

HOUSE BILL 517

D4, E2

9lr2141

By: **Delegate Barnes**

Introduced and read first time: February 5, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence – Warrantless Arrests – Recodification**

3 FOR the purpose of codifying in the Criminal Procedure Article a provision of law in
4 the Family Law Article that requires an officer to arrest with or without a
5 warrant and take into custody a person who the officer has probable cause to
6 believe is in violation of a certain provision of an interim, temporary, or final
7 protective order in effect at the time of the violation; making a certain clarifying
8 change; and generally relating to domestic violence and warrantless arrests.

9 BY repealing and reenacting, without amendments,
10 Article – Criminal Procedure
11 Section 2–204
12 Annotated Code of Maryland
13 (2008 Replacement Volume)

14 BY adding to
15 Article – Criminal Procedure
16 Section 2–204.1
17 Annotated Code of Maryland
18 (2008 Replacement Volume)

19 BY repealing and reenacting, with amendments,
20 Article – Family Law
21 Section 4–509
22 Annotated Code of Maryland
23 (2006 Replacement Volume and 2008 Supplement)

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

26 **Article – Criminal Procedure**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



2–204.

(a) A police officer without a warrant may arrest a person if:

(1) the police officer has probable cause to believe that:

(i) the person battered the person's spouse or another person with whom the person resides;

(ii) there is evidence of physical injury; and

(iii) unless the person is arrested immediately, the person:

1. may not be apprehended;

2. may cause physical injury or property damage to another; or

3. may tamper with, dispose of, or destroy evidence; and

(2) a report to the police was made within 48 hours of the alleged incident.

(b) If the police officer has probable cause to believe that mutual battery occurred and arrest is necessary under subsection (a) of this section, the police officer shall consider whether one of the persons acted in self-defense when determining whether to arrest the person whom the police officer believes to be the primary aggressor.

2–204.1.

A POLICE OFFICER SHALL ARREST WITH OR WITHOUT A WARRANT AND TAKE INTO CUSTODY A PERSON WHO THE OFFICER HAS PROBABLE CAUSE TO BELIEVE IS IN VIOLATION OF A PROVISION OF AN INTERIM, TEMPORARY, OR FINAL PROTECTIVE ORDER SPECIFIED IN § 4–509(A) OF THE FAMILY LAW ARTICLE IN EFFECT AT THE TIME OF THE VIOLATION.

Article – Family Law

4–509.

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

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

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

5 (b) An officer shall arrest with or without a warrant and take into custody a
6 person who the officer has probable cause to believe is in violation of **A PROVISION**
7 **OF** an interim, temporary, or final protective order **SPECIFIED IN SUBSECTION (A)**
8 **OF THIS SECTION** in effect at the time of the violation.

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