

HOUSE BILL 92

D4

2lr1194

By: **Delegates Simmons and Dumais**

Introduced and read first time: January 18, 2012

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 14, 2012

CHAPTER _____

1 AN ACT concerning

2 ~~Domestic Violence~~ **Peace and Protective Orders – Shielding – Complete**
3 **Removal of Information from Public Web Site**

4 FOR the purpose of clarifying the definition of “shielding” in certain provisions
5 relating to the removal from the public Web site maintained by the Maryland
6 Judiciary of certain court records ~~concerning domestic violence~~ relating to peace
7 order or protective order proceedings; clarifying certain language; making
8 certain stylistic changes; and generally relating to ~~domestic violence~~ peace
9 orders and protective orders.

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 3–1510
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2011 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Family Law
17 Section 4–512
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2011 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Courts and Judicial Proceedings

2 3–1510.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) (i) “Court record” means an official record of a court about a
5 proceeding that the clerk of a court or other court personnel keeps.

6 (ii) “Court record” includes:

7 1. An index, a docket entry, a petition, a memorandum,
8 a transcription of proceedings, an electronic recording, an order, and a judgment; and

9 2. Any electronic information about a proceeding on the
10 [website] WEB SITE maintained by the Maryland Judiciary.

11 (3) “Shield” means to remove information from public inspection in
12 accordance with this section.

13 (4) “Shielding” means:

14 (i) With respect to a record kept in a courthouse, removing THE
15 RECORD to a separate secure area to which persons who do not have a legitimate
16 reason for access are denied access; and

17 (ii) With respect to electronic information about a proceeding on
18 the [website] WEB SITE maintained by the Maryland Judiciary, COMPLETELY
19 removing [the] ALL information CONCERNING THE PROCEEDING from the public
20 [website] WEB SITE, INCLUDING THE NAMES OF THE PARTIES, CASE NUMBERS,
21 AND ANY REFERENCE TO THE PROCEEDING OR ANY REFERENCE TO THE
22 REMOVAL OF THE PROCEEDING FROM THE PUBLIC WEB SITE.

23 (5) “Victim services provider” means a nonprofit organization that has
24 been authorized by the Governor’s Office of Crime Control and Prevention or the
25 Department of Human [Services] RESOURCES to have access to records of shielded
26 peace orders in order to assist victims of abuse.

27 (b) If a petition filed under this subtitle is denied or dismissed at the interim,
28 temporary, or final peace order stage of a proceeding under this subtitle, the
29 respondent may file a written request to shield all court records relating to the
30 proceeding.

31 (c) A request for shielding under this section may not be filed within 3 years
32 after the denial or dismissal of the petition unless the respondent files with the

1 request a general waiver and release of all the respondent's tort claims related to the
2 proceeding under this subtitle.

3 (d) (1) On the filing of a request for shielding under this section, the court
4 shall schedule a hearing on the request.

5 (2) The court shall give notice of the hearing to the petitioner or the
6 petitioner's counsel of record.

7 (3) Except as provided in paragraphs (4) and (5) of this subsection,
8 after the hearing, the court shall order the shielding of all court records relating to the
9 proceeding if the court finds:

10 (i) That the petition was denied or dismissed at the interim,
11 temporary, or final peace order stage of the proceeding;

12 (ii) That a final peace order or protective order has not been
13 previously issued against the respondent in a proceeding between the petitioner and
14 the respondent; and

15 (iii) That none of the following are pending at the time of the
16 hearing:

17 1. An interim or temporary peace order or protective
18 order issued against the respondent in a proceeding between the petitioner and the
19 respondent; or

20 2. A criminal charge against the respondent arising from
21 an alleged act described in § 3-1503(a) of this subtitle against the petitioner.

22 (4) (i) If the petitioner appears at the shielding hearing and objects
23 to the shielding, the court may, for good cause, deny the shielding.

24 (ii) In determining whether there is good cause to grant the
25 request to shield court records, the court shall balance the privacy of the respondent
26 and potential danger of adverse consequences to the respondent against the potential
27 risk of future harm and danger to the petitioner and the community.

28 (5) Information about the proceeding may not be removed from the
29 Domestic Violence Central Repository.

30 (e) (1) This section does not preclude the following persons from accessing
31 a shielded record for a legitimate reason:

32 (i) A law enforcement officer;

1 (ii) An attorney who represents or has represented the
2 petitioner or the respondent in a proceeding;

3 (iii) A State's Attorney;

4 (iv) An employee of a local department of social services; or

5 (v) A victim services provider.

6 (2) (i) A person not listed in paragraph (1) of this subsection may
7 subpoena, or file a motion for access to, a record shielded under this section.

8 (ii) If the court finds that the person has a legitimate reason for
9 access, the court may grant the person access to the shielded record under the terms
10 and conditions that the court determines.

11 (iii) In ruling on a motion under this paragraph, the court shall
12 balance the person's need for access to the record with the respondent's right to
13 privacy and the potential harm of unwarranted adverse consequences to the
14 respondent that the disclosure may create.

15 (f) Within 60 days after entry of an order under subsection (d)(3) of this
16 section, each custodian of court records that are subject to the order of shielding shall
17 advise in writing the court and the respondent of compliance with the order.

18 Article – Family Law

19 4–512.

20 (a) (1) In this section the following words have the meanings indicated.

21 (2) (i) “Court record” means an official record of a court about a
22 proceeding that the clerk of a court or other court personnel keeps.

23 (ii) “Court record” includes:

24 1. an index, a docket entry, a petition, a memorandum, a
25 transcription of proceedings, an electronic recording, an order, and a judgment; and

26 2. any electronic information about a proceeding on the
27 website maintained by the Maryland Judiciary.

28 (3) “Shield” means to remove information from public inspection in
29 accordance with this section.

30 (4) “Shielding” means:

1 (i) with respect to a record kept in a courthouse, removing **THE**
2 **RECORD** to a separate secure area to which persons who do not have a legitimate
3 reason for access are denied access; and

4 (ii) with respect to electronic information about a proceeding on
5 the website maintained by the Maryland Judiciary, **COMPLETELY** removing [the] **ALL**
6 information **CONCERNING THE PROCEEDING, INCLUDING THE NAMES OF THE**
7 **PARTIES, AND ANY REFERENCE TO THE PROCEEDING** from the public website
8 **WEB SITE, INCLUDING THE NAMES OF THE PARTIES, CASE NUMBERS, AND ANY**
9 **REFERENCE TO THE PROCEEDING OR ANY REFERENCE TO THE REMOVAL OF**
10 **THE PROCEEDING FROM THE PUBLIC WEB SITE.**

11 (5) “Victim services provider” means a nonprofit organization that has
12 been authorized by the Governor’s Office of Crime Control and Prevention or the
13 Department of Human ~~Services~~ **RESOURCES** to have access to records of shielded
14 protective orders in order to assist victims of abuse.

15 (b) If a petition filed under this subtitle is denied or dismissed at the interim,
16 temporary, or final protective order stage of a proceeding under this subtitle, the
17 respondent may file a written request to shield all court records relating to the
18 proceeding.

19 (c) A request for shielding under this section may not be filed within 3 years
20 after the denial or dismissal of the petition, unless the respondent files with the
21 request a general waiver and release of all the respondent’s tort claims related to the
22 proceeding under this subtitle.

23 (d) (1) On the filing of a request for shielding under this section, the court
24 shall schedule a hearing on the request.

25 (2) The court shall give notice of the hearing to the petitioner or the
26 petitioner’s counsel of record.

27 (3) Except as provided in paragraphs (4) and (5) of this subsection,
28 after the hearing, the court shall order the shielding of all court records relating to the
29 proceeding if the court finds:

30 (i) that the petition was denied or dismissed at the interim,
31 temporary, or final protective order stage of the proceeding;

32 (ii) that a final protective order or peace order has not been
33 previously issued against the respondent in a proceeding between the petitioner and
34 the respondent; and

35 (iii) that none of the following are pending at the time of the
36 hearing:

1 1. an interim or temporary protective order or peace
2 order issued against the respondent in a proceeding between the petitioner and the
3 respondent; or

4 2. a criminal charge against the respondent arising from
5 alleged abuse against the petitioner.

6 (4) (i) If the petitioner appears at the shielding hearing and objects
7 to the shielding, the court may, for good cause, deny the shielding.

8 (ii) In determining whether there is good cause to grant the
9 request to shield court records, the court shall balance the privacy of the respondent
10 and potential danger of adverse consequences to the respondent against the potential
11 risk of future harm and danger to the petitioner and the community.

12 (5) Information about the proceeding may not be removed from the
13 Domestic Violence Central Repository.

14 (e) (1) This section does not preclude the following persons from accessing
15 a shielded record for a legitimate reason:

16 (i) a law enforcement officer;

17 (ii) an attorney who represents or has represented the
18 petitioner or the respondent in a proceeding;

19 (iii) a State's Attorney;

20 (iv) an employee of a local department; or

21 (v) a victim services provider.

22 (2) (i) A person not listed in paragraph (1) of this subsection may
23 subpoena, or file a motion for access to, a record shielded under this section.

24 (ii) If the court finds that the person has a legitimate reason for
25 access, the court may grant the person access to the shielded record under the terms
26 and conditions that the court determines.

27 (iii) In ruling on a motion under this paragraph, the court shall
28 balance the person's need for access to the record with the respondent's right to
29 privacy and the potential harm of unwarranted adverse consequences to the
30 respondent that the disclosure may create.

1 (f) Within 60 days after entry of an order under subsection (d)(3) of this
2 section, each custodian of court records that are subject to the order of shielding shall
3 advise in writing the court and the respondent of compliance with the order.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.