

HOUSE BILL 331

D4, E4

0lr1522

By: **Delegates Simmons, Barkley, Kramer, Levi, McComas, Montgomery, Shank, and Valderrama**

Introduced and read first time: January 27, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Final Protective Order – Global Positioning Monitoring System**

3 FOR the purpose of authorizing a judge to order a respondent to wear or carry a global
4 positioning monitoring system device as part of a final protective order if the
5 judge finds by clear and convincing evidence that the respondent presents a
6 present risk of abuse to the petitioner; requiring the Department of State Police
7 to monitor a respondent ordered to wear or carry a global positioning
8 monitoring system device under this Act; requiring a judge to describe
9 specifically the locations that the respondent has been ordered to remain away
10 from and the minimum distances that the respondent shall maintain from the
11 locations; requiring a respondent to pay the costs associated with monitoring;
12 requiring the Department of State Police, in consultation with the
13 Administrative Office of the Courts, to adopt certain regulations; defining a
14 certain term; and generally relating to final protective orders and global
15 positioning monitoring systems.

16 BY repealing and reenacting, with amendments,
17 Article – Family Law
18 Section 4–506(d)
19 Annotated Code of Maryland
20 (2006 Replacement Volume and 2009 Supplement)

21 BY adding to
22 Article – Family Law
23 Section 4–506.2
24 Annotated Code of Maryland
25 (2006 Replacement Volume and 2009 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Family Law**

2 4–506.

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

4 (1) order the respondent to refrain from abusing or threatening to
5 abuse any person eligible for relief;6 (2) order the respondent to refrain from contacting, attempting to
7 contact, or harassing any person eligible for relief;8 (3) order the respondent to refrain from entering the residence of any
9 person eligible for relief;10 (4) where the person eligible for relief and the respondent are residing
11 together at the time of the abuse, order the respondent to vacate the home
12 immediately and award temporary use and possession of the home to the person
13 eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a
14 vulnerable adult, award temporary use and possession of the home to an adult living
15 in the home, provided that the court may not grant an order to vacate and award
16 temporary use and possession of the home to a nonspouse person eligible for relief
17 unless the name of the person eligible for relief appears on the lease or deed to the
18 home or the person eligible for relief has shared the home with the respondent for a
19 period of at least 90 days within 1 year before the filing of the petition;20 (5) order the respondent to remain away from the place of
21 employment, school, or temporary residence of a person eligible for relief or home of
22 other family members;23 (6) order the respondent to remain away from a child care provider of
24 a person eligible for relief while a child of the person is in the care of the child care
25 provider;26 (7) award temporary custody of a minor child of the respondent and a
27 person eligible for relief;28 (8) establish temporary visitation with a minor child of the respondent
29 and a person eligible for relief on a basis which gives primary consideration to the
30 welfare of the minor child and the safety of any other person eligible for relief. If the
31 court finds that the safety of a person eligible for relief will be jeopardized by
32 unsupervised or unrestricted visitation, the court shall condition or restrict visitation
33 as to time, place, duration, or supervision, or deny visitation entirely, as needed to
34 guard the safety of any person eligible for relief;

1 (9) award emergency family maintenance as necessary to support any
2 person eligible for relief to whom the respondent has a duty of support under this
3 article, including an immediate and continuing withholding order on all earnings of
4 the respondent in the amount of the ordered emergency family maintenance in
5 accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

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

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

13 (12) **IN ACCORDANCE WITH § 4-506.2 OF THIS SUBTITLE, ORDER**
14 **THE RESPONDENT TO WEAR OR CARRY A GLOBAL POSITIONING MONITORING**
15 **SYSTEM DEVICE, AS DEFINED IN § 4-506.2 OF THIS SUBTITLE, IF THE JUDGE**
16 **FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT**
17 **PRESENTS A PRESENT RISK OF ABUSE TO THE PETITIONER; OR**

18 (13) order the respondent to pay filing fees and costs of a proceeding
19 under this subtitle.

20 **4-506.2.**

21 **(A) IN THIS SECTION, “GLOBAL POSITIONING MONITORING SYSTEM”**
22 **MEANS A SYSTEM THAT ELECTRONICALLY DETERMINES AND REPORTS THE**
23 **LOCATION OF AN INDIVIDUAL THROUGH THE USE OF A TRANSMITTER OR**
24 **SIMILAR DEVICE CARRIED OR WORN BY THE INDIVIDUAL THAT TRANSMITS**
25 **LATITUDE AND LONGITUDE DATA TO A MONITORING ENTITY THROUGH GLOBAL**
26 **POSITIONING SATELLITE TECHNOLOGY.**

27 **(B) THE DEPARTMENT OF STATE POLICE SHALL MONITOR A**
28 **RESPONDENT ORDERED TO WEAR OR CARRY A GLOBAL POSITIONING**
29 **MONITORING SYSTEM DEVICE UNDER § 4-506(D)(12) OF THIS SUBTITLE.**

30 **(C) IF A JUDGE ORDERS A RESPONDENT TO WEAR OR CARRY A GLOBAL**
31 **POSITIONING MONITORING SYSTEM DEVICE UNDER § 4-506(D)(12) OF THIS**
32 **SUBTITLE:**

33 **(1) THE JUDGE SHALL DESCRIBE SPECIFICALLY THE LOCATIONS**
34 **THAT THE RESPONDENT HAS BEEN ORDERED TO REMAIN AWAY FROM UNDER §**
35 **4-506(D) OF THIS SUBTITLE AND THE MINIMUM DISTANCES THAT THE**
36 **RESPONDENT SHALL MAINTAIN FROM THE LOCATIONS; AND**

1 **(2) THE RESPONDENT SHALL PAY THE COSTS ASSOCIATED WITH**
2 **MONITORING.**

3 **(D) THE DEPARTMENT OF STATE POLICE, IN CONSULTATION WITH THE**
4 **ADMINISTRATIVE OFFICE OF THE COURTS, SHALL ADOPT REGULATIONS TO**
5 **CARRY OUT THE PROVISIONS OF THIS SECTION.**

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