

# Past abuse incidents must be considered for protective orders

## Court of Appeals ruling adds teeth to Maryland's domestic violence statute

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In a victory for battered women, Maryland's highest court ruled yesterday that a judge must consider an alleged abuser's track record when weighing a request for a protective order.

Experts say the Court of Appeals ruling adds teeth to Maryland's domestic violence statute by spelling out for the first time factors that judges must consider when they rule on the estimated 14,000 requests for protective orders filed each year.

The 16-year-old law allows spouses, blood relatives and anyone who lives with an abusive partner to file a petition for a protective order in any District Court or Circuit Court. The order can require the abusive partner to keep away for up to 200 days.

Zakia Mahasa, a lawyer for the House of Ruth Domestic Violence Legal Clinic, said some judges consider past instances of abuse in deciding such petitions, but others focus solely on the incident that prompted the request.

"This is a great opinion because, once and for all, it gives definite direction to the lower courts on how to proceed," she said.

The 20-page opinion noted that up to half of all women murdered are killed by their male partners, and that about 4 million domestic violence incidents occur each year in the United States.

"The more abuse that occurred in the past, the higher the likelihood that future acts of abuse will occur and thus, the need for greater protective measures," Judge Howard S. Chasanow wrote for a unanimous court.

The case stems from an appeal filed by William E. Coburn Jr. after Baltimore Circuit Judge Kathleen O'Ferrall Friedman issued a protective order May 4, barring him from his estranged wife's Owings Mills home and office.

Marcia Coburn petitioned for the order after a Feb. 25, 1995, incident, accusing Mr. Coburn of shoving her against a car, slapping her and punching her in the back of the head, court papers said.

Ms. Coburn won the order after she told Judge Friedman that Mr. Coburn also had punched her in the face, thrown her down a flight of stairs and tried to run her car off the Baltimore Beltway near Towson in 1994 incidents.

Mr. Coburn appealed to the Court of Appeals, arguing that

Judge Friedman should have limited the hearing to the issue of whether the Feb. 25 incident had actually occurred. Mr. Coburn — who was later acquitted by a jury of criminal charges — declined comment yesterday.

But his lawyer said in papers filed with the appeals court that Ms. Coburn had reason to lie to Judge Friedman because the couple was involved in a legal dispute over child support at the time. He also argued that it was unfair to "blind-side" him with the previous abuse allegations without warning that they would be raised.

"How can a respondent who is required to answer domestic violence charges know, without receiving any advance warning, that he or she may have to rebut other ... allegations of abuse?" attorney Mark L. Gitomer wrote.

The appeals court said judges may allow a "brief recess" to give the alleged abuser a chance to rebut the allegations.