

SENATE BILL 42

D4

8lr1152

By: **Senator Frosh**

Introduced and read first time: January 10, 2008

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Temporary Protective Orders – Surrender of Firearms**

3 FOR the purpose of authorizing a judge in entering a temporary protective order to
4 order a certain person to surrender to law enforcement authorities any firearm
5 in the person's possession for a certain period of time; and generally relating to
6 temporary protective orders and surrender of firearms.

7 BY repealing and reenacting, with amendments,
8 Article – Family Law
9 Section 4–505
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2007 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 4–505.

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

15 (v) order the respondent to remain away from the place of
16 employment, school, or temporary residence of a person eligible for relief or home of
17 other family members;

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

21 (vii) award temporary custody of a minor child of the person
22 eligible for relief and the respondent; **AND**

23 **(VIII) ORDER THE RESPONDENT TO SURRENDER TO LAW**
24 **ENFORCEMENT AUTHORITIES ANY FIREARM IN THE RESPONDENT'S POSSESSION**
25 **FOR THE DURATION OF THE TEMPORARY PROTECTIVE ORDER.**

26 (b) (1) Except as provided in paragraph (2) of this subsection, a law
27 enforcement officer immediately shall serve the temporary protective order on the
28 alleged abuser under this section.

29 (2) A respondent who has been served with an interim protective order
30 under § 4-504.1 of this subtitle shall be served with the temporary protective order in
31 open court or, if the respondent is not present at the temporary protective order
32 hearing, by first-class mail at the respondent's last known address.

33 (3) There shall be no cost to the petitioner for service of the temporary
34 protective order.

35 (c) (1) The temporary protective order shall be effective for not more than
36 7 days after service of the order.

1 (2) The judge may extend the temporary protective order as needed,
2 but not to exceed 30 days, to effectuate service of the order where necessary to provide
3 protection or for other good cause.

4 (d) The judge may proceed with a final protective order hearing instead of a
5 temporary protective order hearing, if:

6 (1) (i) the respondent appears at the hearing;

7 (ii) the respondent has been served with an interim protective
8 order; or

9 (iii) the court otherwise has personal jurisdiction over the
10 respondent; and

11 (2) the petitioner and the respondent expressly consent to waive the
12 temporary protective order hearing.

13 (e) (1) Whenever a judge finds reasonable grounds to believe that abuse of
14 a child, as defined in Title 5, Subtitle 7 of this article, or abuse of a vulnerable adult,
15 as defined in Title 14, Subtitle 1 of this article, has occurred, the court shall forward to
16 the local department a copy of the petition and temporary protective order.

17 (2) Whenever a local department receives a petition and temporary
18 protective order from a court, the local department shall:

19 (i) investigate the alleged abuse as provided in:

20 1. Title 5, Subtitle 7 of this article; or

21 2. Title 14, Subtitle 3 of this article; and

22 (ii) by the date of the final protective order hearing, send to the
23 court a copy of the report of the investigation.

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