

HOUSE BILL 700

D4
HB 415/07 – JUD

01r0901
CF 01r2239

By: **Delegates Hecht, Bobo, Dumais, Eckardt, Frick, Gaines, Glenn, Gutierrez, Haddaway, Healey, Howard, Krebs, Kullen, Lee, Montgomery, and Robinson**

Introduced and read first time: February 4, 2010
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Protective Orders – Burden of Proof**

3 FOR the purpose of altering the standard of proof by which a judge in a protective
4 order hearing must find that abuse has occurred before the judge may grant a
5 final protective order; and generally relating to the standard of proof in a
6 protective order hearing.

7 BY repealing and reenacting, with amendments,
8 Article – Family Law
9 Section 4–506(c)
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2009 Supplement)

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

14 **Article – Family Law**

15 4–506.

16 (c) (1) If the respondent appears before the court at a protective order
17 hearing or has been served with an interim or temporary protective order, or the court
18 otherwise has personal jurisdiction over the respondent, the judge:

19 (i) may proceed with the final protective order hearing; and

20 (ii) if the judge finds by [clear and convincing] A
21 **PREPONDERANCE OF THE** evidence that the alleged abuse has occurred, or if the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 respondent consents to the entry of a protective order, the judge may grant a final
2 protective order to protect any person eligible for relief from abuse.

3 (2) A final protective order may be issued only to a person who has
4 filed a petition under § 4-504 of this subtitle.

5 (3) (i) Subject to the provisions of subparagraph (ii) of this
6 paragraph, in cases where both parties file a petition under § 4-504 of this subtitle,
7 the judge may issue mutual protective orders if the judge finds by clear and convincing
8 evidence that mutual abuse has occurred.

9 (ii) The judge may issue mutual final protective orders only if
10 the judge makes a detailed finding of fact that:

- 11 1. both parties acted primarily as aggressors; and
12 2. neither party acted primarily in self-defense.

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