

HOUSE BILL 397

D3, D4

4lr1507

By: **Delegates Simmons, Dumais, Carter, Anderson, Arora, Conaway, Glass,
K. Kelly, McComas, McDermott, Rosenberg, Smigiel, Valderrama,
Valentino-Smith, Vallario, Vitale, and Waldstreicher**

Introduced and read first time: January 23, 2014

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Peace Orders and Protective Orders – Consent Orders – Shielding**

3 FOR the purpose of authorizing a respondent who consents to the entry of a peace
4 order or protective order to file a written request to shield court records relating
5 to the peace order or protective order proceeding under certain circumstances;
6 requiring the court, under certain circumstances, to order the shielding of all
7 court records relating to a peace order or protective order proceeding if the
8 respondent consents to the entry of the order; and generally relating to the
9 shielding of certain peace order and protective order records.

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 3–1510
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2013 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Family Law
17 Section 4–512
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2013 Supplement)

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

22 **Article – Courts and Judicial Proceedings**

23 3–1510.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) In this section the following words have the meanings indicated.

2 (2) (i) “Court record” means an official record of a court about a
3 proceeding that the clerk of a court or other court personnel keeps.

4 (ii) “Court record” includes:

5 1. An index, a docket entry, a petition, a memorandum,
6 a transcription of proceedings, an electronic recording, an order, and a judgment; and

7 2. Any electronic information about a proceeding on the
8 Web site maintained by the Maryland Judiciary.

9 (3) “Shield” means to remove information from public inspection in
10 accordance with this section.

11 (4) “Shielding” means:

12 (i) With respect to a record kept in a courthouse, removing the
13 record to a separate secure area to which persons who do not have a legitimate reason
14 for access are denied access; and

15 (ii) With respect to electronic information about a proceeding on
16 the Web site maintained by the Maryland Judiciary, completely removing all
17 information concerning the proceeding from the public Web site, including the names
18 of the parties, case numbers, and any reference to the proceeding or any reference to
19 the removal of the proceeding from the public Web site.

20 (5) “Victim services provider” means a nonprofit organization that has
21 been authorized by the Governor’s Office of Crime Control and Prevention or the
22 Department of Human Resources to have access to records of shielded peace orders in
23 order to assist victims of abuse.

24 (b) [If a petition filed under this subtitle is denied or dismissed at the
25 interim, temporary, or final peace order stage of a proceeding under this subtitle, the]
26 A respondent may file a written request to shield all court records relating to [the
27 proceeding] **A PETITION FILED UNDER THIS SUBTITLE IF:**

28 **(1) THE PETITION IS DENIED OR DISMISSED AT THE INTERIM,**
29 **TEMPORARY, OR FINAL PEACE ORDER STAGE OF THE PROCEEDING UNDER THIS**
30 **SUBTITLE; OR**

31 **(2) THE RESPONDENT CONSENTS TO THE ENTRY OF THE PEACE**
32 **ORDER.**

1 (c) A request for shielding under this section may not be filed within 3 years
2 after the denial or dismissal of the petition **OR THE CONSENT TO THE ENTRY OF**
3 **THE PEACE ORDER** unless the respondent files with the request a general waiver and
4 release of all the respondent's tort claims related to the proceeding under this subtitle.

5 (d) (1) On the filing of a request for shielding under this section, the court
6 shall schedule a hearing on the request.

7 (2) The court shall give notice of the hearing to the petitioner or the
8 petitioner's counsel of record.

9 (3) Except as provided in paragraphs (4) and (5) of this subsection,
10 after the hearing, the court shall order the shielding of all court records relating to the
11 proceeding if the court finds:

12 (i) 1. That the petition was denied or dismissed at the
13 interim, temporary, or final peace order stage of the proceeding; **OR**

14 2. **THAT THE RESPONDENT CONSENTED TO THE**
15 **ENTRY OF THE PEACE ORDER;**

16 (ii) That a final peace order or protective order has not been
17 previously issued against the respondent in a proceeding between the petitioner and
18 the respondent; and

19 (iii) That none of the following are pending at the time of the
20 hearing:

21 1. An interim or temporary peace order or protective
22 order issued against the respondent in a proceeding between the petitioner and the
23 respondent; or

24 2. A criminal charge against the respondent arising from
25 an alleged act described in § 3-1503(a) of this subtitle against the petitioner.

26 (4) (i) If the petitioner appears at the shielding hearing and objects
27 to the shielding, the court may, for good cause, deny the shielding.

28 (ii) In determining whether there is good cause to grant the
29 request to shield court records, the court shall balance the privacy of the respondent
30 and potential danger of adverse consequences to the respondent against the potential
31 risk of future harm and danger to the petitioner and the community.

32 (5) Information about the proceeding may not be removed from the
33 Domestic Violence Central Repository.

1 (e) (1) This section does not preclude the following persons from accessing
2 a shielded record for a legitimate reason:

3 (i) A law enforcement officer;

4 (ii) An attorney who represents or has represented the
5 petitioner or the respondent in a proceeding;

6 (iii) A State's Attorney;

7 (iv) An employee of a local department of social services; or

8 (v) A victim services provider.

9 (2) (i) A person not listed in paragraph (1) of this subsection may
10 subpoena, or file a motion for access to, a record shielded under this section.

11 (ii) If the court finds that the person has a legitimate reason for
12 access, the court may grant the person access to the shielded record under the terms
13 and conditions that the court determines.

14 (iii) In ruling on a motion under this paragraph, the court shall
15 balance the person's need for access to the record with the respondent's right to
16 privacy and the potential harm of unwarranted adverse consequences to the
17 respondent that the disclosure may create.

18 (f) Within 60 days after entry of an order under subsection (d)(3) of this
19 section, each custodian of court records that are subject to the order of shielding shall
20 advise in writing the court and the respondent of compliance with the order.

21 Article – Family Law

22 4–512.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) (i) “Court record” means an official record of a court about a
25 proceeding that the clerk of a court or other court personnel keeps.

26 (ii) “Court record” includes:

27 1. an index, a docket entry, a petition, a memorandum, a
28 transcription of proceedings, an electronic recording, an order, and a judgment; and

29 2. any electronic information about a proceeding on the
30 website maintained by the Maryland Judiciary.

1 (3) “Shield” means to remove information from public inspection in
2 accordance with this section.

3 (4) “Shielding” means:

4 (i) with respect to a record kept in a courthouse, removing the
5 record to a separate secure area to which persons who do not have a legitimate reason
6 for access are denied access; and

7 (ii) with respect to electronic information about a proceeding on
8 the website maintained by the Maryland Judiciary, completely removing all
9 information concerning the proceeding from the public Web site, including the names
10 of the parties, case numbers, and any reference to the proceeding or any reference to
11 the removal of the proceeding from the public Web site.

12 (5) “Victim services provider” means a nonprofit organization that has
13 been authorized by the Governor’s Office of Crime Control and Prevention or the
14 Department of Human Resources to have access to records of shielded protective
15 orders in order to assist victims of abuse.

16 (b) [If a petition filed under this subtitle is denied or dismissed at the
17 interim, temporary, or final protective order stage of a proceeding under this subtitle,
18 the] **A** respondent may file a written request to shield all court records relating to [the
19 proceeding] **A PETITION FILED UNDER THIS SUBTITLE IF:**

20 **(1) THE PETITION IS DENIED OR DISMISSED AT THE INTERIM,**
21 **TEMPORARY, OR FINAL PROTECTIVE ORDER STAGE OF THE PROCEEDING**
22 **UNDER THIS SUBTITLE; OR**

23 **(2) THE RESPONDENT CONSENTS TO THE ENTRY OF THE**
24 **PROTECTIVE ORDER.**

25 (c) A request for shielding under this section may not be filed within 3 years
26 after the denial or dismissal of the petition **OR THE CONSENT TO THE ENTRY OF**
27 **THE PROTECTIVE ORDER**, unless the respondent files with the request a general
28 waiver and release of all the respondent’s tort claims related to the proceeding under
29 this subtitle.

30 (d) (1) On the filing of a request for shielding under this section, the court
31 shall schedule a hearing on the request.

32 (2) The court shall give notice of the hearing to the petitioner or the
33 petitioner’s counsel of record.

1 (3) Except as provided in paragraphs (4) and (5) of this subsection,
2 after the hearing, the court shall order the shielding of all court records relating to the
3 proceeding if the court finds:

4 (i) 1. that the petition was denied or dismissed at the
5 interim, temporary, or final protective order stage of the proceeding; **OR**

6 **2. THAT THE RESPONDENT CONSENTED TO THE**
7 **ENTRY OF THE PROTECTIVE ORDER;**

8 (ii) that a final protective order or peace order has not been
9 previously issued against the respondent in a proceeding between the petitioner and
10 the respondent; and

11 (iii) that none of the following are pending at the time of the
12 hearing:

13 1. an interim or temporary protective order or peace
14 order issued against the respondent in a proceeding between the petitioner and the
15 respondent; or

16 2. a criminal charge against the respondent arising from
17 alleged abuse against the petitioner.

18 (4) (i) If the petitioner appears at the shielding hearing and objects
19 to the shielding, the court may, for good cause, deny the shielding.

20 (ii) In determining whether there is good cause to grant the
21 request to shield court records, the court shall balance the privacy of the respondent
22 and potential danger of adverse consequences to the respondent against the potential
23 risk of future harm and danger to the petitioner and the community.

24 (5) Information about the proceeding may not be removed from the
25 Domestic Violence Central Repository.

26 (e) (1) This section does not preclude the following persons from accessing
27 a shielded record for a legitimate reason:

28 (i) a law enforcement officer;

29 (ii) an attorney who represents or has represented the
30 petitioner or the respondent in a proceeding;

31 (iii) a State's Attorney;

32 (iv) an employee of a local department; or

1 (v) a victim services provider.

2 (2) (i) A person not listed in paragraph (1) of this subsection may
3 subpoena, or file a motion for access to, a record shielded under this section.

4 (ii) If the court finds that the person has a legitimate reason for
5 access, the court may grant the person access to the shielded record under the terms
6 and conditions that the court determines.

7 (iii) In ruling on a motion under this paragraph, the court shall
8 balance the person's need for access to the record with the respondent's right to
9 privacy and the potential harm of unwarranted adverse consequences to the
10 respondent that the disclosure may create.

11 (f) Within 60 days after entry of an order under subsection (d)(3) of this
12 section, each custodian of court records that are subject to the order of shielding shall
13 advise in writing the court and the respondent of compliance with the order.

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