

# HOUSE BILL 189

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By: **Delegate Feldman**

Introduced and read first time: January 21, 2013

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Peace Orders – Acts Committed Against Employees**

3 FOR the purpose of altering the definition of “petitioner” under provisions of law  
4 relating to peace orders; authorizing a petitioner to file a petition for a peace  
5 order for certain acts committed against the petitioner’s employee; authorizing a  
6 District Court commissioner to issue an interim peace order to protect a  
7 petitioner’s employee under certain circumstances; authorizing a court to issue  
8 a temporary peace order or final peace order to protect a petitioner’s employee  
9 under certain circumstances; defining certain terms; providing that certain  
10 provisions do not alter a certain duty; providing that an employer acting in a  
11 certain manner is immune from liability except under certain circumstances;  
12 establishing that a certain failure to act is not negligence and evidence of a  
13 certain failure to act is not admissible for a certain purpose; providing for the  
14 construction of certain provisions of this Act; making certain conforming  
15 changes; and generally relating to peace orders.

16 BY repealing and reenacting, without amendments,  
17 Article 1 – Rules of Interpretation  
18 Section 15  
19 Annotated Code of Maryland  
20 (2011 Replacement Volume and 2012 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – Courts and Judicial Proceedings  
23 Section 3–1501 through 3–1505  
24 Annotated Code of Maryland  
25 (2006 Replacement Volume and 2012 Supplement)

26 BY adding to  
27 Article – Courts and Judicial Proceedings  
28 Section 3–1511

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2006 Replacement Volume and 2012 Supplement)

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

5 **Article 1 – Rules of Interpretation**

6 15.

7 Unless such a construction would be unreasonable, the word person shall  
8 include corporation, partnership, business trust, statutory trust, or limited liability  
9 company.

10 **Article – Courts and Judicial Proceedings**

11 3–1501.

12 (a) In this subtitle the following words have the meanings indicated.

13 (b) “Commissioner” means a District Court commissioner appointed in  
14 accordance with Article IV, § 41G of the Maryland Constitution.

15 (c) “Court” means the District Court of Maryland.

16 (d) **“EMPLOYEE” MEANS:**

17 **(1) AN INDIVIDUAL WHO IS EMPLOYED BY A PERSON; OR**

18 **(2) A VOLUNTEER OR INDEPENDENT CONTRACTOR WHO**  
19 **PERFORMS SERVICES FOR A PERSON AT THE PERSON’S WORKSITE.**

20 **(E) (1) “EMPLOYER” MEANS A PERSON ENGAGED IN A BUSINESS,**  
21 **INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE STATE.**

22 **(2) “EMPLOYER” INCLUDES A PERSON WHO ACTS DIRECTLY OR**  
23 **INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.**

24 **(F) “Final peace order” means a peace order issued by a judge under § 3–1505**  
25 **of this subtitle.**

26 **[(e)] (G) “Interim peace order” means an order that a commissioner issues**  
27 **under this subtitle pending a hearing by a judge on a petition.**

28 **[(f)] (H) “Petitioner” means [an individual] A PERSON who files a petition**  
29 **under § 3–1503 of this subtitle.**

1            [(g)] (I)        “Residence” includes the yard, grounds, outbuildings, and common  
2 areas surrounding the residence.

3            [(h)] (J)        “Respondent” means an individual alleged in a petition to have  
4 committed an act specified in § 3–1503(a) of this subtitle against a petitioner.

5            [(i)] (K)        “Temporary peace order” means a peace order issued by a judge  
6 under § 3–1504 of this subtitle.

7 3–1502.

8            (a) By proceeding under this subtitle, a petitioner is not limited to or  
9 precluded from pursuing any other legal remedy.

10           (b) This subtitle does not apply to:

11                (1) A petitioner **OR A PETITIONER’S EMPLOYEE** who is a person  
12 eligible for relief, as defined in § 4–501 of the Family Law Article; or

13                (2) A respondent who is a child at the time of the alleged commission  
14 of an act specified in § 3–1503(a) of this subtitle.

15 3–1503.

16            (a) A petitioner may seek relief under this subtitle by filing with the court, or  
17 with a commissioner under the circumstances specified in § 3–1503.1(a) of this  
18 subtitle, a petition that alleges the commission of any of the following acts against the  
19 petitioner **OR THE PETITIONER’S EMPLOYEE** by the respondent, if the act occurred  
20 within 30 days before the filing of the petition:

21                (1) An act that causes serious bodily harm;

22                (2) An act that places the petitioner **OR THE PETITIONER’S**  
23 **EMPLOYEE** in fear of imminent serious bodily harm;

24                (3) Assault in any degree;

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

27                (5) False imprisonment;

28                (6) Harassment under § 3–803 of the Criminal Law Article;

29                (7) Stalking under § 3–802 of the Criminal Law Article;

1 (8) Trespass under Title 6, Subtitle 4 of the Criminal Law Article; or

2 (9) Malicious destruction of property under § 6–301 of the Criminal  
3 Law Article.

4 (b) (1) The petition shall:

5 (i) Be under oath and provide notice to the petitioner that an  
6 individual who knowingly provides false information in the petition is guilty of a  
7 misdemeanor and on conviction is subject to the penalties specified in subsection (d) of  
8 this section;

9 (ii) Subject to the provisions of subsection (c) of this section,  
10 contain the address of the petitioner **OR THE PETITIONER’S EMPLOYEE**; and

11 (iii) Include all information known to the petitioner of:

12 1. The nature and extent of the act specified in  
13 subsection (a) of this section for which the relief is being sought, including information  
14 known to the petitioner concerning previous harm or injury resulting from an act  
15 specified in subsection (a) of this section by the respondent;

16 2. Each previous and pending action between the parties  
17 in any court; and

18 3. The whereabouts of the respondent.

19 (c) If, in a proceeding under this subtitle, a petitioner alleges, and the  
20 commissioner or judge finds, that the disclosure of the address of the petitioner **OR**  
21 **THE PETITIONER’S EMPLOYEE** would risk further harm to the petitioner **OR THE**  
22 **PETITIONER’S EMPLOYEE**, that address may be stricken from the petition and  
23 omitted from all other documents filed with the commissioner or filed with, or  
24 transferred to, a court.

25 (d) An individual who knowingly provides false information in a petition filed  
26 under this section is guilty of a misdemeanor and on conviction is subject to a fine not  
27 exceeding \$1,000 or imprisonment not exceeding 90 days or both.

28 **(E) THIS SUBTITLE DOES NOT ALTER THE DUTY OF AN EMPLOYER TO**  
29 **PROVIDE A SAFE WORKPLACE FOR EMPLOYEES AND OTHER PERSONS.**

30 **(F) AN EMPLOYER THAT ACTS IN ACCORDANCE WITH THIS SUBTITLE**  
31 **SHALL BE PRESUMED TO BE ACTING IN GOOD FAITH AND, UNLESS A LACK OF**  
32 **GOOD FAITH IS SHOWN BY CLEAR AND CONVINCING EVIDENCE, IS IMMUNE**  
33 **FROM CIVIL LIABILITY.**

1           **(G) (1) THE FAILURE OF AN EMPLOYER TO ACT IN ACCORDANCE**  
2 **WITH THE PROVISIONS OF THIS SUBTITLE IS NOT NEGLIGENCE.**

3           **(2) EVIDENCE THAT AN EMPLOYER DID NOT ACT IN ACCORDANCE**  
4 **WITH THE PROVISIONS OF THIS SUBTITLE IS NOT ADMISSIBLE AS EVIDENCE OF**  
5 **NEGLIGENCE.**

6 3–1503.1.

7           (a) A petition under this subtitle may be filed with a commissioner when the  
8 Office of the District Court Clerk is not open for business.

9           (b) If a petition is filed with a commissioner and the commissioner finds that  
10 there are reasonable grounds to believe that the respondent has committed, and is  
11 likely to commit in the future, an act specified in § 3–1503(a) of this subtitle against  
12 the petitioner **OR THE PETITIONER’S EMPLOYEE**, the commissioner may issue an  
13 interim peace order to protect the petitioner **OR THE PETITIONER’S EMPLOYEE**.

14           (c) An interim peace order:

15                   (1) Shall contain only the relief that is minimally necessary to protect  
16 the petitioner **OR THE PETITIONER’S EMPLOYEE**; and

17                   (2) May order the respondent to:

18                           (i) Refrain from committing or threatening to commit an act  
19 specified in § 3–1503(a) of this subtitle against the petitioner **OR THE PETITIONER’S**  
20 **EMPLOYEE**;

21                           (ii) Refrain from contacting, attempting to contact, or harassing  
22 the petitioner **OR THE PETITIONER’S EMPLOYEE**;

23                           (iii) Refrain from entering the residence **OR PLACE OF**  
24 **BUSINESS** of the petitioner **OR THE PETITIONER’S EMPLOYEE**; and

25                           (iv) Remain away from the place of employment, **PLACE OF**  
26 **BUSINESS**, school, or temporary residence of the petitioner **OR THE PETITIONER’S**  
27 **EMPLOYEE**.

28           (d) (1) (i) An interim peace order shall state the date, time, and  
29 location for the temporary peace order hearing and a tentative date, time, and location  
30 for a final peace order hearing.

1                   (ii) Except as provided in subsection (g) of this section, or unless  
2 the court continues the hearing for good cause, a temporary peace order hearing shall  
3 be held on the first or second day on which a District Court judge is sitting after  
4 issuance of the interim peace order.

5                   (2) An interim peace order shall include in at least 10–point bold type:

6                   (i) Notice to the respondent that:

7                                 1. The respondent must give the court written notice of  
8 each change of address;

9                                 2. If the respondent fails to appear at the temporary  
10 peace order hearing or any later hearing, the respondent may be served with any other  
11 orders or notices in the case by first–class mail at the respondent’s last known  
12 address;

13                                3. The date, time, and location of the final peace order  
14 hearing is tentative only, and subject to change; and

15                                4. If the respondent does not attend the temporary peace  
16 order hearing, the respondent may call the Office of the Clerk of the District Court at  
17 the number provided in the order to find out the actual date, time, and location of any  
18 final peace order hearing;

19                               (ii) A statement of all possible forms and duration of relief that  
20 a temporary peace order or final peace order may contain;

21                               (iii) Notice to the petitioner and respondent that, at the hearing,  
22 a judge may issue a temporary peace order that grants any or all of the relief  
23 requested in the petition or may deny the petition, whether or not the respondent is in  
24 court;

25                               (iv) A warning to the respondent that violation of an interim  
26 peace order is a crime and that a law enforcement officer shall arrest the respondent,  
27 with or without a warrant, and take the respondent into custody if the officer has  
28 probable cause to believe that the respondent has violated any provision of the interim  
29 peace order; and

30                               (v) The phone number of the Office of the District Court Clerk.

31                   (e) Whenever a commissioner issues an interim peace order, the  
32 commissioner shall:

33                               (1) Immediately forward a copy of the petition and interim peace order  
34 to the appropriate law enforcement agency for service on the respondent; and

1           (2) Before the hearing scheduled in the interim peace order, transfer  
2 the case file and the return of service, if any, to the Office of the District Court Clerk.

3           (f) A law enforcement officer shall:

4           (1) Immediately on receipt of a petition and interim peace order, serve  
5 them on the respondent named in the order; and

6           (2) Immediately after service, make a return of service to the  
7 commissioner's office or, if the Office of the District Court Clerk is open for business, to  
8 the clerk.

9           (g) (1) Except as otherwise provided in this subsection, an interim peace  
10 order shall be effective until the earlier of:

11                           (i) The temporary peace order hearing under § 3–1504 of this  
12 subtitle; or

13                           (ii) The end of the second business day the Office of the Clerk of  
14 the District Court is open following the issuance of an interim peace order.

15           (2) If the court is closed on the day on which the interim peace order is  
16 due to expire, the interim peace order shall be effective until the next day on which the  
17 court is open, at which time the court shall hold a temporary peace order hearing.

18           (h) A decision of a commissioner to grant or deny relief under this section is  
19 not binding on, and does not affect any power granted to or duty imposed on, a judge of  
20 a circuit court or the District Court under any law, including any power to grant or  
21 deny a petition for a temporary peace order or final peace order.

22           (i) An individual who knowingly provides false information in a petition filed  
23 under this section is guilty of a misdemeanor and on conviction is subject to a fine not  
24 exceeding \$1,000 or imprisonment not exceeding 90 days or both.

25 3–1504.

26           (a) (1) If after a hearing on a petition, whether ex parte or otherwise, a  
27 judge finds that there are reasonable grounds to believe that the respondent has  
28 committed, and is likely to commit in the future, an act specified in § 3–1503(a) of this  
29 subtitle against the petitioner **OR THE PETITIONER'S EMPLOYEE**, the judge may  
30 issue a temporary peace order to protect the petitioner **OR THE PETITIONER'S**  
31 **EMPLOYEE**.

32           (2) The temporary peace order may include any or all of the following  
33 relief:

1 (i) Order the respondent to refrain from committing or  
2 threatening to commit an act specified in § 3–1503(a) of this subtitle against the  
3 petitioner **OR THE PETITIONER’S EMPLOYEE**;

4 (ii) Order the respondent to refrain from contacting, attempting  
5 to contact, or harassing the petitioner **OR THE PETITIONER’S EMPLOYEE**;

6 (iii) Order the respondent to refrain from entering the residence  
7 **OR PLACE OF BUSINESS** of the petitioner **OR THE PETITIONER’S EMPLOYEE**; and

8 (iv) Order the respondent to remain away from the place of  
9 employment, **PLACE OF BUSINESS**, school, or temporary residence of the petitioner  
10 **OR THE PETITIONER’S EMPLOYEE**.

11 (3) If the judge issues an order under this section, the order shall  
12 contain only the relief that is minimally necessary to protect the petitioner **OR THE**  
13 **PETITIONER’S EMPLOYEE**.

14 (b) (1) Except as provided in paragraph (2) of this subsection, a law  
15 enforcement officer immediately shall serve the temporary peace order on the  
16 respondent.

17 (2) A respondent who has been served with an interim peace order  
18 under § 3–1503.1 of this subtitle shall be served with the temporary peace order in  
19 open court or, if the respondent is not present at the temporary peace order hearing,  
20 by first-class mail at the respondent’s last known address.

21 (c) (1) Except as otherwise provided in this subsection, the temporary  
22 peace order shall be effective for not more than 7 days after service of the order.

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

26 (3) If the court is closed on the day on which the temporary peace  
27 order is due to expire, the temporary peace order shall be effective until the second day  
28 on which the court is open, by which time the court shall hold a final peace order  
29 hearing.

30 (d) The judge may proceed with a final peace order hearing instead of a  
31 temporary peace order hearing if:

32 (1) (i) The respondent appears at the hearing;

33 (ii) The respondent has been served with an interim peace  
34 order; or



1 (iii) The court otherwise has personal jurisdiction over the  
2 respondent; and

3 (2) The petitioner and the respondent expressly consent to waive the  
4 temporary peace order hearing.

5 3–1505.

6 (a) A respondent shall have an opportunity to be heard on the question of  
7 whether the judge should issue a final peace order.

8 (b) (1) (i) The temporary peace order shall state the date and time of  
9 the final peace order hearing.

10 (ii) Except as provided in § 3–1504(c) of this subtitle, or unless  
11 continued for good cause, the final peace order hearing shall be held no later than 7  
12 days after the temporary peace order is served on the respondent.

13 (2) The temporary peace order shall include notice to the respondent:

14 (i) In at least 10–point bold type, that if the respondent fails to  
15 appear at the final peace order hearing, the respondent may be served by first–class  
16 mail at the respondent’s last known address with the final peace order and all other  
17 notices concerning the final peace order;

18 (ii) Specifying all the possible forms of relief under subsection  
19 (d) of this section that the final peace order may contain;

20 (iii) That the final peace order shall be effective for the period  
21 stated in the order, not to exceed 6 months; and

22 (iv) In at least 10–point bold type, that the respondent must  
23 notify the court in writing of any change of address.

24 (c) (1) If the respondent appears for the final peace order hearing, has  
25 been served with an interim peace order or a temporary peace order, or the court  
26 otherwise has personal jurisdiction over the respondent, the judge:

27 (i) May proceed with the final peace order hearing; and

28 (ii) If the judge finds by clear and convincing evidence that the  
29 respondent has committed, and is likely to commit in the future, an act specified in §  
30 3–1503(a) of this subtitle against the petitioner **OR THE PETITIONER’S EMPLOYEE**,  
31 or if the respondent consents to the entry of a peace order, the court may issue a final  
32 peace order to protect the petitioner **OR THE PETITIONER’S EMPLOYEE**.



1 (f) All relief granted in a final peace order shall be effective for the period  
2 stated in the order, not to exceed 6 months.

3 **3-1511.**

4 **THIS SUBTITLE MAY NOT BE CONSTRUED AS AUTHORIZING A COURT TO**  
5 **ISSUE A PEACE ORDER, TEMPORARY PEACE ORDER, OR INTERIM PEACE ORDER**  
6 **PROHIBITING SPEECH OR OTHER ACTIVITIES THAT ARE PROTECTED BY THE**  
7 **CONSTITUTION OF THIS STATE OR THE UNITED STATES OR BY ANY OTHER**  
8 **PROVISION OF LAW.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2013.