENEFIT OF AN INDIVIDUAL WITH A DISABILITY, INCLUDING:**

29 **(1) GUIDING INDIVIDUALS WITH IMPAIRED VISION;**

1           **(2) ALERTING INDIVIDUALS WITH IMPAIRED HEARING TO AN**  
2 **INTRUDER OR SOUNDS;**

3           **(3) PROVIDING MINIMAL PROTECTION OR RESCUE WORK;**

4           **(4) PULLING A WHEELCHAIR; OR**

5           **(5) FETCHING DROPPED ITEMS.**

6           **[(p)](R)** “Temporary protective order” means a protective order issued  
7 under § 4–505 of this subtitle.

8           **[(q)](S)** “Victim” includes a person eligible for relief.

9           **[(r)] (T)** “Vulnerable adult” has the meaning provided in § 14–101(q) of this  
10 article.

11 4–504.1.

12           (c) An interim protective order may:

13                   (7) order the respondent to remain away from the place of  
14 employment, school, or temporary residence of a person eligible for relief; [or]

15                   (8) order the respondent to remain away from the residence of any  
16 family member of a person eligible for relief[.]; **OR**

17                   **(9) IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY MEMBER**  
18 **OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR A SERVICE ANIMAL OR THE**  
19 **RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL, ORDER THE**  
20 **RESPONDENT TO:**

21                           **(I) REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;**

22                           **(II) REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY**  
23 **TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10–604(A) OR §**  
24 **10–606(A) OF THE CRIMINAL LAW ARTICLE; OR**

25                           **(III) IF THE RESPONDENT HAS POSSESSION OF THE PET OR**  
26 **SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE**  
27 **FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR**  
28 **TO A SUITABLE THIRD PARTY.**

29 4–505.

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

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

6 (vii) award temporary custody of a minor child of the person  
7 eligible for relief and the respondent[.]; AND

8 (VIII) IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY  
9 MEMBER OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL  
10 OR THE RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL, ORDER  
11 THE RESPONDENT TO:

12 1. REMAIN AWAY FROM THE PET OR SERVICE  
13 ANIMAL;

14 2. REFRAIN FROM CRUELTY OR AGGRAVATED  
15 CRUELTY TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER §  
16 10-604(A) OR § 10-606(A) OF THE CRIMINAL LAW ARTICLE; OR

17 3. IF THE RESPONDENT HAS POSSESSION OF THE  
18 PET OR SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON  
19 ELIGIBLE FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR  
20 RELIEF, OR TO A SUITABLE THIRD PARTY.

21 4-506.

22 (d) The final protective order may include any or all of the following relief:

23 (12) order the respondent to surrender to law enforcement authorities  
24 any firearm in the respondent's possession for the duration of the protective order; [or]

25 (13) order the respondent to pay filing fees and costs of a proceeding  
26 under this subtitle[.]; OR

27 (14) IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY MEMBER  
28 OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL OR THE  
29 RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL, ORDER THE  
30 RESPONDENT TO:

31 (I) REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;

1                   **(II) REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY**  
2 **TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10-604(A) OR §**  
3 **10-606(A) OF THE CRIMINAL LAW ARTICLE; OR**

4                   **(III) IF THE RESPONDENT HAS POSSESSION OF THE PET OR**  
5 **SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE**  
6 **FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR**  
7 **TO A SUITABLE THIRD PARTY.**

8 4-509.

9           (a) A person who fails to comply with the relief granted in an interim  
10 protective order under § 4-504.1(c)(1), (2), (3), (4)(i), (7), [or] (8), **OR (9)** of this  
11 subtitle, a temporary protective order under § 4-505(a)(2)(i), (ii), (iii), (iv), [or] (v), **OR**  
12 **(VIII)** of this subtitle, or a final protective order under § 4-506(d)(1), (2), (3), (4), (5),  
13 [or] (12), **OR (14)** of this subtitle is guilty of a misdemeanor and on conviction is  
14 subject, for each offense, to:

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

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

19           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
20 **October 1, 2008.**