

HOUSE BILL 56

E2

9lr0550

By: **Delegates Barnes, Dumais, and Frush**

Introduced and read first time: January 15, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence – Conditions of Probation – Order to Carry or Wear a**
3 **Global Positioning System Device**

4 FOR the purpose of authorizing a court, when placing on probation a defendant who
5 has been convicted of a certain crime of domestic violence, to order the
6 defendant to carry or wear a global positioning system device as a condition of
7 probation and to provide the victim of the crime with an electronic receptor
8 device capable of receiving certain information that notifies the victim if the
9 defendant is located within the proximity to the victim proscribed by the court;
10 requiring that a certain victim of a certain crime of domestic violence be
11 furnished with certain information under certain circumstances; prohibiting a
12 defendant from being released under this Act unless the defendant agrees to
13 pay certain costs as a condition of release; and generally relating to conditions of
14 probation and domestic violence.

15 BY repealing and reenacting, without amendments,
16 Article – Criminal Procedure
17 Section 6–219(b)
18 Annotated Code of Maryland
19 (2008 Replacement Volume)

20 BY adding to
21 Article – Criminal Procedure
22 Section 6–219(g)
23 Annotated Code of Maryland
24 (2008 Replacement Volume)

25 BY repealing and reenacting, with amendments,
26 Article – Criminal Procedure
27 Section 6–220(b)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Family Law
Section 4–501(a), (b), (h), (l), (m), and (p), 4–504, and 4–513
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Criminal Procedure

6–219.

(b) Subject to subsection (c) of this section, a court:

(1) may suspend a sentence generally or for a definite time;

(2) may pass orders and impose terms as to costs, recognizance for
appearance, or matters relating to the residence or conduct of the defendant who is
convicted as may be deemed proper;

(3) may order confinement in any care or custody as may be deemed
proper; or

(4) may order a person to a term of custodial confinement as a
condition of a suspended sentence.

**(G) (1) IF THE COURT PLACES ON PROBATION A DEFENDANT WHO
HAS BEEN CONVICTED OF A CRIME AGAINST A VICTIM OF DOMESTIC VIOLENCE
AS DEFINED IN § 4–513 OF THE FAMILY LAW ARTICLE THAT IS CONSISTENT
WITH AN ACT OF ABUSE AS DEFINED IN § 4–501 OF THE FAMILY LAW ARTICLE,
ON MOTION BY THE VICTIM OF THE CRIME OR AN INDIVIDUAL WHO MAY SEEK
RELIEF FROM ABUSE ON BEHALF OF THE VICTIM UNDER THE FAMILY LAW
ARTICLE, THE COURT MAY:**

**(I) ORDER THE DEFENDANT TO CARRY OR WEAR A GLOBAL
POSITIONING SYSTEM DEVICE AS A CONDITION OF PROBATION; AND**

(II) PROVIDE THE VICTIM OF THE CRIME WITH:

**1. AN ELECTRONIC RECEPTOR DEVICE CAPABLE OF
RECEIVING THE GLOBAL POSITIONING SYSTEM INFORMATION FROM THE
DEVICE CARRIED OR WORN BY THE DEFENDANT THAT NOTIFIES THE VICTIM IF**

1 THE DEFENDANT IS LOCATED WITHIN THE PROXIMITY TO THE VICTIM
2 PROSCRIBED BY THE COURT; AND

3 2. A TELEPHONE CONTACT WITH THE LOCAL LAW
4 ENFORCEMENT AGENCY TO REQUEST IMMEDIATE ASSISTANCE IF THE
5 DEFENDANT IS LOCATED WITHIN THE PROXIMITY TO THE VICTIM PROSCRIBED
6 BY THE COURT.

7 (2) A DEFENDANT DESCRIBED IN THIS SUBSECTION MAY BE
8 RELEASED UNDER THIS SECTION ONLY IF THE DEFENDANT AGREES TO PAY THE
9 COST OF THE GLOBAL POSITIONING SYSTEM DEVICE AND THE MONITORING OF
10 THE DEVICE AS A CONDITION OF RELEASE.

11 6-220.

12 (b) (1) When a defendant pleads guilty or nolo contendere or is found
13 guilty of a crime, a court may stay the entering of judgment, defer further proceedings,
14 and place the defendant on probation subject to reasonable conditions if:

15 (i) the court finds that the best interests of the defendant and
16 the public welfare would be served; and

17 (ii) the defendant gives written consent after determination of
18 guilt or acceptance of a nolo contendere plea.

19 (2) Subject to paragraphs (3) and (4) of this subsection, the conditions
20 may include an order that the defendant:

21 (i) pay a fine or monetary penalty to the State or make
22 restitution; or

23 (ii) participate in a rehabilitation program, the parks program,
24 or a voluntary hospital program.

25 (3) Before the court orders a fine, monetary penalty, or restitution, the
26 defendant is entitled to notice and a hearing to determine the amount of the fine,
27 monetary penalty, or restitution, what payment will be required, and how payment
28 will be made.

29 (4) Any fine or monetary penalty imposed as a condition of probation
30 shall be within the amount set by law for a violation resulting in conviction.

31 (5) As a condition of probation, the court may order a person to a term
32 of custodial confinement or imprisonment.

(iv) rape or sexual offense under §§ 3–303 through 3–308 of the Criminal Law Article or attempted rape or sexual offense in any degree;

(v) false imprisonment; or

(vi) stalking under § 3–802 of the Criminal Law Article.

(2) If the person for whom relief is sought is a child, “abuse” may also include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this subtitle shall be construed to prohibit reasonable punishment, including reasonable corporal punishment, in light of the age and condition of the child, from being performed by a parent or stepparent of the child.

(3) If the person for whom relief is sought is a vulnerable adult, “abuse” may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article.

(h) “Final protective order” means a protective order issued under § 4–506 of this subtitle.

(l) “Person eligible for relief” includes:

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

(2) a cohabitant of the respondent;

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

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

(5) a vulnerable adult; or

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

(m) (1) “Petitioner” means an individual who files a petition.

(2) “Petitioner” includes:

(i) a person eligible for relief; or

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

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

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

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

4. an adult who resides in the home.

(p) “Temporary protective order” means a protective order issued under § 4–505 of this subtitle.

4–504.

(a) A petitioner may seek relief from abuse by filing with a court, or with a commissioner under the circumstances specified in § 4–504.1(a) of this subtitle, a petition that alleges abuse of any person eligible for relief by the respondent.

(b) (1) The petition shall:

(i) be under oath; and

(ii) include any information known to the petitioner of:

1. the nature and extent of the abuse for which the relief is being sought, including information known to the petitioner concerning previous injury resulting from abuse by the respondent;

2. each previous action between the parties in any court;

3. each pending action between the parties in any court;

4. the whereabouts of the respondent, if known;

5. if financial relief is requested, information known to the petitioner regarding the financial resources of the respondent; and

6. in a case of alleged child abuse or alleged abuse of a vulnerable adult, the whereabouts of the child or vulnerable adult and any other information relating to the abuse of the child or vulnerable adult.

(2) If the petition states that disclosure of the address of a person eligible for relief would risk further abuse of a person eligible for relief, or reveal the confidential address of a shelter for domestic violence victims, that address may be omitted from all documents filed with a commissioner or filed with, or transferred to, a court. If disclosure is necessary to determine jurisdiction or consider any venue issue, it shall be made orally and in camera and may not be disclosed to the respondent.

1 (c) The petitioner may not be required to pay a filing fee or costs for the
2 issuance or service of:

3 (1) an interim protective order;

4 (2) a temporary protective order;

5 (3) a final protective order; or

6 (4) a witness subpoena.

7 4-513.

8 In this Part III and in Part IV of this subtitle, "victim of domestic violence"
9 means an individual who has received deliberate, severe, and demonstrable physical
10 injury, or is in fear of imminent deliberate, severe, and demonstrable physical injury
11 from a current or former spouse, or a current or former cohabitant, as defined in §
12 4-501 of this subtitle.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2009.