

SENATE BILL 490

D3, D4

3lr1033
CF HB 1230

By: **Senators Shank, Forehand, Jacobs, and Raskin**

Introduced and read first time: January 31, 2013

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2013

CHAPTER _____

1 AN ACT concerning

2 **Domestic Violence – Persons Eligible for Relief ~~and Orders to Vacate Home~~**

3 FOR the purpose of altering, for purposes of certain provisions of law relating to
4 domestic violence, the definition of “person eligible for relief” to include an
5 individual who has had a sexual relationship with a certain respondent ~~and an~~
6 ~~individual involved in a certain intimate relationship with a certain respondent;~~
7 ~~establishing that a final protective order may order the respondent to vacate the~~
8 ~~home immediately and award temporary use and possession of the home to the~~
9 ~~person eligible for relief or, in certain instances, to an adult living in the home,~~
10 ~~if the person eligible for relief and the respondent intended to share the home~~
11 ~~together on a nontemporary basis;~~ and generally relating to domestic violence.

12 BY repealing and reenacting, with amendments,

13 Article – Family Law

14 Section 4-501(m) ~~and 4-506(d)~~

15 Annotated Code of Maryland

16 (2012 Replacement Volume)

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

19 **Article – Family Law**

20 4-501.

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.



1 (m) "Person eligible for relief" includes:

2 (1) the current or former spouse of the respondent;

3 (2) a cohabitant of the respondent;

4 (3) a person related to the respondent by blood, marriage, or adoption;

5 (4) a parent, stepparent, child, or stepchild of the respondent or the
6 person eligible for relief who resides or resided with the respondent or person eligible
7 for relief for at least 90 days within 1 year before the filing of the petition;

8 (5) a vulnerable adult; [or]

9 (6) an individual who has a child in common with the respondent; OR

10 **(7) AN INDIVIDUAL WHO HAS HAD A CONSENSUAL OR**
11 **NONCONSENSUAL SEXUAL RELATIONSHIP WITH THE RESPONDENT; ~~OR~~**

12 **~~(8) AN INDIVIDUAL WHO IS OR HAS BEEN IN A RELATIONSHIP~~**
13 **~~WITH THE RESPONDENT THAT:~~**

14 **~~(I) GOES BEYOND A CASUAL ACQUAINTANCE OR ORDINARY~~**
15 **~~FRATERNIZATION IN A BUSINESS OR SOCIAL CONTEXT; AND~~**

16 **~~(H) IS AN INTIMATE RELATIONSHIP BASED ON:~~**

17 **~~1. THE NATURE OR TYPE OF RELATIONSHIP~~**
18 **~~BETWEEN THE INDIVIDUAL AND THE RESPONDENT, REGARDLESS OF WHETHER~~**
19 **~~THE RELATIONSHIP IS OR WAS SEXUAL IN NATURE;~~**

20 **~~2. THE FREQUENCY OF INTERACTION BETWEEN THE~~**
21 **~~INDIVIDUAL AND THE RESPONDENT; AND~~**

22 **~~3. THE DURATION OF THE RELATIONSHIP BETWEEN~~**
23 **~~THE INDIVIDUAL AND THE RESPONDENT.~~**

24 ~~4-506.~~

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

26 ~~(1) order the respondent to refrain from abusing or threatening to~~
27 ~~abuse any person eligible for relief;~~

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

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

3 ~~(4) where the person eligible for relief and the respondent are residing~~
4 ~~together at the time of the abuse, order the respondent to vacate the home~~
5 ~~immediately and award temporary use and possession of the home to the person~~
6 ~~eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a~~
7 ~~vulnerable adult, award temporary use and possession of the home to an adult living~~
8 ~~in the home, provided that the court may not grant an order to vacate and award~~
9 ~~temporary use and possession of the home to a nonspouse person eligible for relief~~
10 ~~unless;~~

11 ~~(I) the name of the person eligible for relief appears on the lease~~
12 ~~or deed to the home [or];~~

13 ~~(II) the person eligible for relief has shared the home with the~~
14 ~~respondent for a period of at least 90 days within 1 year before the filing of the~~
15 ~~petition; OR~~

16 ~~(III) THE PERSON ELIGIBLE FOR RELIEF AND THE~~
17 ~~RESPONDENT INTENDED TO SHARE A HOME TOGETHER ON A NONTEMPORARY~~
18 ~~BASIS;~~

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

22 ~~(6) order the respondent to remain away from a child care provider of~~
23 ~~a person eligible for relief while a child of the person is in the care of the child care~~
24 ~~provider;~~

25 ~~(7) award temporary custody of a minor child of the respondent and a~~
26 ~~person eligible for relief;~~

27 ~~(8) establish temporary visitation with a minor child of the respondent~~
28 ~~and a person eligible for relief on a basis which gives primary consideration to the~~
29 ~~welfare of the minor child and the safety of any other person eligible for relief. If the~~
30 ~~court finds that the safety of a person eligible for relief will be jeopardized by~~
31 ~~unsupervised or unrestricted visitation, the court shall condition or restrict visitation~~
32 ~~as to time, place, duration, or supervision, or deny visitation entirely, as needed to~~
33 ~~guard the safety of any person eligible for relief;~~

34 ~~(9) award emergency family maintenance as necessary to support any~~
35 ~~person eligible for relief to whom the respondent has a duty of support under this~~
36 ~~article, including an immediate and continuing withholding order on all earnings of~~

1 ~~the respondent in the amount of the ordered emergency family maintenance in~~
2 ~~accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;~~

3 ~~(10) award temporary use and possession of a vehicle jointly owned by~~
4 ~~the respondent and a person eligible for relief to the person eligible for relief if~~
5 ~~necessary for the employment of the person eligible for relief or for the care of a minor~~
6 ~~child of the respondent or a person eligible for relief;~~

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

9 ~~(12) order the respondent to pay filing fees and costs of a proceeding~~
10 ~~under this subtitle; or~~

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

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.