

HOUSE BILL 407

D4, E1
HB 901/09 – JUD

11r0644
CF 11r2615

By: **Delegates McComas, Aumann, Carter, DeBoy, Dumais, Frank, Frush, Haddaway–Ricchio, K. Kelly, Lee, McDonough, B. Robinson, Simmons, and Waldstreicher**

Introduced and read first time: February 4, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence – Cruelty Toward a Pet or Service Animal**

3 FOR the purpose of authorizing a District Court Commissioner, in a certain interim
4 protective order, and a judge, in a temporary protective order or final protective
5 order, to order a respondent to remain away from a certain pet or service
6 animal, to refrain from cruelty or aggravated cruelty toward the pet or service
7 animal, or in certain circumstances, to give the pet or service animal to a
8 certain person; providing certain penalties for failure to comply with certain
9 relief ordered in a certain interim protective order, temporary protective order,
10 or final protective order; defining certain terms; and generally relating to
11 domestic violence and cruelty toward a pet or service animal.

12 BY repealing and reenacting, without amendments,
13 Article – Criminal Law
14 Section 10–601(a), (b), and (c), 10–604(a), and 10–606(a)
15 Annotated Code of Maryland
16 (2002 Volume and 2010 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – Family Law
19 Section 4–501(a) and (l)
20 Annotated Code of Maryland
21 (2006 Replacement Volume and 2010 Supplement)

22 BY adding to
23 Article – Family Law
24 Section 4–501(m) and (q), 4–504.1(c)(9), 4–505(a)(2)(ix), and 4–506(d)(13)
25 Annotated Code of Maryland
26 (2006 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Family Law
3 Section 4–501(m), (n), (o), (p), (q), and (r), 4–504.1(c)(7) and (8), 4–505(a)(2)(vii)
4 and (viii), 4–506(d)(11) and (12), and 4–509(a)
5 Annotated Code of Maryland
6 (2006 Replacement Volume and 2010 Supplement)

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

9 **Article – Criminal Law**

10 10–601.

11 (a) In this subtitle the following words have the meanings indicated.

12 (b) “Animal” means a living creature except a human being.

13 (c) (1) “Cruelty” means the unnecessary or unjustifiable physical pain or
14 suffering caused or allowed by an act, omission, or neglect.

15 (2) “Cruelty” includes torture and torment.

16 10–604.

17 (a) A person may not:

18 (1) overdrive or overload an animal;

19 (2) deprive an animal of necessary sustenance;

20 (3) inflict unnecessary suffering or pain on an animal;

21 (4) cause, procure, or authorize an act prohibited under item (1), (2), or
22 (3) of this subsection; or

23 (5) if the person has charge or custody of an animal, as owner or
24 otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient
25 quantity, necessary veterinary care, proper drink, air, space, shelter, or protection
26 from the weather.

27 10–606.

28 (a) A person may not:

29 (1) intentionally mutilate, torture, cruelly beat, or cruelly kill an
30 animal;

1 (2) cause, procure, or authorize an act prohibited under item (1) of this
 2 subsection; or

3 (3) except in the case of self-defense, intentionally inflict bodily harm,
 4 permanent disability, or death on an animal owned or used by a law enforcement unit.

5 **Article – Family Law**

6 4–501.

7 (a) In this subtitle the following words have the meanings indicated.

8 (l) “Person eligible for relief” includes:

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

10 (2) a cohabitant of the respondent;

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

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

15 (5) a vulnerable adult; or

16 (6) an individual who has a child in common with the respondent.

17 **(M) (1) “PET” MEANS A DOMESTICATED ANIMAL.**

18 **(2) “PET” DOES NOT INCLUDE LIVESTOCK.**

19 **[(m)] (N) (1) “Petitioner” means an individual who files a petition.**

20 **(2) “Petitioner” includes:**

21 (i) a person eligible for relief; or

22 (ii) the following persons who may seek relief from abuse on
 23 behalf of a minor or vulnerable adult:

24 1. the State’s Attorney for the county where the child or
 25 vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

1 2. the department of social services that has jurisdiction
2 in the county where the child or vulnerable adult lives, or, if different, where the abuse
3 is alleged to have taken place;

4 3. a person related to the child or vulnerable adult by
5 blood, marriage, or adoption; or

6 4. an adult who resides in the home.

7 **[(n)] (O)** “Residence” includes the yard, grounds, outbuildings, and common
8 areas surrounding the residence.

9 **[(o)] (P)** “Respondent” means the person alleged in the petition to have
10 committed the abuse.

11 **(Q)** “**SERVICE ANIMAL**” MEANS A GUIDE DOG, SIGNAL DOG, OR OTHER
12 ANIMAL INDIVIDUALLY TRAINED TO DO WORK OR PERFORM TASKS FOR THE
13 BENEFIT OF AN INDIVIDUAL WITH A DISABILITY, INCLUDING:

14 **(1)** GUIDING INDIVIDUALS WITH IMPAIRED VISION;

15 **(2)** ALERTING INDIVIDUALS WITH IMPAIRED HEARING TO AN
16 INTRUDER OR SOUNDS;

17 **(3)** PROVIDING MINIMAL PROTECTION OR RESCUE WORK;

18 **(4)** PULLING A WHEELCHAIR; OR

19 **(5)** FETCHING DROPPED ITEMS.

20 **[(p)] (R)** “Temporary protective order” means a protective order issued
21 under § 4–505 of this subtitle.

22 **[(q)] (S)** “Victim” includes a person eligible for relief.

23 **[(r)] (T)** “Vulnerable adult” has the meaning provided in § 14–101(q) of this
24 article.

25 4–504.1.

26 (c) An interim protective order may:

27 (7) order the respondent to remain away from the place of
28 employment, school, or temporary residence of a person eligible for relief; [or]

1 (8) order the respondent to remain away from the residence of any
2 family member of a person eligible for relief; **OR**

3 **(9) IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY MEMBER**
4 **OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL OR THE**
5 **RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL OF THE PERSON**
6 **ELIGIBLE FOR RELIEF OR OF A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR**
7 **RELIEF, ORDER THE RESPONDENT TO:**

8 **(I) REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;**

9 **(II) REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY**
10 **TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10-604(A) OR §**
11 **10-606(A) OF THE CRIMINAL LAW ARTICLE; OR**

12 **(III) IF THE RESPONDENT HAS POSSESSION OF THE PET OR**
13 **SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE**
14 **FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR**
15 **TO A SUITABLE THIRD PARTY.**

16 4-505.

17 (a) (2) The temporary protective order may order any or all of the
18 following relief:

19 (vii) award temporary custody of a minor child of the person
20 eligible for relief and the respondent; **[and]**

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

25 1. the use of a firearm by the respondent against a
26 person eligible for relief;

27 2. a threat by the respondent to use a firearm against a
28 person eligible for relief;

29 3. serious bodily harm to a person eligible for relief
30 caused by the respondent; or

31 4. a threat by the respondent to cause serious bodily
32 harm to a person eligible for relief; **AND**

1 **(IX) IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY**
2 **MEMBER OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL**
3 **OR THE RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL OF THE**
4 **PERSON ELIGIBLE FOR RELIEF OR OF A FAMILY MEMBER OF THE PERSON**
5 **ELIGIBLE FOR RELIEF, ORDER THE RESPONDENT TO:**

6 1. **REMAIN AWAY FROM THE PET OR SERVICE**
7 **ANIMAL;**

8 2. **REFRAIN FROM CRUELTY OR AGGRAVATED**
9 **CRUELTY TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER §**
10 **10-604(A) OR § 10-606(A) OF THE CRIMINAL LAW ARTICLE; OR**

11 3. **IF THE RESPONDENT HAS POSSESSION OF THE**
12 **PET OR SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON**
13 **ELIGIBLE FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR**
14 **RELIEF, OR TO A SUITABLE THIRD PARTY.**

15 4-506.

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

17 (11) direct the respondent or any or all of the persons eligible for relief
18 to participate in professionally supervised counseling or a domestic violence program;
19 **[or]**

20 (12) order the respondent to pay filing fees and costs of a proceeding
21 under this subtitle; **OR**

22 **(13) IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY MEMBER**
23 **OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL OR THE**
24 **RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL OF THE PERSON**
25 **ELIGIBLE FOR RELIEF OR OF A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR**
26 **RELIEF, ORDER THE RESPONDENT TO:**

27 **(I) REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;**

28 **(II) REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY**
29 **TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10-604(A) OR §**
30 **10-606(A) OF THE CRIMINAL LAW ARTICLE; OR**

31 **(III) IF THE RESPONDENT HAS POSSESSION OF THE PET OR**
32 **SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE**
33 **FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR**
34 **TO A SUITABLE THIRD PARTY.**

1 4-509.

2 (a) A person who fails to comply with the relief granted in an interim
3 protective order under § 4-504.1(c)(1), (2), (3), (4)(i), (7), [or] (8), **OR (9)** of this
4 subtitle, a temporary protective order under § 4-505(a)(2)(i), (ii), (iii), (iv), (v), [or]
5 (viii), **OR (IX)** of this subtitle, or a final protective order under § 4-506(d)(1), (2), (3),
6 (4), [or] (5), **OR (13)**, or (e) of this subtitle is guilty of a misdemeanor and on conviction
7 is subject, for each offense, to:

8 (1) for a first offense, a fine not exceeding \$1,000 or imprisonment not
9 exceeding 90 days or both; and

10 (2) for a second or subsequent offense, a fine not exceeding \$2,500 or
11 imprisonment not exceeding 1 year or both.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2011.