

HOUSE BILL 44

D4

4lr0522

(PRE-FILED)

By: **Delegate Vitale**

Requested: September 20, 2013

Introduced and read first time: January 8, 2014

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Temporary and Final Protective Orders – Emergency**
3 **Evaluation for Mental Disorder**

4 FOR the purpose of authorizing a judge, when issuing a temporary or final protective
5 order, to order the respondent to undergo a certain emergency evaluation under
6 certain circumstances; requiring a judge, in determining whether to order a
7 respondent to vacate the home, to consider the results of a certain emergency
8 evaluation; and generally relating to temporary and final protective orders and
9 emergency evaluations for mental disorders.

10 BY repealing and reenacting, with amendments,
11 Article – Family Law
12 Section 4–505(a) and 4–506(d) and (h)
13 Annotated Code of Maryland
14 (2012 Replacement Volume and 2013 Supplement)

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

17 **Article – Family Law**

18 4–505.

19 (a) (1) If, after a hearing on a petition, whether ex parte or otherwise, a
20 judge finds that there are reasonable grounds to believe that a person eligible for relief
21 has been abused, the judge may enter a temporary protective order to protect any
22 person eligible for relief from abuse.

23 (2) The temporary protective order may order any or all of the
24 following relief:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (ii) order the respondent to refrain from contacting, attempting
4 to contact, or harassing any person eligible for relief;

5 (iii) order the respondent to refrain from entering the residence
6 of a person eligible for relief;

7 (iv) where the person eligible for relief and the respondent are
8 residing together at the time of the alleged abuse, order the respondent to vacate the
9 home immediately and award temporary use and possession of the home to the person
10 eligible for relief or in the case of alleged abuse of a child or alleged abuse of a
11 vulnerable adult, award temporary use and possession of the home to an adult living
12 in the home, provided that the court may not grant an order to vacate and award
13 temporary use and possession of the home to a nonspouse person eligible for relief
14 unless the name of the person eligible for relief appears on the lease or deed to the
15 home or the person eligible for relief has resided in the home with the respondent for a
16 period of at least 90 days within 1 year before the filing of the petition;

17 (v) order the respondent to remain away from the place of
18 employment, school, or temporary residence of a person eligible for relief or home of
19 other family members;

20 (vi) order the respondent to remain away from a child care
21 provider of a person eligible for relief while a child of the person is in the care of the
22 child care provider;

23 (vii) award temporary custody of a minor child of the person
24 eligible for relief and the respondent;

25 (viii) order the respondent to surrender to law enforcement
26 authorities any firearm in the respondent's possession, and to refrain from possession
27 of any firearm, for the duration of the temporary protective order if the abuse
28 consisted of:

29 1. the use of a firearm by the respondent against a
30 person eligible for relief;

31 2. a threat by the respondent to use a firearm against a
32 person eligible for relief;

33 3. serious bodily harm to a person eligible for relief
34 caused by the respondent; or

1 4. a threat by the respondent to cause serious bodily
2 harm to a person eligible for relief; [and]

3 (ix) award temporary possession of any pet of the person eligible
4 for relief or the respondent; AND

5 **(X) IF THE JUDGE FINDS THAT THE RESPONDENT HAS**
6 **SHOWN SYMPTOMS OF A MENTAL DISORDER OR HAS ACTED IN A MANNER THAT**
7 **PRESENTS A DANGER TO THE LIFE OR SAFETY OF THE RESPONDENT OR**
8 **OTHERS, ORDER THE RESPONDENT TO UNDERGO AN EMERGENCY EVALUATION**
9 **UNDER § 10-622 OF THE HEALTH – GENERAL ARTICLE.**

10 (3) If the judge awards temporary custody of a minor child under
11 paragraph (2)(vii) of this subsection, the judge may order a law enforcement officer to
12 use all reasonable and necessary force to return the minor child to the custodial parent
13 after service of the temporary protective order.

14 4-506.

15 (d) The final protective order may include any or all of the following relief:

16 (1) order the respondent to refrain from abusing or threatening to
17 abuse any person eligible for relief;

18 (2) order the respondent to refrain from contacting, attempting to
19 contact, or harassing any person eligible for relief;

20 (3) order the respondent to refrain from entering the residence of any
21 person eligible for relief;

22 (4) where the person eligible for relief and the respondent are residing
23 together at the time of the abuse, order the respondent to vacate the home
24 immediately and award temporary use and possession of the home to the person
25 eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a
26 vulnerable adult, award temporary use and possession of the home to an adult living
27 in the home, provided that the court may not grant an order to vacate and award
28 temporary use and possession of the home to a nonspouse person eligible for relief
29 unless the name of the person eligible for relief appears on the lease or deed to the
30 home or the person eligible for relief has shared the home with the respondent for a
31 period of at least 90 days within 1 year before the filing of the petition;

32 (5) order the respondent to remain away from the place of
33 employment, school, or temporary residence of a person eligible for relief or home of
34 other family members;

1 (6) order the respondent to remain away from a child care provider of
2 a person eligible for relief while a child of the person is in the care of the child care
3 provider;

4 (7) award temporary custody of a minor child of the respondent and a
5 person eligible for relief;

6 (8) establish temporary visitation with a minor child of the respondent
7 and a person eligible for relief on a basis which gives primary consideration to the
8 welfare of the minor child and the safety of any other person eligible for relief. If the
9 court finds that the safety of a person eligible for relief will be jeopardized by
10 unsupervised or unrestricted visitation, the court shall condition or restrict visitation
11 as to time, place, duration, or supervision, or deny visitation entirely, as needed to
12 guard the safety of any person eligible for relief;

13 (9) award emergency family maintenance as necessary to support any
14 person eligible for relief to whom the respondent has a duty of support under this
15 article, including an immediate and continuing withholding order on all earnings of
16 the respondent in the amount of the ordered emergency family maintenance in
17 accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

18 (10) award temporary use and possession of a vehicle jointly owned by
19 the respondent and a person eligible for relief to the person eligible for relief if
20 necessary for the employment of the person eligible for relief or for the care of a minor
21 child of the respondent or a person eligible for relief;

22 (11) direct the respondent or any or all of the persons eligible for relief
23 to participate in professionally supervised counseling or a domestic violence program;

24 (12) order the respondent to pay filing fees and costs of a proceeding
25 under this subtitle; [or]

26 (13) award temporary possession of any pet of the person eligible for
27 relief or the respondent; OR

28 **(14) IF THE JUDGE FINDS THAT THE RESPONDENT HAS SHOWN**
29 **SYMPTOMS OF A MENTAL DISORDER OR HAS ACTED IN A MANNER THAT**
30 **PRESENTS A DANGER TO THE LIFE OR SAFETY OF THE RESPONDENT OR**
31 **OTHERS, ORDER THE RESPONDENT TO UNDERGO AN EMERGENCY EVALUATION**
32 **UNDER § 10-622 OF THE HEALTH – GENERAL ARTICLE.**

33 (h) In determining whether to order the respondent to vacate the home
34 under § 4-505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the judge
35 shall consider the following factors:

36 (1) the housing needs of any minor child living in the home;

1 (2) the duration of the relationship between the respondent and any
2 person eligible for relief;

3 (3) title to the home;

4 (4) pendency and type of criminal charges against the respondent;

5 (5) the history and severity of abuse in the relationship between the
6 respondent and any person eligible for relief;

7 (6) the existence of alternative housing for the respondent and any
8 person eligible for relief; [and]

9 (7) the financial resources of the respondent and the person eligible for
10 relief; AND

11 **(8) THE RESULTS OF ANY EMERGENCY EVALUATION ORDERED**
12 **UNDER § 4-505(A)(2)(X) OF THIS SUBTITLE OR SUBSECTION (D)(14) OF THIS**
13 **SECTION.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2014.