

SENATE BILL 209

D1, D4

9lr0462
CF HB 122

By: Senators Zirkin, Hester, Lee, Ready, Smith, Waldstreicher, Washington, and West

Introduced and read first time: January 24, 2019

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2019

CHAPTER _____

1 AN ACT concerning

2 ~~Protective~~ Peace Orders – Relief Eligibility and Duration – Rape and Sexual
3 Offenses

4 FOR the purpose of ~~removing rape and certain sexual offenses from the list of offenses~~
5 ~~alleged to have been committed by a certain respondent against a certain victim for~~
6 ~~which a peace order request or a peace order petition may be filed under certain~~
7 ~~circumstances; altering the definition of “person eligible for relief” for purposes of~~
8 ~~certain provisions of law relating to domestic violence protective orders to include an~~
9 ~~individual who alleges the commission of certain acts against the individual by a~~
10 ~~certain respondent; and generally relating to peace orders and protective orders~~
11 authorizing a commissioner under certain circumstances to issue an interim peace
12 order to protect a petitioner seeking relief if the underlying act for the petition is
13 rape or a certain sexual offense; authorizing a judge under certain circumstances to
14 issue a temporary peace order or a final peace order to protect a petitioner seeking
15 relief if the underlying act for the petition is rape or a certain sexual offense;
16 increasing the maximum length of effectiveness of a final peace order if the
17 underlying act is rape or a certain sexual offense; and generally relating to peace
18 orders and rape and sexual offenses.

19 ~~BY repealing and reenacting, with amendments,~~
20 ~~Article — Courts and Judicial Proceedings~~
21 ~~Section 3-8A-19.1 and 3-1503(a)~~
22 ~~Annotated Code of Maryland~~
23 ~~(2013 Replacement Volume and 2018 Supplement)~~

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.



~~BY repealing and reenacting, without amendments,
 Article – Family Law
 Section 4–501(a)
 Annotated Code of Maryland
 (2012 Replacement Volume and 2018 Supplement)~~

~~BY repealing and reenacting, with amendments,
 Article – Family Law
 Section 4–501(m)
 Annotated Code of Maryland
 (2012 Replacement Volume and 2018 Supplement)~~

BY repealing and reenacting, with amendments,
 Article – Courts and Judicial Proceedings
 Section 3–1503.1(b), 3–1504(a), and 3–1505(c) and (f)
 Annotated Code of Maryland
 (2013 Replacement Volume and 2018 Supplement)

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

~~**Article – Courts and Judicial Proceedings**~~

~~§ SA 19.1.~~

~~(a) In this section and in §§ 3 SA 19.2, 3 SA 19.3, and 3 SA 19.4 of this subtitle,
 “victim” means an individual against whom an act described in subsection (b) of this section
 is committed or alleged to have been committed.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, after an inquiry
 conducted in accordance with § 3 SA 10 of this subtitle, an intake officer may file with the
 court a peace order request that alleges the commission of any of the following acts against
 a victim by the respondent, if the act occurred within 30 days before the filing of the
 complaint under § 3 SA 10 of this subtitle:~~

~~(i) An act that causes serious bodily harm;~~

~~(ii) An act that places the victim in fear of imminent serious bodily
 harm;~~

~~(iii) Assault in any degree;~~

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

~~(v)] False imprisonment;~~

- 1 ~~[(vi)] (V) Harassment under § 3-803 of the Criminal Law Article;~~
- 2 ~~[(vii)] (VI) Stalking under § 3-802 of the Criminal Law Article;~~
- 3 ~~[(viii)] (VII) Trespass under Title 6, Subtitle 4 of the Criminal Law~~
4 ~~Article;~~
- 5 ~~[(ix)] (VIII) Malicious destruction of property under § 6-301 of the~~
6 ~~Criminal Law Article;~~
- 7 ~~[(x)] (IX) Misuse of telephone facilities and equipment under~~
8 ~~§ 3-804 of the Criminal Law Article;~~
- 9 ~~[(xi)] (X) Misuse of electronic communication or interactive~~
10 ~~computer service under § 3-805 of the Criminal Law Article;~~
- 11 ~~[(xii)] (XI) Revenge porn under § 3-809 of the Criminal Law Article;~~
12 ~~or~~
- 13 ~~[(xiii)] (XII) Visual surveillance under § 3-901, § 3-902, or § 3-903 of~~
14 ~~the Criminal Law Article.~~
- 15 ~~(2) After a review conducted in accordance with § 3-8A-10(e)(4)(ii) of this~~
16 ~~subtitle, the State's Attorney may file with the court a peace order request that meets the~~
17 ~~requirements of paragraph (1) of this subsection.~~
- 18 ~~§ 3-1503.~~
- 19 ~~(a) (1) A petitioner may seek relief under this subtitle by filing with the court,~~
20 ~~or with a commissioner under the circumstances specified in § 3-1503.1(a) of this subtitle,~~
21 ~~a petition that alleges the commission of any of the following acts against the petitioner by~~
22 ~~the respondent, if the act occurred within 30 days before the filing of the petition:~~
- 23 ~~(i) An act that causes serious bodily harm;~~
- 24 ~~(ii) An act that places the petitioner in fear of imminent serious~~
25 ~~bodily harm;~~
- 26 ~~(iii) Assault in any degree;~~
- 27 ~~(iv) [Rape or sexual offense under §§ 3-303 through 3-308 of the~~
28 ~~Criminal Law Article or attempted rape or sexual offense in any degree;~~
- 29 ~~(v)] False imprisonment;~~

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1 ~~[(vi)] (V) Harassment under § 3-803 of the Criminal Law Article;~~

2 ~~[(vii)] (VI) Stalking under § 3-802 of the Criminal Law Article;~~

3 ~~[(viii)] (VII) Trespass under Title 6, Subtitle 4 of the Criminal Law~~
4 ~~Article;~~

5 ~~[(ix)] (VIII) Malicious destruction of property under § 6-301 of the~~
6 ~~Criminal Law Article;~~

7 ~~[(x)] (IX) Misuse of telephone facilities and equipment under~~
8 ~~§ 3-804 of the Criminal Law Article;~~

9 ~~[(xi)] (X) Misuse of electronic communication or interactive~~
10 ~~computer service under § 3-805 of the Criminal Law Article;~~

11 ~~[(xii)] (XI) Revenge porn under § 3-809 of the Criminal Law Article;~~
12 ~~or~~

13 ~~[(xiii)] (XII) Visual surveillance under § 3-901, § 3-902, or § 3-903 of~~
14 ~~the Criminal Law Article.~~

15 ~~(2) A petition may be filed under this subtitle if:~~

16 ~~(i) The act described in paragraph (1) of this subsection is alleged to~~
17 ~~have occurred in the State; or~~

18 ~~(ii) The petitioner is a resident of the State, regardless of whether~~
19 ~~the act described in paragraph (1) of this subsection is alleged to have occurred in the State.~~

~~Article Family Law~~

21 ~~4-501.~~

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

23 ~~(m) "Person eligible for relief" includes:~~

24 ~~(1) the current or former spouse of the respondent;~~

25 ~~(2) a cohabitant of the respondent;~~

26 ~~(3) a person related to the respondent by blood, marriage, or adoption;~~

~~(4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;~~

~~(5) a vulnerable adult;~~

~~(6) an individual who has a child in common with the respondent; [or]~~

~~(7) an individual who has had a sexual relationship with the respondent within 1 year before the filing of the petition; OR~~

~~(8) AN INDIVIDUAL WHO ALLEGES THE COMMISSION OF ANY OF THE FOLLOWING ACTS AGAINST THE INDIVIDUAL BY THE RESPONDENT:~~

~~(I) RAPE OR A SEXUAL OFFENSE UNDER § 3-303, § 3-304, § 3-307, OR § 3-308 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(II) ATTEMPTED RAPE OR SEXUAL OFFENSE IN ANY DEGREE.~~

Article – Courts and Judicial Proceedings

3-1503.1.

(b) (1) [If] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF a petition is filed with a commissioner and the commissioner finds that there are reasonable grounds to believe that the respondent has committed, and is likely to commit in the future, an act specified in § 3-1503(a) of this subtitle against the petitioner, the commissioner may issue an interim peace order to protect the petitioner.

(2) IF A PETITION IS FILED WITH A COMMISSIONER AND THE COMMISSIONER FINDS THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE RESPONDENT HAS COMMITTED RAPE OR A SEXUAL OFFENSE UNDER § 3-303, § 3-304, § 3-307, OR § 3-308 OF THE CRIMINAL LAW ARTICLE OR ATTEMPTED RAPE OR SEXUAL OFFENSE IN ANY DEGREE AGAINST THE PETITIONER, THE COMMISSIONER MAY ISSUE AN INTERIM PEACE ORDER TO PROTECT THE PETITIONER.

3-1504.

(a) (1) (I) [If] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that the respondent has committed, and is likely to commit in the future, an act specified in § 3-1503(a) of this subtitle against the petitioner, the judge may issue a temporary peace order to protect the petitioner.

1 **(II) IF A PETITION IS FILED WITH A JUDGE AND THE JUDGE**
 2 **FINDS THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE**
 3 **RESPONDENT HAS COMMITTED RAPE OR A SEXUAL OFFENSE UNDER § 3-303, §**
 4 **3-304, § 3-307, OR § 3-308 OF THE CRIMINAL LAW ARTICLE OR ATTEMPTED RAPE**
 5 **OR SEXUAL OFFENSE IN ANY DEGREE AGAINST THE PETITIONER, THE JUDGE MAY**
 6 **ISSUE A TEMPORARY PEACE ORDER TO PROTECT THE PETITIONER.**

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

8 (i) Order the respondent to refrain from committing or threatening
 9 to commit an act specified in § 3-1503(a) of this subtitle against the petitioner;

10 (ii) Order the respondent to refrain from contacting, attempting to
 11 contact, or harassing the petitioner;

12 (iii) Order the respondent to refrain from entering the residence of
 13 the petitioner; and

14 (iv) Order the respondent to remain away from the place of
 15 employment, school, or temporary residence of the petitioner.

16 (3) If the judge issues an order under this section, the order shall contain
 17 only the relief that is minimally necessary to protect the petitioner.

18 3-1505.

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

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

23 (ii) **1. [If] SUBJECT TO ITEM 2 OF THIS ITEM, IF the judge**
 24 **finds by a preponderance of the evidence that the respondent has committed, and is likely**
 25 **to commit in the future, an act specified in § 3-1503(a) of this subtitle against the petitioner,**
 26 **or if the respondent consents to the entry of a peace order, the court may issue a final peace**
 27 **order to protect the petitioner[.]; AND**

28 **2. IF A PETITION IS FILED WITH A JUDGE AND THE**
 29 **JUDGE FINDS THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE**
 30 **RESPONDENT HAS COMMITTED RAPE OR A SEXUAL OFFENSE UNDER § 3-303, §**
 31 **3-304, § 3-307, OR § 3-308 OF THE CRIMINAL LAW ARTICLE OR ATTEMPTED RAPE**
 32 **OR SEXUAL OFFENSE IN ANY DEGREE AGAINST THE PETITIONER, MAY ISSUE A FINAL**
 33 **PEACE ORDER TO PROTECT THE PETITIONER.**

1 (2) A final peace order may be issued only to an individual who has filed a
2 petition under § 3-1503 of this subtitle.

3 (3) In cases where both parties file a petition under § 3-1503 of this
4 subtitle, the judge may issue mutual peace orders if the judge finds by a preponderance of
5 the evidence that each party has committed, and is likely to commit in the future, an act
6 specified in § 3-1503(a) of this subtitle against the other party.

7 (f) **(1) [All] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ALL relief**
8 **granted in a final peace order shall be effective for the period stated in the order, not to**
9 **exceed 6 months.**

10 **(2) IF THE UNDERLYING ACT FOR A FINAL PEACE ORDER IS RAPE OR**
11 **A SEXUAL OFFENSE UNDER § 3-303, § 3-304, § 3-307, OR § 3-308 OF THE CRIMINAL**
12 **LAW ARTICLE OR ATTEMPTED RAPE OR SEXUAL OFFENSE IN ANY DEGREE, RELIEF**
13 **GRANTED IN A FINAL PEACE ORDER SHALL BE EFFECTIVE FOR THE PERIOD STATED**
14 **IN THE ORDER, NOT TO EXCEED 1 YEAR.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.