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Petition for Relief from Domestic Violence in Maryland

1. Circuit Court v. District Court

Deciding on whether to file a Petition for Relief from Domestic Violence (Maryland Family Law Code, Sec 4-504) in Circuit Court or District Court may very well depend on the County in which the petitioner is filing. The attorney should consider both the availability of the judges in each court and which court will have time to consider fully both the Petitioner's initial request for Relief and the subsequent hearings. For a pro se litigant, it is generally easier to bring the Petition for Relief before a District Court judge, and the process is a bit less intimidating. Further, the clerks in the District Court are more accustomed to answering laypersons' questions.

It is important to keep in mind that District Court Protective Orders are subject to a de novo appeal. Thus, even though the District Court Order remains in effect and is not stayed, upon the filing of an appeal by the Defendant, the petitioner could be subjected to the ordeal of a brand-new trial on the same allegations and issues. Sec 4-507.

2. In General

The other aspects of a Domestic Violence Petition are the same whether you are in District Court or Circuit Court. Some helpful practice pointers are:

1. Duration of the Temporary Ex Parte and Protective Orders:

a) The Temporary Ex Parte Order is effective only upon being served on the alleged abuser by a law enforcement officer, and shall be effective for not more than seven (7) days after service.

b) The Protective Order Hearing shall be held no later than seven (7) days after the Temporary Ex Parte Order is served on the respondent.

c) The initial Protective Order shall be effective for not more than twelve (12) months, but upon good cause shown and after notice to all affected persons eligible for relief and to the respondent, and after a hearing, the Court may extend the Protective Order for six (6) more months beyond its original expiration date. Sections 4-506 and 4-507.

2. Family Maintenance

If the respondent has a duty of support for any person eligible for relief, then be prepared to prove the income and expenses of the petitioner and the respondent. The

Court generally gives consideration to the Maryland Child Support Guidelines and you should be prepared to argue why the Guidelines should or should not be applied.

3. Visitation of Minor Children

The Court generally will spend the necessary time to structure a visitation schedule for the duration of the Protective Order, using the best interests of the children as its guide. Prepare your client to answer specifically whether visitation should be supervised or unsupervised; if the client believes that supervised visitation is warranted, then also be prepared to suggest who should do the supervising and where.

4. Firearms

A Protective Order may order the respondent to surrender to law enforcement authorities any firearm in his/her possession for the duration of the Protective Order. Also, advise your client that a law enforcement officer may remove a firearm from the scene of an alleged act of domestic violence (MD Family Law Code Section 4-511).

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