

HB0397/362517/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 397
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Waldstreicher” and substitute “Waldstreicher, and Costa”.

AMENDMENT NO. 2

On page 1, in line 3, after “of” insert “authorizing a petitioner to file a written request to shield court records relating to a peace order or protective order proceeding under certain circumstances;”; strike beginning with “respondent” in line 3 down through “shield” in line 4 and substitute “petitioner or a respondent to file a written request to shield”; in line 5, strike “the” and substitute “a”; in the same line, after “proceeding” insert “if the respondent consented to the entry of the peace order or protective order”; in the same line, after “circumstances,” insert “altering the circumstances under which a court is required to order the shielding of all court records relating to a peace order or protective order proceeding if a certain petition was denied or dismissed; authorizing a respondent to refile a written request to shield court records relating to a peace order or protective order proceeding under certain circumstances;”; in line 8, strike “consents” and substitute “consented”; in the same line, after the second “the” insert “peace order or protective”; and in the same line, after “order;” insert “authorizing the court, under certain circumstances, to deny a request to shield court records relating to a peace order or protective order proceeding for good cause; requiring the court, in ruling on a certain motion for access to a shielded record, to balance the person’s need for access with the petitioner’s right to privacy and the potential harm of certain adverse consequences to the petitioner that the disclosure may create; authorizing the Governor’s Office of Crime Control and Prevention, in consultation with the Maryland Judiciary, to adopt certain regulations; altering a certain definition; making certain clarifying and conforming changes;”.

(Over)

AMENDMENT NO. 3

On page 2, in line 20, after “nonprofit” insert “OR GOVERNMENTAL”; strike beginning with “or” in line 21 down through “Resources” in line 22; and in line 22, after “have” insert “ONLINE”.

On page 4, after line 20, insert:

“(H) THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION, IN CONSULTATION WITH THE MARYLAND JUDICIARY, MAY ADOPT REGULATIONS GOVERNING ONLINE ACCESS TO SHIELDED RECORDS BY A VICTIM SERVICES PROVIDER.”

On page 5, in line 12, after “nonprofit” insert “OR GOVERNMENTAL”; strike beginning with “or” in line 13 down through “Resources” in line 14; and in line 14, after “have” insert “ONLINE”.

On page 7, after line 13, insert:

“(H) THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION, IN CONSULTATION WITH THE MARYLAND JUDICIARY, MAY ADOPT REGULATIONS GOVERNING ONLINE ACCESS TO SHIELDED RECORDS BY A VICTIM SERVICES PROVIDER.”

AMENDMENT NO. 4

On page 3, strike beginning with “If” in line 26 down through the first “shielding” in line 27 and substitute “ON ITS OWN MOTION OR ON THE OBJECTION OF THE OTHER PARTY”; and strike beginning with “to” in line 28 down through “records” in line 29 and substitute “UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH”.

On page 6, strike beginning with “If” in line 18 down through the first “shielding” in line 19 and substitute “ON ITS OWN MOTION OR ON THE OBJECTION OF THE OTHER PARTY”; and strike beginning with “to” in line 20 down through “records” in line 21 and substitute “UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH”.

AMENDMENT NO. 5

On page 2, strike beginning with the opening bracket in line 24 down through “ORDER” in line 32 and substitute:

“(1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF A PETITION FILED UNDER THIS SUBTITLE WAS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PEACE ORDER STAGE OF A PROCEEDING UNDER THIS SUBTITLE, THE PETITIONER OR THE RESPONDENT MAY FILE A WRITTEN REQUEST TO SHIELD ALL COURT RECORDS RELATING TO THE PROCEEDING IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

“(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF THE RESPONDENT CONSENTED TO THE ENTRY OF A PEACE ORDER UNDER THIS SUBTITLE, THE PETITIONER OR THE RESPONDENT MAY FILE A WRITTEN REQUEST TO SHIELD ALL COURT RECORDS RELATING TO THE PROCEEDING IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION”.

On page 3, in line 3, strike “respondent” and substitute “REQUESTING PARTY”; in line 4, strike “respondent’s” and substitute “PARTY’S”; in line 5, strike “On” and substitute “IF A PETITION WAS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PEACE ORDER STAGE OF A PROCEEDING UNDER THIS SUBTITLE, ON”; in the same line, after “a” insert “WRITTEN”; in line 7, strike “petitioner” and substitute “OTHER PARTY”; in line 8, strike “petitioner’s” and substitute “OTHER PARTY’S”; in line 12, strike “1.”; strike beginning with “OR” in line

13 down through “ORDER;” in line 15; in line 29, after the third “the” insert “PETITIONER OR THE”; in line 18, strike “and” and substitute:

“(III) THAT THE RESPONDENT HAS NOT BEEN FOUND GUILTY OF A CRIME ARISING FROM AN ACT DESCRIBED IN § 3-1503(A) OF THIS SUBTITLE AGAINST THE PETITIONER; AND”;

in line 19, strike “(iii)” and substitute “(IV)”; in line 30, after the first “the” insert “PETITIONER OR THE”; and after line 33, insert:

“(E) (1) (I) IF THE RESPONDENT CONSENTED TO THE ENTRY OF A PEACE ORDER UNDER THIS SUBTITLE, THE PETITIONER OR THE RESPONDENT MAY FILE A WRITTEN REQUEST FOR SHIELDING AT ANY TIME AFTER THE PEACE ORDER EXPIRES.

(II) ON THE FILING OF A REQUEST FOR SHIELDING UNDER THIS PARAGRAPH, THE COURT SHALL SCHEDULE A HEARING ON THE REQUEST.

(III) THE COURT SHALL GIVE NOTICE OF THE HEARING TO THE OTHER PARTY OR THE OTHER PARTY’S COUNSEL OF RECORD.

(IV) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (V) AND (VI) OF THIS PARAGRAPH, AFTER THE HEARING, THE COURT SHALL ORDER THE SHIELDING OF ALL COURT RECORDS RELATING TO THE PROCEEDING IF THE COURT FINDS:

1. FOR CASES IN WHICH THE RESPONDENT REQUESTS SHIELDING, THAT THE PETITIONER CONSENTS TO THE SHIELDING;

2. THAT THE RESPONDENT DID NOT VIOLATE THE PEACE ORDER DURING ITS TERM;

3. THAT A FINAL PEACE ORDER OR PROTECTIVE ORDER HAS NOT BEEN PREVIOUSLY ISSUED AGAINST THE RESPONDENT IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT;

4. THAT THE RESPONDENT HAS NOT BEEN FOUND GUILTY OF A CRIME ARISING FROM AN ACT DESCRIBED IN § 3-1503(A) OF THIS SUBTITLE AGAINST THE PETITIONER; AND

5. THAT NONE OF THE FOLLOWING ARE PENDING AT THE TIME OF THE HEARING:

A. AN INTERIM OR TEMPORARY PEACE ORDER OR PROTECTIVE ORDER ISSUED AGAINST THE RESPONDENT IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT; OR

B. A CRIMINAL CHARGE AGAINST THE RESPONDENT ARISING FROM AN ALLEGED ACT DESCRIBED IN § 3-1503(A) OF THIS SUBTITLE AGAINST THE PETITIONER.

(v) 1. ON ITS OWN MOTION OR ON THE OBJECTION OF THE OTHER PARTY, THE COURT MAY, FOR GOOD CAUSE, DENY THE REQUEST FOR SHIELDING.

2. IN DETERMINING WHETHER THERE IS GOOD CAUSE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE COURT SHALL BALANCE THE PRIVACY OF THE PETITIONER OR THE RESPONDENT AND

POTENTIAL DANGER OF ADVERSE CONSEQUENCES TO THE PETITIONER OR THE RESPONDENT AGAINST THE POTENTIAL RISK OF FUTURE HARM AND DANGER TO THE PETITIONER AND THE COMMUNITY.

(VI) INFORMATION ABOUT THE PROCEEDING MAY NOT BE REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.

(2) (I) IF THE RESPONDENT CONSENTED TO THE ENTRY OF A PEACE ORDER UNDER THIS SUBTITLE BUT THE PETITIONER DID NOT CONSENT TO SHIELDING AT THE HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE RESPONDENT MAY REFILE A WRITTEN REQUEST FOR SHIELDING AFTER 1 YEAR FROM THE DATE OF THE HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(II) ON THE FILING OF A REQUEST FOR SHIELDING UNDER THIS PARAGRAPH, THE COURT SHALL SCHEDULE A HEARING ON THE REQUEST.

(III) THE COURT SHALL GIVE NOTICE OF THE HEARING TO THE OTHER PARTY OR THE OTHER PARTY'S COUNSEL OF RECORD.

(IV) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (V) AND (VI) OF THIS PARAGRAPH, AFTER THE HEARING, THE COURT SHALL ORDER THE SHIELDING OF ALL COURT RECORDS RELATING TO THE PROCEEDING IF THE COURT FINDS:

1. A. THAT THE PETITIONER CONSENTS TO THE SHIELDING; OR

B. THAT THE PETITIONER DOES NOT CONSENT TO THE SHIELDING, BUT THAT IT IS UNLIKELY THAT THE RESPONDENT WILL COMMIT AN ACT SPECIFIED IN § 3-1503(A) OF THIS SUBTITLE AGAINST THE PETITIONER IN THE FUTURE;

2. THAT THE RESPONDENT DID NOT VIOLATE THE PEACE ORDER DURING ITS TERM;

3. THAT A FINAL PEACE ORDER OR PROTECTIVE ORDER HAS NOT BEEN PREVIOUSLY ISSUED AGAINST THE RESPONDENT IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT;

4. THAT THE RESPONDENT HAS NOT BEEN FOUND GUILTY OF A CRIME ARISING FROM AN ACT DESCRIBED IN § 3-1503(A) OF THIS SUBTITLE AGAINST THE PETITIONER; AND

5. THAT NONE OF THE FOLLOWING ARE PENDING AT THE TIME OF THE HEARING:

A. AN INTERIM OR TEMPORARY PEACE ORDER OR PROTECTIVE ORDER ISSUED AGAINST THE RESPONDENT IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT; OR

B. A CRIMINAL CHARGE AGAINST THE RESPONDENT ARISING FROM AN ALLEGED ACT DESCRIBED IN § 3-1503(A) OF THIS SUBTITLE AGAINST THE PETITIONER.

(V) 1. ON ITS OWN MOTION OR ON THE OBJECTION OF THE OTHER PARTY, THE COURT MAY, FOR GOOD CAUSE, DENY THE REQUEST FOR SHIELDING.

2. IN DETERMINING WHETHER THERE IS GOOD CAUSE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE COURT SHALL BALANCE THE PRIVACY OF THE PETITIONER OR THE RESPONDENT AND POTENTIAL DANGER OF ADVERSE CONSEQUENCES TO THE PETITIONER OR THE RESPONDENT AGAINST THE POTENTIAL RISK OF FUTURE HARM AND DANGER TO THE PETITIONER AND THE COMMUNITY.

(VI) INFORMATION ABOUT THE PROCEEDING MAY NOT BE REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.”.

On page 4, in lines 1 and 18, strike “(e)” and “(f)”, respectively, and substitute “(F)” and “(G)”, respectively; in line 15, after the third “the” insert “PETITIONER’S OR THE”; in line 16, after the second “the” insert “PETITIONER OR THE”; in line 18, after “order” insert “FOR SHIELDING”; and in the same line, strike “subsection (d)(3) of”.

AMENDMENT NO. 6

On page 5, strike beginning with the opening bracket in line 16 down through “ORDER” in line 24 and substitute:

“(1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF A PETITION FILED UNDER THIS SUBTITLE WAS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PROTECTIVE ORDER STAGE OF A PROCEEDING UNDER THIS SUBTITLE, THE PETITIONER OR THE RESPONDENT MAY FILE A WRITTEN REQUEST TO SHIELD ALL COURT RECORDS RELATING TO THE PROCEEDING IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF THE RESPONDENT CONSENTED TO THE ENTRY OF A PROTECTIVE ORDER UNDER THIS SUBTITLE, THE PETITIONER OR THE RESPONDENT MAY FILE A WRITTEN REQUEST TO SHIELD ALL COURT RECORDS RELATING TO THE PROCEEDING IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION”;

in line 27, strike “respondent” and substitute “**REQUESTING PARTY**”; in line 28, strike “respondent’s” and substitute “**PARTY’S**”; in line 30, strike “On” and substitute “**IF A PETITION WAS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PROTECTIVE ORDER STAGE OF A PROCEEDING UNDER THIS SUBTITLE, ON**”; in the same line, after “a” insert “**WRITTEN**”; in line 32, strike “petitioner” and substitute “**OTHER PARTY**”; and in line 33, strike “petitioner’s” and substitute “**OTHER PARTY’S**”.

On page 6, in line 4, strike “1.”; strike beginning with “OR” in line 5 down through “ORDER;” in line 7; in line 10, strike “and” and substitute:

“(III) THAT THE RESPONDENT HAS NOT BEEN FOUND GUILTY OF A CRIME ARISING FROM ABUSE AGAINST THE PETITIONER; AND”;

in line 11, strike “(iii)” and substitute “**(IV)**”; in line 21, after the third “the” insert “**PETITIONER OR THE**”; in line 22, after the first “the” insert “**PETITIONER OR THE**”; and after line 25, insert:

“(E) (1) (I) IF THE RESPONDENT CONSENTED TO THE ENTRY OF A PROTECTIVE ORDER UNDER THIS SUBTITLE, THE PETITIONER OR THE RESPONDENT MAY FILE A WRITTEN REQUEST FOR SHIELDING AT ANY TIME AFTER THE PROTECTIVE ORDER EXPIRES.

(II) ON THE FILING OF A REQUEST FOR SHIELDING UNDER THIS PARAGRAPH, THE COURT SHALL SCHEDULE A HEARING ON THE REQUEST.

(III) THE COURT SHALL GIVE NOTICE OF THE HEARING TO THE OTHER PARTY OR THE OTHER PARTY'S COUNSEL OF RECORD.

(IV) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (V) AND (VI) OF THIS PARAGRAPH, AFTER THE HEARING, THE COURT SHALL ORDER THE SHIELDING OF ALL COURT RECORDS RELATING TO THE PROCEEDING IF THE COURT FINDS:

1. FOR CASES IN WHICH THE RESPONDENT REQUESTS SHIELDING, THAT THE PETITIONER CONSENTS TO THE SHIELDING;

2. THAT THE RESPONDENT DID NOT VIOLATE THE PROTECTIVE ORDER DURING ITS TERM;

3. THAT A FINAL PEACE ORDER OR PROTECTIVE ORDER HAS NOT BEEN PREVIOUSLY ISSUED AGAINST THE RESPONDENT IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT;

4. THAT THE RESPONDENT HAS NOT BEEN FOUND GUILTY OF A CRIME ARISING FROM ABUSE AGAINST THE PETITIONER; AND

5. THAT NONE OF THE FOLLOWING ARE PENDING AT THE TIME OF THE HEARING:

A. AN INTERIM OR TEMPORARY PEACE ORDER OR PROTECTIVE ORDER ISSUED AGAINST THE RESPONDENT IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT; OR

B. A CRIMINAL CHARGE AGAINST THE RESPONDENT ARISING FROM ALLEGED ABUSE AGAINST THE PETITIONER.

(V) 1. ON ITS OWN MOTION, OR ON THE OBJECTION OF THE OTHER PARTY, THE COURT MAY, FOR GOOD CAUSE, DENY THE REQUEST FOR SHIELDING.

2. IN DETERMINING WHETHER THERE IS GOOD CAUSE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE COURT SHALL BALANCE THE PRIVACY OF THE PETITIONER OR THE RESPONDENT AND POTENTIAL DANGER OF ADVERSE CONSEQUENCES TO THE PETITIONER OR THE RESPONDENT AGAINST THE POTENTIAL RISK OF FUTURE HARM AND DANGER TO THE PETITIONER AND THE COMMUNITY.

(VI) INFORMATION ABOUT THE PROCEEDING MAY NOT BE REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.

(2) (I) IF THE RESPONDENT CONSENTED TO THE ENTRY OF A PROTECTIVE ORDER UNDER THIS SUBTITLE, BUT THE PETITIONER DID NOT CONSENT TO SHIELDING AT THE HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE RESPONDENT MAY REFILE A WRITTEN REQUEST FOR SHIELDING AFTER 1 YEAR FROM THE DATE OF THE HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(II) ON THE FILING OF A REQUEST FOR SHIELDING UNDER THIS PARAGRAPH, THE COURT SHALL SCHEDULE A HEARING ON THE REQUEST.

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(IV) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (V) AND (VI) OF THIS PARAGRAPH, AFTER THE HEARING, THE COURT SHALL ORDER THE SHIELDING OF ALL COURT RECORDS RELATING TO THE PROCEEDING IF THE COURT FINDS:

1. A. THAT THE PETITIONER CONSENTS TO THE SHIELDING; OR

B. THAT THE PETITIONER DOES NOT CONSENT TO THE SHIELDING, BUT THAT IT IS UNLIKELY THAT THE RESPONDENT WILL COMMIT AN ACT OF ABUSE AGAINST THE PETITIONER IN THE FUTURE;

2. THAT THE RESPONDENT DID NOT VIOLATE THE PROTECTIVE ORDER DURING ITS TERM;

3. THAT A FINAL PEACE ORDER OR PROTECTIVE ORDER HAS NOT BEEN PREVIOUSLY ISSUED AGAINST THE RESPONDENT IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT;

4. THAT THE RESPONDENT HAS NOT BEEN FOUND GUILTY OF A CRIME ARISING FROM ABUSE AGAINST THE PETITIONER; AND

5. THAT NONE OF THE FOLLOWING ARE PENDING AT THE TIME OF THE HEARING:

A. AN INTERIM OR TEMPORARY PEACE ORDER OR PROTECTIVE ORDER ISSUED AGAINST THE RESPONDENT IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT; OR

B. A CRIMINAL CHARGE AGAINST THE RESPONDENT ARISING FROM ALLEGED ABUSE AGAINST THE PETITIONER.

(v) 1. ON ITS OWN MOTION OR ON THE OBJECTION OF THE OTHER PARTY, THE COURT MAY, FOR GOOD CAUSE, DENY THE REQUEST FOR SHIELDING.

2. IN DETERMINING WHETHER THERE IS GOOD CAUSE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE COURT SHALL BALANCE THE PRIVACY OF THE PETITIONER OR THE RESPONDENT AND POTENTIAL DANGER OF ADVERSE CONSEQUENCES TO THE PETITIONER OR THE RESPONDENT AGAINST THE POTENTIAL RISK OF FUTURE HARM AND DANGER TO THE PETITIONER AND THE COMMUNITY.

(vi) INFORMATION ABOUT THE PROCEEDING MAY NOT BE REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.”.

On page 6, in line 26, strike “(e)” and substitute “**(F)**”.

On page 7, in line 8, after the third “the” insert “**PETITIONER’S OR THE**”; in line 9, after the second “the” insert “**PETITIONER OR THE**”; in line 11, strike “(f)” and substitute “**(G)**”; in the same line, after “order” insert “**FOR SHIELDING**”; and in the same line, strike “subsection (d)(3) of”.