



Maryland Laws Regarding Firearms and Domestic Violence Protective Orders

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Table of Contents

| | |
|--|-----------|
| Service | 3 |
| Victim Notification-Md. Code Ann., Fam. Law § 4-504(d) | 3 |
| Interim Protective Order- Md. Code Ann., Fam. Law § 4-504.1(g) | 3 |
| Temporary Protective Order- Md. Code Ann., Fam. Law § 4-505(b)..... | 3 |
| Final Protective Order- Md. Code Ann., Fam. Law § 4-506(b)..... | 4 |
| Jurisdiction | 4 |
| Md. Rule 2-327(a)(3) | 4 |
| Md. Rule 3-326(c)..... | 5 |
| Firearms..... | 6 |
| Temporary Protective Order- Md. Code Ann., Fam. Law § 4-505(a)(2)(viii)..... | 6 |
| Final Protective Order- Md. Code Ann., Fam. Law § 4-506(f)..... | 6 |
| Firearm Surrender - Md. Code Ann., Fam. Law § 4-506.1..... | 6 |
| Firearm Removal Due to Act of DV- Md. Code Ann., Fam. Law § 4-511..... | 7 |
| Firearm Possession Prohibition- Md. Code Ann, Pub. Safety § 5-133(b)(4)(iii), (b)(14), (b-1), (e) | 7 |
| Violations of Protective Orders | 8 |
| Full Faith & Credit- Md. Code Ann., Fam. Law § 4-508.1..... | 8 |
| Sanctions- Md. Code Ann., Fam. Law § 4-508 | 9 |
| Criminal Violations- Md. Code Ann., Fam. Law § 4-509 | 9 |
| Domestic Violence Central Repository..... | 10 |
| Md. Code Ann., Fam. Law § 4-512.1 | 10 |
| Extreme Risk Protective Orders | 10 |
| Search Warrants- Md. Code Ann., Pub. Safety § 5-607 | 10 |
| Firearm or Ammunition Surrendered or Seized- Md. Code Ann., Pub. Safety § 5-607..... | 11 |

Service

Victim Notification-Md. Code Ann., Fam. Law § 4-504(d)

(d)

(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.

Interim Protective Order- Md. Code Ann., Fam. Law § 4-504.1(g)

(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.

Temporary Protective Order- Md. Code Ann., Fam. Law § 4-505(b)

(b)

(1) Except as provided in paragraph (2) of this subsection, a law enforcement officer shall:

(i) immediately serve the temporary protective order on the alleged abuser under this section; and

(ii) within two hours after service of the order on the respondent, electronically notify the Department of Public Safety and Correctional Services of the service using an electronic system approved and provided by the Department of Public Safety and Correctional Services.

(2) A respondent who has been served with an interim protective order under § 4-504.1 of this subtitle shall be served with the temporary protective order in open court or, if the respondent is not present at the temporary protective order hearing, by first-class mail at the respondent's last known address.

(3) There shall be no cost to the petitioner for service of the temporary protective order.

Final Protective Order- Md. Code Ann., Fam. Law § 4-506(b)

(b)

(2) The temporary protective order shall include notice to the respondent:

(i) in at least 10-point bold type, that if the respondent fails to appear at the final protective order hearing, the respondent may be served by first-class mail at the respondent's last known address with the final protective order and all other notices concerning the final protective order;

(i)

(1) A copy of the final protective order shall be served on the petitioner, the respondent, any affected person eligible for relief, the appropriate law enforcement agency, and any other person the judge determines is appropriate, in open court or, if the person is not present at the final protective order hearing, by first-class mail to the person's last known address.

(2) A copy of the final protective order served on the respondent in accordance with paragraph (1) of this subsection constitutes actual notice to the respondent of the contents of the final protective order. Service is complete upon mailing.

Jurisdiction

Md. Rule 2-327(a)(3)

(a) Transfer to District Court. —

(3) If circuit court has jurisdiction — Domestic violence actions.

(A) In an action under Code, Family Law Article, Title 4, Subtitle 5, after entering a temporary protective order, a circuit court, on motion or on its own initiative, may transfer the action to the District Court for the final protective order hearing if, after inquiry, the court finds that (i) there is no other action between the parties pending in the circuit court, (ii) the respondent has sought relief under Code, Family Law Article, Title 4, Subtitle 5, in the District Court, and (iii) in the interests of justice, the action should be heard in the District Court.

(B) In determining whether a hearing in the District Court is in the interests of justice, the court shall consider (i) the safety of each person eligible for relief, (ii) the convenience of the parties, (iii) the pendency of other actions involving the parties or children of the parties in one of the courts, (iv) whether a transfer will result in undue delay, (v) the services that may be available in or through each court, and (vi) the efficient operation of the courts.

(C) The consent of the parties is not required for a transfer under this subsection.

(D) After the action is transferred, the District Court has jurisdiction for the purposes of enforcing and extending the temporary protective order as allowed by law.

Md. Rule 3-326(c)

(c) Domestic violence action. —

(1) Transfer Before Final Protective Order Hearing. —

(A) In an action under Code, Family Law Article, Title 4, Subtitle 5, after entering a temporary protective order, the District Court, on motion or on its own initiative, may transfer the action to a circuit court for the final protective order hearing if, after inquiry, the District Court finds that (i) there is a pending action in the circuit court involving one or more of the parties in which there is an existing order or request for relief similar to that being sought in the District Court and (ii) in the interests of justice, the action should be heard in the circuit court.

(B) In determining whether a hearing in the circuit court is in the interests of justice, the Court shall consider (i) the safety of each person eligible for relief, (ii) the convenience of the parties, (iii) the pendency of other actions involving the parties or children of the parties in one of the courts, (iv) whether a transfer will result in undue delay, (v) the services that may be available in or through each court, and (vi) the efficient operation of the courts.

(C) The consent of the parties is not required for a transfer under this section.

(D) After the action is transferred, the circuit court has jurisdiction for the purposes of enforcing and extending the temporary protective order as allowed by law.

Cross references. — See Code, Family Law Article, § 4-505 (c) concerning the duration and extension of a temporary protective order.

(2) Transfer After Entry of Final Protective Order. —

(A) In an action under Code, Family Law Article, Title 4, Subtitle 5, after entering a final protective order, the District Court, on motion or on its own initiative, may transfer the action to a circuit court if, after inquiry, the District Court finds that (i) the petitioner and the respondent have a pending divorce case in the circuit court or (ii) the petitioner and the respondent have a pending child custody case in the circuit court.

(B) The consent of the parties is not required for a transfer under this section.

(C) After the action is transferred, the circuit court has jurisdiction for the purposes of modifying and enforcing the final protective order as allowed by law.

(D) If the respondent notes an appeal of the final protective order, the circuit court shall treat the request as a de novo appeal of the District Court order. An appeal shall be considered timely if it is filed within 30 days of the entry of the order.

Firearms

Temporary Protective Order- Md. Code Ann., Fam. Law § 4-505(a)(2)(viii)

(viii) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the temporary protective order if the abuse consisted of:

1. the use of a firearm by the respondent against a person eligible for relief;
2. a threat by the respondent to use a firearm against a person eligible for relief;
3. serious bodily harm to a person eligible for relief caused by the respondent; or
4. a threat by the respondent to cause serious bodily harm to a person eligible for relief;

Final Protective Order- Md. Code Ann., Fam. Law § 4-506(f)

(f) The final protective order shall order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the protective order.

Firearm Surrender - Md. Code Ann., Fam. Law § 4-506.1

(a) If a respondent surrenders a firearm under § 4-505 or § 4-506 of this subtitle, a law enforcement officer shall:

- (1) provide to the respondent information on the process for retaking possession of the firearm; and
- (2) transport and store the firearm in a protective case, if one is available, and in a manner intended to prevent damage to the firearm during the time the protective order is in effect.

(b)

(1) The respondent may retake possession of the firearm at the expiration of a temporary protective order unless:

- (i) the respondent is ordered to surrender the firearm in a protective order issued under § 4-506 of this subtitle; or
- (ii) the respondent is not otherwise legally entitled to own or possess the firearm.

(2) The respondent may retake possession of the firearm at the expiration of a final protective order unless:

- (i) the protective order is extended under § 4-507(a)(2) of this subtitle; or
- (ii) the respondent is not otherwise legally entitled to own or possess the firearm.

(c) Notwithstanding any other law, a respondent may transport a firearm if the respondent is carrying a protective order requiring the surrender of the firearm and:

- (1) the firearm is unloaded;

- (2) the respondent has notified the law enforcement unit, barracks, or station that the firearm is being transported in accordance with the protective order; and
- (3) the respondent transports the firearm directly to the law enforcement unit, barracks, or station.

Firearm Removal Due to Act of DV- Md. Code Ann., Fam. Law § 4-511

- (a) When responding to the scene of an alleged act of domestic violence, as described in this subtitle, a law enforcement officer may remove a firearm from the scene if:
 - (1) the law enforcement officer has probable cause to believe that an act of domestic violence has occurred; and
 - (2) the law enforcement officer has observed the firearm on the scene during the response.
- (b) If a firearm is removed from the scene under subsection (a) of this section, the law enforcement officer shall:
 - (1) provide to the owner of the firearm information on the process for retaking possession of the firearm; and
 - (2) provide for the safe storage of the firearm during the pendency of any proceeding related to the alleged act of domestic violence.
- (c) At the conclusion of a proceeding on the alleged act of domestic violence, the owner of the firearm may retake possession of the firearm unless ordered to surrender the firearm under § 4-506 of this subtitle.

Firearm Possession Prohibition- Md. Code Ann, Pub. Safety § 5-133(b)(4)(iii), (b)(14), (b-1), (e)

- (b) Subject to § 5-133.3 of this subtitle, a person may not possess a regulated firearm if the person: . . .
 - (4) subject to subsection (b-1) of this section, is on supervised probation after being convicted: . . .
 - (iii) for violating a protective order under § 4-509 of the Family Law Article;
...
 - (14) except as provided in subsection (e) of this section, is a respondent against whom:
 - (i) a current non ex parte civil protective order has been entered under § 4-506 of the Family Law Article; or
 - (ii) an order for protection, as defined in § 4-508.1 of the Family Law Article, has been issued by a court of another state or a Native American tribe and is in effect;
...
- (b-1) Subsection (b)(4) of this section may not be construed to prohibit possession of a regulated firearm by a person who was not convicted of but received only probation before judgment for an offense listed in subsection (b)(4) of this section.
...

(e) This section does not apply to a respondent transporting a regulated firearm if the respondent is carrying a civil protective order requiring the surrender of the regulated firearm and:

- (1) the regulated firearm is unloaded;
- (2) the respondent has notified the law enforcement unit, barracks, or station that the regulated firearm is being transported in accordance with the civil protective order; and
- (3) the respondent transports the regulated firearm directly to the law enforcement unit, barracks, or station.

Violations of Protective Orders

Full Faith & Credit- Md. Code Ann., Fam. Law § 4-508.1

(a)

(1) In this section, “order for protection” means a temporary or final order or injunction that:

- (i) is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person;
- (ii) is issued by a civil court in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection or by a criminal court; and
- (iii) is obtained by filing an independent action or as a pendente lite order in another proceeding.

(2) “Order for protection” does not include a support or child custody order.

(b) An order for protection issued by a court of another state or a Native American tribe shall be accorded full faith and credit by a court of this State and shall be enforced:

(1) in the case of an ex parte order for protection, only to the extent that the order affords relief that is permitted under § 4-505 of this subtitle; and

(2) in the case of an order for protection, other than an ex parte order for protection, only to the extent that the order affords relief that is permitted under § 4-506(d) of this subtitle.

(c) A law enforcement officer shall arrest with or without a warrant and take into custody a person who the officer has probable cause to believe is in violation of an order for protection that was issued by a court of another state or a Native American tribe and is in effect at the time of the violation if the person seeking the assistance of the law enforcement officer:

(1) has filed with the District Court or circuit court for the jurisdiction in which the person seeks assistance a copy of the order; or

(2) displays or presents to the law enforcement officer a copy of the order that appears valid on its face.

(d) A law enforcement officer acting in accordance with this section shall be immune from civil liability if the law enforcement officer acts in good faith and in a reasonable manner.

(e) It is the intent of the General Assembly that an order for protection issued by a court of this State shall be accorded full faith and credit by a court of another state to the extent required by federal law.

Sanctions- Md. Code Ann., Fam. Law § 4-508

(a) An interim protective order, temporary protective order, and final protective order issued under this subtitle shall state that a violation of the order may result in:

- (1) criminal prosecution; and
- (2) imprisonment or fine or both.

(b) A temporary protective order and final protective order issued under this subtitle shall state that a violation of the order may result in a finding of contempt.

See District Court Form:

<https://www.courts.state.md.us/sites/default/files/import/courtforms/joint/ccdcdv007.pdf>

Criminal Violations- Md. Code Ann., Fam. Law § 4-509

(a) A person may not fail to comply with the relief granted in an interim protective order under § 4-504.1(c)(1), (2), (3), (4)(i), (7), or (8) of this subtitle, a temporary protective order under § 4-505(a)(2)(i), (ii), (iii), (iv), (v), or (viii) of this subtitle, or a final protective order under § 4-506(d)(1), (2), (3), (4), or (5), or (f) of this subtitle.

(b) A person who violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject, for each offense, to:

- (1) for a first offense, a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both; and
- (2) for a second or subsequent offense, a fine not exceeding \$2,500 or imprisonment not exceeding 1 year or both.

(c) Notwithstanding any other law, a conviction under this section may not merge with a conviction for any other crime based on the act establishing the violation of this section.

(d) A sentence imposed under this section may be imposed separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation of this section.

(e) For the purpose of second or subsequent offender penalties provided under subsection (b)(2) of this section, a prior conviction under § 3-1508 of the Courts Article shall be considered a conviction under this section.

(f)

(1) An officer shall arrest with or without a warrant and take into custody a person who the officer has probable cause to believe is in violation of an interim, temporary, or final protective order in effect at the time of the violation.

(2) If an officer has probable cause to believe that an individual described in paragraph (1) of this subsection is a service member in violation of a military protection order entered into the Federal Bureau of Investigation's National Crime Information Center database, the officer shall notify the law enforcement agency that entered the military protection order into the database that the service member may have violated the military protection order.

Domestic Violence Central Repository

Md. Code Ann., Fam. Law § 4-512.1

(a) In this section, “Central Repository” means the Domestic Violence Central Repository.

(b) The Administrative Office of the Courts shall maintain a Domestic Violence Central Repository.

(c)

(1) The Central Repository shall store the following domestic violence orders issued in the State:

(i) interim protective orders;

(ii) temporary protective orders;

(iii) final protective orders;

(iv) peace orders issued under Title 3, Subtitle 15 of the Courts Article; and

(v) except as provided in paragraph (2) of this subsection, peace orders issued under Title 3, Subtitle 8A of the Courts Article.

(2) A peace order issued under Title 3, Subtitle 8A of the Courts Article shall be stored only during the term of the peace order.

(d) The purposes of the Central Repository are to:

(1) provide immediate access to domestic violence orders by judges, court personnel, and law enforcement agencies;

(2) improve the courts’ ability to respond effectively, promptly, and in a coordinated manner to domestic violence cases;

(3) eliminate conflicting or simultaneous domestic violence orders by improving communication between the District Court and the circuit courts;

(4) enhance the enforceability of domestic violence orders by law enforcement agencies; and

(5) facilitate service of domestic violence orders.

Extreme Risk Protective Orders

Search Warrants- Md. Code Ann., Pub. Safety § 5-607

In accordance with the provisions of § 1-203 of the Criminal Procedure Article, on application by a State’s Attorney or a law enforcement officer with probable cause to believe that a respondent who is subject to an extreme risk protective order possesses a firearm and failed to surrender the firearm in accordance with the order, a court may issue a search warrant for the removal of the firearm at any location identified in the application for the warrant.

Firearm or Ammunition Surrendered or Seized- Md. Code Ann., Pub. Safety § 5-607

(a)

(1) A law enforcement officer who takes possession of a firearm or ammunition in accordance with an extreme risk protective order shall, at the time the firearm or ammunition is surrendered or seized:

(i) issue a receipt identifying, by make, model, and serial number, all firearms and ammunition that have been surrendered or seized;

(ii) provide a copy of the receipt to the respondent;

(iii) retain a copy of the receipt; and

(iv) provide information to the respondent on the process for retaking possession of the firearms and ammunition on the expiration or termination of the order.

(2) A law enforcement agency shall transport and store any firearm surrendered or seized in accordance with an extreme risk protective order:

(i) in a protective case, if one is available; and

(ii) in a manner intended to prevent damage to the firearm during the time the extreme risk protective order is in effect.

(3) A law enforcement agency may not place any mark on a seized or surrendered firearm for identification or other purposes.

(b)

(1) On expiration or termination of an extreme risk protective order, a law enforcement agency that holds any firearm or ammunition surrendered or seized in accordance with the expired or terminated order shall notify the respondent that the respondent may request the return of the firearm or ammunition.

(2) A law enforcement agency shall return a firearm or ammunition to a respondent only after the law enforcement agency verifies that the respondent is not otherwise prohibited from possessing the firearm or ammunition.

(3) Subject to paragraph (2) of this subsection, on request of the respondent, a law enforcement agency shall return all firearms and ammunition belonging to the respondent not later than:

(i) 14 days after the expiration of an interim or temporary extreme risk protective order;

(ii) 14 days after a court terminates a final extreme risk protective order; or

(iii) 48 hours after the expiration of a final extreme risk protective order.

(c)

(1) A respondent who does not wish to recover a firearm or ammunition seized or surrendered in accordance with an extreme risk protective order, or who is prohibited from possessing firearms or ammunition under this title, may:

(i) sell or transfer title to the firearm or ammunition to:

1. a licensed firearms dealer; or

2. another person who is not prohibited from possessing the firearm or ammunition under State or federal law and who does not live in the same residence as the respondent; or

(ii) request the destruction of the firearm or ammunition.

(2) A law enforcement agency shall transfer possession of a firearm or ammunition to a licensed firearms dealer or a person described in paragraph (1)(i)2 of this subsection only after:

(i) the licensed firearms dealer or other person provides written proof that the respondent has agreed to transfer the firearm or ammunition to the dealer or person; and

(ii) the law enforcement agency verifies the agreement with the respondent.

(3) On request of the respondent, a law enforcement agency may destroy firearms or ammunition seized or surrendered in accordance with an extreme risk protective order.

(d) If an individual other than the respondent claims ownership of a firearm or ammunition seized or surrendered in accordance with an extreme risk protective order, the law enforcement agency shall return the firearm or ammunition to the individual if:

(1) the individual provides proof of ownership of the firearm or ammunition; and

(2) the law enforcement agency determines that the individual is not prohibited from possessing the firearm or ammunition.

(e) If a firearm or ammunition is not reclaimed within 6 months after the provision of notice to a respondent under subsection (b) of this section:

(1) no party shall have the right to assert ownership of the firearm or ammunition; and

(2) the law enforcement agency holding the firearm or ammunition may destroy the firearm or ammunition.