

SENATE BILL 867

D4

0lr2284
CF HB 534

By: **Senators Muse, Conway, Exum, Forehand, King, Lenett, Peters, Pugh,
Raskin, Robey, and Rosapepe**
Introduced and read first time: February 12, 2010
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence – Protective Order – Extension**

3 FOR the purpose of authorizing a court to extend the term of a protective order for a
4 certain period of time under certain circumstances; requiring the court to
5 provide certain notice and a hearing before extending the term of a protective
6 order; requiring the court to consider certain factors in determining the period
7 of extension of a protective order; and generally relating to an extension of a
8 protective order.

9 BY repealing and reenacting, without amendments,
10 Article – Family Law
11 Section 4–506(i) and (j)
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2009 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Family Law
16 Section 4–507
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2009 Supplement)

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

21 **Article – Family Law**

22 4–506.

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



1 (i) (1) Except as provided in paragraphs (2) and (3) of this subsection, all
2 relief granted in a final protective order shall be effective for the period stated in the
3 order, not to exceed 1 year.

4 (2) All relief granted in a final protective order shall be effective for
5 the period stated in the order, not to exceed 2 years if:

6 (i) the court issues a final protective order under this section
7 against a respondent on behalf of a person eligible for relief for an act of abuse
8 committed within 1 year after the date that a prior final protective order issued
9 against the same respondent on behalf of the same person eligible for relief expires;
10 and

11 (ii) the prior final protective order was issued for a period of at
12 least 6 months.

13 (3) A subsequent circuit court order pertaining to any of the provisions
14 included in the final protective order shall supersede those provisions in the final
15 protective order.

16 (j) (1) Notwithstanding any other provision of this section, the court shall
17 issue a new final protective order against an individual if:

18 (i) the individual was previously a respondent under this
19 subtitle against whom a final protective order was issued;

20 (ii) the individual was convicted and served a term of
21 imprisonment of at least 5 years under § 2–205, § 2–206, § 3–202, § 3–303, § 3–304, §
22 3–305, § 3–306, § 3–309, § 3–310, § 3–311, or § 3–312 of the Criminal Law Article for
23 the act of abuse that led to the issuance of the final protective order; and

24 (iii) the victim of the abuse who was the person eligible for relief
25 in the original final protective order requests the issuance of a new final protective
26 order.

27 (2) In a final protective order issued under this subsection, the court
28 may grant only the relief that was granted in the original protective order under
29 subsection (d)(1) or (2) of this section.

30 (3) Unless terminated at the request of the victim, a final protective
31 order issued under this subsection shall be permanent.

32 4–507.

33 (a) (1) A protective order may be modified or rescinded during the term of
34 the protective order after:

1 (i) giving notice to all affected persons eligible for relief and the
2 respondent; and

3 (ii) a hearing.

4 (2) For good cause shown, a judge may extend the term of the
5 protective order for 6 months beyond the period specified in § 4-506(i) of this subtitle,
6 after:

7 (i) giving notice to all affected persons eligible for relief and the
8 respondent; and

9 (ii) a hearing.

10 **(3) (I) IF A JUDGE FINDS BY CLEAR AND CONVINCING**
11 **EVIDENCE THAT THE RESPONDENT HAS COMMITTED A SUBSEQUENT ACT OF**
12 **ABUSE AGAINST A PERSON ELIGIBLE FOR RELIEF DURING THE TERM OF A**
13 **PROTECTIVE ORDER, THE JUDGE MAY EXTEND THE TERM OF THE PROTECTIVE**
14 **ORDER FOR A PERIOD NOT TO EXCEED 5 YEARS BEYOND THE PERIOD SPECIFIED**
15 **IN § 4-506(I) OF THIS SUBTITLE, AFTER:**

16 **1. GIVING NOTICE TO ALL AFFECTED PERSONS**
17 **ELIGIBLE FOR RELIEF AND THE RESPONDENT; AND**

18 **2. A HEARING.**

19 **(II) IN DETERMINING THE PERIOD OF EXTENSION OF A**
20 **PROTECTIVE ORDER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE**
21 **JUDGE SHALL CONSIDER THE FOLLOWING FACTORS:**

22 **1. THE NATURE AND SEVERITY OF THE SUBSEQUENT**
23 **ACT OF ABUSE;**

24 **2. THE HISTORY AND SEVERITY OF ABUSE IN THE**
25 **RELATIONSHIP BETWEEN THE RESPONDENT AND ANY PERSON ELIGIBLE FOR**
26 **RELIEF;**

27 **3. THE PENDENCY AND TYPE OF CRIMINAL CHARGES**
28 **AGAINST THE RESPONDENT; AND**

29 **4. THE NATURE AND EXTENT OF THE INJURY OR**
30 **RISK OF INJURY CAUSED BY THE RESPONDENT.**

1 (b) (1) If a District Court judge grants or denies relief under a petition
2 filed under this subtitle, a respondent, any person eligible for relief, or a petitioner
3 may appeal to the circuit court for the county where the District Court is located.

4 (2) An appeal taken under this subsection to the circuit court shall be
5 heard de novo in the circuit court.

6 (3) If an appeal is filed under this subsection, the District Court
7 judgment shall remain in effect until superseded by a judgment of the circuit court.
8 Unless the circuit court orders otherwise, modification or enforcement of the District
9 Court order shall be by the District Court.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2010.