



## Peace Orders and Protective Orders – Burden of Proof

### Senate Bill 333/House Bill 307

Senate Bill 333/House Bill 307: Peace Orders and Protective Orders – Burden of Proof, attempts to provide greater access to relief for victims of domestic violence. Under current law, to obtain a final peace order or final protective order, a judge must make a finding that abuse has occurred based on “clear and convincing evidence.” Maryland is the only state in the country with such a heightened burden of proof that victims of abuse must meet to obtain relief.

#### What is Senate Bill 333/House Bill 307?

This bill offers victims of physical and sexual abuse improved access to relief by changing the burden of proof to obtain a peace or protective order to a “preponderance of the evidence.”

#### Why is this Bill Important?

- Victims seeking protection should only be required to meet the same standard of proof that exists for the majority of other civil actions in Maryland. The preponderance of the evidence standard is used in contract disputes, insurance disputes, paternity disputes, equal pay claims, trust and estate disputes, and consumer protection action.
- This change has the potential to impact the lives of many victims seeking final protective and peace orders throughout the state and will align Maryland with the standards of proof required for protective orders in other states.

**Clear and Convincing Evidence** – is a heightened burden of proof where a party must prove that it is *substantially* more likely than not that a claim is true.

**Preponderance of the Evidence** - is a burden of proof used in civil actions where the party must prove that it is more *likely than not* that the claim is true.

In 2012, there were 19,043 hearings for final protective orders. 2,720 final protective orders were denied and 7,775 final protective orders were granted. **Of the denials, 1,777 final protective orders were denied because the petitioner could not meet the burden of proof.**

In 2012, there were 14,725 hearings for final peace orders. 2,550 final peace orders were denied and 6,688 final peace orders were granted. **Of the denials, 1,723 final peace orders were denied because the petitioner could not meet the burden of proof.**

Source: Administrative Office of the Courts, 2012

*“Maryland has long had the dubious distinction of being the only state that imposes a rigid burden of proof for victims of domestic abuse to receive a civil protection order ... Maryland’s law governing protective orders is a relic.”*

Washington Post Editorial Board, January 10, 2014

#### Burden of Proof for Protection Orders - State Comparisons

Burden of Proof	# of States (including DC)	States
Discretion of the court or discretion of the court with a finding of reasonable cause, good cause, sufficient cause/evidence, or competent evidence	27 States	AZ, AR, CA, CO, CT, DC, FL, HI, ID, IA, LA, MI, MN, MT, NE, NV, NM, NC, ND, OH, OK, RI, TX, VA, WA, WI, WY
Preponderance of the evidence	23 States	AL, AK, DE, GA, IL, IN, KS, KY, ME, MA, MS, MO, NH, NJ, NY, OR, PA, SC, SD, TN, UT, VT, WV
Clear and convincing evidence	1 State	Maryland

Source: American Bar Association, Standards of Proof for Domestic Violence Civil Protection (CPOs) By State, 2009 available at [http://www.americanbar.org/content/dam/aba/migrated/domviol/pdfs/Standards\\_of\\_Proof\\_by\\_State.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/domviol/pdfs/Standards_of_Proof_by_State.authcheckdam.pdf).



# Fact Sheet

Martin O'Malley  
Governor

Anthony Brown  
Lieutenant Governor

## Comparing Protective and Peace Orders in Maryland

	Protective Orders	Peace Orders
Who is eligible?	<ul style="list-style-type: none"> <li>• Current and former spouses</li> <li>• Cohabitants for 90 days</li> <li>• A person related to the respondent by blood, marriage or adoption</li> <li>• A parent, stepparent, or stepchild</li> <li>• Vulnerable adults</li> <li>• Person who has had a child with the respondent</li> </ul>	<ul style="list-style-type: none"> <li>• Anyone who is not eligible for a protective order, but who is a victim of abuse. If you are eligible for a protective order, you may not file for a peace order.</li> </ul>
What kinds of orders are available to victims?	There are three types of protective orders available to victims: interim, temporary, final, and in some circumstances, permanent final.	There are three types of peace orders available to victims: interim, temporary, and final.
How long does the order last?	<p>Interim: An interim protective order lasts until a judge holds a temporary protective order hearing or until the end of the second business day that the clerk's office is open after the interim order is issued, whichever comes sooner.</p> <p>Temporary: A temporary protective order is in effect for up to 7 days after service of the order. A judge may extend the order, but not to more than 6 months.</p> <p>Final: A final protective order generally lasts up to one year. But if you had an order against the abuser before that lasted for at least 6 months, and the same person abused you again within 1 year of the old order expiring, the order can last up to two years.</p> <p>Permanent Final: A permanent final protective order lasts forever, unless termination is requested by the petitioner.</p>	<p>Interim: An interim peace order lasts until a judge holds a temporary peace order hearing or until the end of the second business day that the clerk's office is open after the interim order is issued, whichever comes sooner.</p> <p>Temporary: A temporary peace order is in effect for up to 7 days after service of the order. The judge may extend to allow for service, but not more than 30 days.</p> <p>Final: A final peace order can last up to 6 months and can be extended thereafter.</p>
What type of relief is offered under final orders?	<p>A final protective order provides all of the relief provided by a final peace order plus:</p> <ul style="list-style-type: none"> <li>• Establishment of temporary visitation.</li> <li>• Award of emergency family maintenance.</li> <li>• Award of use and possession of jointly titled car.</li> <li>• Counseling.</li> <li>• Order for respondent to surrender all firearms.</li> </ul>	<p>A final peace order provides the follow relief:</p> <ul style="list-style-type: none"> <li>• Order the abuser to stop abusing you and to stay away from you.</li> <li>• Order the abuser to stay out of your house.</li> <li>• Order that you be given temporary custody of any children that you have with the abuser.</li> <li>• Order counseling.</li> </ul>