

HOUSE BILL 296

D4

2lr1887
CF SB 280

By: **Delegate Crutchfield**

Introduced and read first time: January 17, 2022

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2022

CHAPTER _____

1 AN ACT concerning

2 ~~Interim and~~ **Temporary Protective Orders – Electronic Filing and Video**
3 **Conferencing Hearings**

4 FOR the purpose of authorizing a petitioner receiving medical treatment at a hospital ~~or~~
5 ~~an urgent care center~~ to electronically file a petition for ~~an interim protective order~~
6 ~~or a temporary protective order while at the hospital or urgent care center; requiring~~
7 ~~the court or District Court Commissioner to hold a hearing for an interim protective~~
8 ~~order or a temporary protective order through video conferencing under certain~~
9 ~~circumstances~~ requiring certain hospitals to refer certain petitioners to certain
10 programs; authorizing a petitioner to electronically file a petition for a temporary
11 protective order from certain programs and centers; and generally relating to
12 protective orders.

13 ~~BY repealing and reenacting, with amendments,~~
14 ~~Article – Family Law~~
15 ~~Section 4-504 and 4-504.1~~
16 ~~Annotated Code of Maryland~~
17 ~~(2019 Replacement Volume and 2021 Supplement)~~

18 BY adding to
19 Article – Family Law
20 Section 4-505.1
21 Annotated Code of Maryland
22 (2019 Replacement Volume and 2021 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.



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

3 **Article – Family Law**

4 **4-505.1.**

5 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
6 **INDICATED.**

7 **(2) “CHILD ADVOCACY CENTER” MEANS A CENTER ESTABLISHED**
8 **UNDER § 11-928 OF THE CRIMINAL PROCEDURE ARTICLE.**

9 **(3) “FILE ELECTRONICALLY” MEANS TO SEND, COMMUNICATE,**
10 **RECEIVE, OR STORE BY ELECTRONIC MEANS.**

11 **(4) “HOSPITAL” HAS THE MEANING STATED IN § 19-301 OF THE**
12 **HEALTH – GENERAL ARTICLE.**

13 **(5) “VULNERABLE ADULT PROGRAM” MEANS:**

14 **(I) A PROGRAM IMPLEMENTED UNDER § 14-201 OF THIS**
15 **ARTICLE; OR**

16 **(II) ANY PROGRAM THAT RECEIVES FEDERAL OR STATE**
17 **FUNDING TO PREVENT ABUSE OF OR ASSIST VULNERABLE ADULTS.**

18 **(B) A PETITIONER MAY FILE ELECTRONICALLY A PETITION FOR A**
19 **TEMPORARY PROTECTIVE ORDER WITH A COURT FROM:**

20 **(1) A DOMESTIC VIOLENCE PREVENTION OR ASSISTANCE PROGRAM;**

21 **(2) A SEXUAL ASSAULT PREVENTION OR ASSISTANCE PROGRAM;**

22 **(3) A HUMAN TRAFFICKING PREVENTION OR ASSISTANCE PROGRAM;**

23 **(4) A CHILD ADVOCACY CENTER;**

24 **(5) A VULNERABLE ADULT PROGRAM;**

25 **(6) A HOSPITAL WHERE THE PETITIONER IS RECEIVING MEDICAL**
26 **TREATMENT, WHILE THE PETITIONER IS AT THE HOSPITAL; OR**

27 **(7) ANOTHER LOCATION APPROVED BY THE COURT.**

1 **(C) THE HOSPITAL SHALL REFER THE PETITIONER FILING A PETITION ON**
2 **THE GROUNDS OF:**

3 **(1) DOMESTIC VIOLENCE:**

4 **(I) TO A HOSPITAL-BASED DOMESTIC VIOLENCE PREVENTION**
5 **OR ASSISTANCE PROGRAM; OR**

6 **(II) IF THERE IS NOT A HOSPITAL-BASED DOMESTIC VIOLENCE**
7 **PREVENTION OR ASSISTANCE PROGRAM, TO A COMMUNITY-BASED DOMESTIC**
8 **VIOLENCE PREVENTION OR ASSISTANCE PROGRAM; AND**

9 **(2) SEXUAL ASSAULT TO A COMMUNITY-BASED SEXUAL ASSAULT**
10 **PREVENTION OR ASSISTANCE PROGRAM.**

11 **(D) A COURT THAT RECEIVES A PETITION FILED ELECTRONICALLY IN**
12 **ACCORDANCE WITH THIS SECTION SHALL HOLD A HEARING ON THE PETITION**
13 **THROUGH THE USE OF VIDEO CONFERENCING ON:**

14 **(1) THE SAME BUSINESS DAY IF THE PETITION IS FILED DURING**
15 **REGULAR COURT HOURS AND THE COURT IS OPEN; OR**

16 **(2) THE NEXT BUSINESS DAY THE COURT IS OPEN IF THE PETITION IS**
17 **NOT FILED DURING REGULAR COURT HOURS.**

18 ~~4-504.~~

19 ~~(a) (1) A petitioner may seek relief from abuse by filing with a court, or with a~~
20 ~~commissioner under the circumstances specified in § 4-504.1(a) of this subtitle, a petition~~
21 ~~that alleges abuse of any person eligible for relief by the respondent.~~

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

23 ~~(i) the abuse is alleged to have occurred in the State; or~~

24 ~~(ii) the person eligible for relief is a resident of the State, regardless~~
25 ~~of whether the abuse is alleged to have occurred in the State.~~

26 ~~(B) (1) A PETITIONER RECEIVING MEDICAL TREATMENT AT A HOSPITAL~~
27 ~~OR AN URGENT CARE CENTER MAY FILE ELECTRONICALLY A PETITION FOR AN~~
28 ~~INTERIM PROTECTIVE ORDER OR A TEMPORARY PROTECTIVE ORDER WITH A~~
29 ~~COMMISSIONER OR A COURT, RESPECTIVELY, WHILE AT THE HOSPITAL OR URGENT~~
30 ~~CARE CENTER.~~

~~(2) A COMMISSIONER OR COURT THAT RECEIVES A PETITION SUBMITTED ELECTRONICALLY IN ACCORDANCE WITH THIS SUBSECTION SHALL HOLD A HEARING ON THE PETITION THROUGH THE USE OF VIDEO CONFERENCING.~~

~~(3) A HOSPITAL OR AN URGENT CARE CENTER MAY, BUT IS NOT REQUIRED TO, ALLOW AN INDIVIDUAL TO FILE A PETITION ELECTRONICALLY OR ATTEND A VIDEO CONFERENCE FOR AN INTERIM PROTECTIVE ORDER OR A TEMPORARY PROTECTIVE ORDER WHILE THE INDIVIDUAL IS AT THE HOSPITAL OR URGENT CARE CENTER.~~

~~[(b)] (C) (1) The petition shall:~~

~~(i) be under oath; and~~

~~(ii) include any information known to the petitioner of:~~

~~1. the nature and extent of the abuse for which the relief is being sought, including information known to the petitioner concerning previous injury resulting from abuse by the respondent;~~

~~2. each previous action between the parties in any court;~~

~~3. each pending action between the parties in any court;~~

~~4. the whereabouts of the respondent, if known;~~

~~5. if financial relief is requested, information known to the petitioner regarding the financial resources of the respondent; and~~

~~6. in a case of alleged child abuse or alleged abuse of a vulnerable adult, the whereabouts of the child or vulnerable adult and any other information relating to the abuse of the child or vulnerable adult.~~

~~(2) If the petition states that disclosure of the address of a person eligible for relief would risk further abuse of a person eligible for relief, or reveal the confidential address of a shelter for domestic violence victims, that address may be omitted from all documents filed with a commissioner or filed with, or transferred to, a court. If disclosure is necessary to determine jurisdiction or consider any venue issue, it shall be made orally and in camera and may not be disclosed to the respondent.~~

~~[(e)] (D) The petitioner may not be required to pay a filing fee or costs for the issuance or service of:~~

~~(1) an interim protective order;~~

~~(2) a temporary protective order;~~

1 ~~(3) a final protective order; or~~

2 ~~(4) a witness subpoena.~~

3 ~~[(d)] (E) (1) If a petitioner has requested notification of the service of a~~
4 ~~protective order, the Department of Public Safety and Correctional Services shall:~~

5 ~~(i) notify the petitioner of the service on the respondent of an~~
6 ~~interim or a temporary protective order within one hour after a law enforcement officer~~
7 ~~electronically notifies the Department of Public Safety and Correctional Services of the~~
8 ~~service; and~~

9 ~~(ii) notify the petitioner of the service on the respondent of a final~~
10 ~~protective order within one hour after knowledge of service of the order on the respondent.~~

11 ~~(2) The Department of Public Safety and Correctional Services shall~~
12 ~~develop a notification request form and procedures for notification under this subsection.~~

13 ~~(3) The court clerk or Commissioner shall provide the notification request~~
14 ~~form to a petitioner.~~

15 ~~4-504.1.~~

16 ~~(a) A petition under this subtitle may be filed with a commissioner when neither~~
17 ~~the office of the clerk of the circuit court nor the Office of the District Court Clerk is open~~
18 ~~for business.~~

19 ~~(b) If a petition is filed with a commissioner and the commissioner finds that there~~
20 ~~are reasonable grounds to believe that the respondent has abused a person eligible for~~
21 ~~relief, the commissioner may issue an interim protective order to protect a person eligible~~
22 ~~for relief.~~

23 ~~(c) An interim protective order may:~~

24 ~~(1) order the respondent to refrain from further abuse or threats of abuse~~
25 ~~of a person eligible for relief;~~

26 ~~(2) order the respondent to refrain from contacting, attempting to contact,~~
27 ~~or harassing a person eligible for relief;~~

28 ~~(3) order the respondent to refrain from entering the residence of a person~~
29 ~~eligible for relief;~~

30 ~~(4) if a person eligible for relief and the respondent are residing together~~
31 ~~at the time of the alleged abuse;~~

1 ~~(i) order the respondent to vacate the home immediately;~~

2 ~~(ii) award to a person eligible for relief custody of any child of the~~
3 ~~person eligible for relief and respondent then residing in the home; and~~

4 ~~(iii) subject to the limits as to a nonspouse specified in §~~
5 ~~4-505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to the~~
6 ~~person eligible for relief;~~

7 ~~(5) in a case alleging abuse of a child, award temporary custody of a minor~~
8 ~~child of the respondent and a person eligible for relief;~~

9 ~~(6) in a case alleging abuse of a vulnerable adult, subject to the limits as to~~
10 ~~a nonspouse specified in § 4-505(a)(2)(iv) of this subtitle, award temporary use and~~
11 ~~possession of the home to an adult living in the home;~~

12 ~~(7) order the respondent to remain away from the place of employment,~~
13 ~~school, or temporary residence of a person eligible for relief;~~

14 ~~(8) order the respondent to remain away from the residence of any family~~
15 ~~member of a person eligible for relief; or~~

16 ~~(9) award temporary possession of any pet of the person eligible for relief~~
17 ~~or the respondent.~~

18 ~~(d) If the commissioner awards temporary custody of a minor child under~~
19 ~~subsection (c)(4)(ii) or (5) of this section, the commissioner may order a law enforcement~~
20 ~~officer to use all reasonable and necessary force to return the minor child to the custodial~~
21 ~~parent after service of the interim protective order.~~

22 ~~(e) (1) (i) An interim protective order shall state the date, time, and~~
23 ~~location for the temporary protective order hearing and a tentative date, time, and location~~
24 ~~for a final protective order hearing.~~

25 ~~(ii) Except as provided in subsection (h) of this section, or unless the~~
26 ~~judge continues the hearing for good cause, a temporary protective order hearing shall be~~
27 ~~held on the first or second day on which a District Court judge is sitting after issuance of~~
28 ~~the interim protective order.~~

29 ~~(H) IF A COMMISSIONER GRANTED AN INTERIM PROTECTIVE~~
30 ~~ORDER IN A HEARING HELD THROUGH THE USE OF VIDEO CONFERENCING IN~~
31 ~~ACCORDANCE WITH § 4-504(B) OF THIS SUBTITLE, THE COURT SHALL HOLD THE~~
32 ~~TEMPORARY PROTECTIVE ORDER HEARING THROUGH THE USE OF VIDEO~~
33 ~~CONFERENCING AT THE REQUEST OF THE PETITIONER.~~

34 ~~(2) An interim protective order shall include in at least 10-point bold type:~~

- 1 ~~(i) notice to the respondent that:~~
- 2 ~~1. the respondent must give the court written notice of each~~
- 3 ~~change of address;~~
- 4 ~~2. if the respondent fails to appear at the temporary~~
- 5 ~~protective order hearing or any later hearing, the respondent may be served with any orders~~
- 6 ~~or notices in the case by first class mail at the respondent's last known address;~~
- 7 ~~3. the date, time, and location of the final protective order~~
- 8 ~~hearing is tentative only, and subject to change; and~~
- 9 ~~4. if the respondent does not attend the temporary protective~~
- 10 ~~order hearing, the respondent may call the Office of the Clerk of the District Court at the~~
- 11 ~~number provided in the order to find out the actual date, time, and location of any final~~
- 12 ~~protective order hearing;~~
- 13 ~~(ii) a statement of all possible forms and duration of relief that a~~
- 14 ~~temporary protective order or final protective order may contain;~~
- 15 ~~(iii) notice to the petitioner and respondent that, at the hearing, a~~
- 16 ~~judge may issue a temporary protective order that grants any or all of the relief requested~~
- 17 ~~in the petition or may deny the petition, whether or not the respondent is in court;~~
- 18 ~~(iv) a warning to the respondent that violation of an interim~~
- 19 ~~protective order is a crime and that a law enforcement officer shall arrest the respondent,~~
- 20 ~~with or without a warrant, and take the respondent into custody if the officer has probable~~
- 21 ~~cause to believe that the respondent has violated any provision of the interim protective~~
- 22 ~~order; and~~
- 23 ~~(v) the phone number of the Office of the District Court Clerk.~~
- 24 ~~(f) Whenever a commissioner issues an interim protective order, the~~
- 25 ~~commissioner shall:~~
- 26 ~~(1) immediately forward a copy of the petition and interim protective order~~
- 27 ~~to the appropriate law enforcement agency for service on the respondent; and~~
- 28 ~~(2) before the hearing scheduled in the interim protective order, transfer~~
- 29 ~~the case file and the return of service, if any, to the Office of the District Court Clerk.~~
- 30 ~~(g) A law enforcement officer shall:~~
- 31 ~~(1) immediately on receipt of a petition and interim protective order, serve~~
- 32 ~~them on the respondent named in the order;~~

1 ~~(2) immediately after service, make a return of service to the~~
 2 ~~commissioner's office or, if the Office of the District Court Clerk is open for business, to the~~
 3 ~~Clerk; and~~

4 ~~(3) within two hours after service of the order on the respondent,~~
 5 ~~electronically notify the Department of Public Safety and Correctional Services of the~~
 6 ~~service.~~

7 ~~(h) (1) Except as otherwise provided in this subsection, an interim protective~~
 8 ~~order shall be effective until the earlier of:~~

9 ~~(i) the temporary protective order hearing under § 4-505 of this~~
 10 ~~subtitle; or~~

11 ~~(ii) the end of the second business day the Office of the Clerk of the~~
 12 ~~District Court is open following the issuance of an interim protective order.~~

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

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Judiciary shall
 21 develop a method to receive electronically filed petitions and hold video conferencing
 22 hearings for ~~interim protective order petitions and~~ temporary protective order petitions to
 23 facilitate the implementation of Section 1 of this Act.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 25 October 1, 2022.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.