

Chapter 621

(House Bill 534)

AN ACT concerning

Domestic Violence – Protective Order – Extension

FOR the purpose of authorizing a ~~court~~ judge to extend the term of a protective order for a certain period of time under certain circumstances; requiring the ~~court~~ judge to provide certain notice and a hearing before extending the term of a protective order; requiring the ~~court~~ judge to consider certain factors in determining the period of extension of a protective order; and generally relating to an extension of a protective order.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 4–506(i) and (j)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–507
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Family Law

4–506.

(i) (1) Except as provided in paragraphs (2) and (3) of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 1 year.

(2) All relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 2 years if:

(i) the court issues a final protective order under this section against a respondent on behalf of a person eligible for relief for an act of abuse committed within 1 year after the date that a prior final protective order issued

against the same respondent on behalf of the same person eligible for relief expires; and

(ii) the prior final protective order was issued for a period of at least 6 months.

(3) A subsequent circuit court order pertaining to any of the provisions included in the final protective order shall supersede those provisions in the final protective order.

(j) (1) Notwithstanding any other provision of this section, the court shall issue a new final protective order against an individual if:

(i) the individual was previously a respondent under this subtitle against whom a final protective order was issued;

(ii) the individual was convicted and served a term of imprisonment of at least 5 years under § 2-205, § 2-206, § 3-202, § 3-303, § 3-304, § 3-305, § 3-306, § 3-309, § 3-310, § 3-311, or § 3-312 of the Criminal Law Article for the act of abuse that led to the issuance of the final protective order; and

(iii) the victim of the abuse who was the person eligible for relief in the original final protective order requests the issuance of a new final protective order.

(2) In a final protective order issued under this subsection, the court may grant only the relief that was granted in the original protective order under subsection (d)(1) or (2) of this section.

(3) Unless terminated at the request of the victim, a final protective order issued under this subsection shall be permanent.

4-507.

(a) (1) A protective order may be modified or rescinded during the term of the protective order after:

(i) giving notice to all affected persons eligible for relief and the respondent; and

(ii) a hearing.

(2) For good cause shown, a judge may extend the term of the protective order for 6 months beyond the period specified in § 4-506(i) of this subtitle, after:

(i) giving notice to all affected persons eligible for relief and the respondent; and

(ii) a hearing.

(3) (I) ~~IF A JUDGE FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT HAS COMMITTED A SUBSEQUENT ACT OF ABUSE AGAINST A PERSON ELIGIBLE FOR RELIEF DURING THE TERM OF A PROTECTIVE ORDER~~ IF, DURING THE TERM OF A PROTECTIVE ORDER, A JUDGE FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT NAMED IN THE PROTECTIVE ORDER HAS COMMITTED A SUBSEQUENT ACT OF ABUSE AGAINST A PERSON ELIGIBLE FOR RELIEF NAMED IN THE PROTECTIVE ORDER, THE JUDGE MAY EXTEND THE TERM OF THE PROTECTIVE ORDER FOR A PERIOD NOT TO EXCEED 5 2 YEARS ~~BEYOND THE PERIOD SPECIFIED IN § 4-506(I) OF THIS SUBTITLE~~ FROM THE DATE THE EXTENSION IS GRANTED, AFTER:

1. GIVING NOTICE TO ALL AFFECTED PERSONS ELIGIBLE FOR RELIEF AND THE RESPONDENT; AND

2. A HEARING.

(II) IN DETERMINING THE PERIOD OF EXTENSION OF A PROTECTIVE ORDER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE JUDGE SHALL CONSIDER THE FOLLOWING FACTORS:

1. THE NATURE AND SEVERITY OF THE SUBSEQUENT ACT OF ABUSE;

2. THE HISTORY AND SEVERITY OF ABUSE IN THE RELATIONSHIP BETWEEN THE RESPONDENT AND ANY PERSON ELIGIBLE FOR RELIEF NAMED IN THE PROTECTIVE ORDER;

3. THE PENDENCY AND TYPE OF CRIMINAL CHARGES AGAINST THE RESPONDENT; AND

4. THE NATURE AND EXTENT OF THE INJURY OR RISK OF INJURY CAUSED BY THE RESPONDENT.

(b) (1) If a District Court judge grants or denies relief under a petition filed under this subtitle, a respondent, any person eligible for relief, or a petitioner may appeal to the circuit court for the county where the District Court is located.

(2) An appeal taken under this subsection to the circuit court shall be heard de novo in the circuit court.

(3) If an appeal is filed under this subsection, the District Court judgment shall remain in effect until superseded by a judgment of the circuit court. Unless the circuit court orders otherwise, modification or enforcement of the District Court order shall be by the District Court.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.