

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.



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

Article – Family Law

4-505.1.

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

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

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

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

(5) “VULNERABLE ADULT PROGRAM” MEANS:

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

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

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

(1) A DOMESTIC VIOLENCE PREVENTION OR ASSISTANCE PROGRAM;

(2) A SEXUAL ASSAULT PREVENTION OR ASSISTANCE PROGRAM;

(3) A HUMAN TRAFFICKING PREVENTION OR ASSISTANCE PROGRAM;

(4) A CHILD ADVOCACY CENTER;

(5) A VULNERABLE ADULT PROGRAM;

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

(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.~~

~~[(c)] (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;~~

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

~~(4) a witness subpoena.~~

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

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

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

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

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

~~4-504.1.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(i) notice to the respondent that:~~

~~1. the respondent must give the court written notice of each change of address;~~

~~2. if the respondent fails to appear at the temporary protective order hearing or any later hearing, the respondent may be served with any orders or notices in the case by first class mail at the respondent's last known address;~~

~~3. the date, time, and location of the final protective order hearing is tentative only, and subject to change; and~~

~~4. if the respondent does not attend the temporary protective order hearing, the respondent may call the Office of the Clerk of the District Court at the number provided in the order to find out the actual date, time, and location of any final protective order hearing;~~

~~(ii) a statement of all possible forms and duration of relief that a temporary protective order or final protective order may contain;~~

~~(iii) notice to the petitioner and respondent that, at the hearing, a judge may issue a temporary protective order that grants any or all of the relief requested in the petition or may deny the petition, whether or not the respondent is in court;~~

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

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

~~(f) Whenever a commissioner issues an interim protective order, the commissioner shall:~~

~~(1) immediately forward a copy of the petition and interim protective order to the appropriate law enforcement agency for service on the respondent; and~~

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

~~(g) A law enforcement officer shall:~~

~~(1) immediately on receipt of a petition and interim protective order, serve them on the respondent named in the order;~~

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

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

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

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

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

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.