

Department of Legislative Services
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 269 (Senator Lee, et al.)
Judicial Proceedings

Domestic Violence - Additional Relief

This bill authorizes a District Court Commissioner, when issuing an interim protective order, or a court, when issuing a temporary or final protective order, to include any other appropriate relief.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$44,100 in FY 2016 only for programming changes. Otherwise, the bill’s changes can be implemented and enforced using existing resources. Revenues are not affected.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	44,100	0	0	0	0
Net Effect	(\$44,100)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill’s changes can be implemented and enforced using existing resources.

Small Business Effect: None.

Analysis

Current Law: A petition for an interim protective order may be filed with a District Court Commissioner if the clerk of the circuit court or clerk of the District Court is not open for business. If the commissioner finds there are reasonable grounds to believe that the respondent has abused a person eligible for relief, the commissioner may issue an interim protective order. If, after a hearing on a petition, whether *ex parte* or otherwise, a

judge finds that there are reasonable grounds to believe a person eligible for relief has been abused, the judge may issue a temporary protective order.

In a final protective order proceeding, if a judge finds by a preponderance of the evidence that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

The following shows the types of orders that may be imposed, depending on whether the order is interim, temporary, or final.

An Interim, Temporary, or Final Protective Order may order a respondent to:

- refrain from abusing or threatening to abuse any person eligible for relief;
- refrain from contacting, attempting to contact, or harassing any person eligible for relief;
- refrain from entering the residence of any person eligible for relief;
- in certain cases, vacate the home immediately and award temporary use and possession of the home to the person eligible for relief, or, if vulnerable adult abuse is alleged, to another adult; and
- remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members.

Interim, temporary, or final protective orders may also award temporary possession of any pet of a person eligible for relief or a respondent.

An Interim Protective Order may:

- if child abuse is alleged, award temporary custody of minor child of respondent and person eligible for relief; and
- if a person eligible for relief and the respondent are residing together at the time of the alleged abuse, award temporary custody of any child of the person eligible for relief and respondent then residing in the home.

A Temporary or Final Protective Order may:

- order a respondent to remain away from child care provider of person eligible for relief while child is in provider's care; and
- award temporary custody of a child of the person eligible for relief and the respondent.

In addition, a temporary order may order a respondent to surrender any firearms for the duration of the order and refrain from possessing any firearm under specified circumstances.

A Final Protective Order may:

- establish temporary visitation with child of respondent and person eligible for relief, under certain conditions;
- award emergency family maintenance to any person eligible for relief;
- award temporary use and possession of vehicle jointly owned by respondent and eligible person to eligible person;
- direct the respondent or persons eligible for relief to take part in counseling or domestic violence program; or
- order the respondent to pay filing fees and proceeding costs.

In addition, a final protective order *must* order a respondent to surrender any firearm and to refrain from possession of any firearm for the duration of the order.

All relief granted in a final protective order is effective for the period stated in the order, generally up to a maximum of 12 months. A final protective order may be issued for up to two years if it is issued against a respondent for an act of abuse committed within one year after the date that a prior final protective order issued against the same respondent on behalf of the same person eligible for relief expired, if the prior final protective order was issued for a period of at least six months. In limited circumstances specified by statute, the court may issue a permanent protective order that requires the respondent to refrain from abusing or threatening to abuse the person eligible for relief or refrain from contacting, attempting to contact, or harassing the person eligible for relief.

A subsequent circuit court order pertaining to any of the provisions in the final protective order supersedes those provisions in the final protective order. A final protective order may be modified or rescinded during its term after giving notice to all affected persons eligible for relief and the respondent and after holding a hearing. For good cause shown, a judge may extend the term of a protective order for six months beyond the specified period after giving notice to all affected persons eligible for relief and the respondent and after a hearing. A final protective order may also be extended for two years if, under specified circumstances, the court finds by a preponderance of the evidence that the respondent named in the protective order committed a subsequent act of abuse against a person eligible for relief who was named in the protective order.

A person who fails to comply with specified relief granted in an interim, temporary, or final protective order is guilty of a misdemeanor. A first offense subjects the violator to maximum penalties of imprisonment for 90 days and/or a \$1,000 fine. A second or subsequent offense subjects the violator to maximum penalties of imprisonment for one year and/or a \$2,500 fine.

Background: According to the *2013 Uniform Crime Report*, 27,785 domestic violence crimes were reported in Maryland. Assault was by far the most frequently reported crime, with 25,188 incidents in calendar 2013. Of reported assaults, simple assaults comprised 20,422 incidents. Aggravated assaults totaled 4,760, or approximately 19%, of the reported domestic violence assaults for the same period. There were 54 domestic violence homicides. Although the number of domestic violence crimes increased considerably from the 2012 report (in which 17,615 domestic violence crimes were reported), the State Uniform Crime Reporting program expanded the definition of domestic violence to include additional relationships in 2013.

Prior to 2013, the only reported relationships between domestic violence victims and offenders were husbands, wives, and cohabitants. The *2013 Uniform Crime Report* was revised to include statistics for any crime committed by an offender against a victim (1) who is a “person eligible for relief,” as defined in the protective order statutes, or (2) who had a sexual relationship with the offender within 12 months before the commission of the crime. Homosexual relationships are also included. In addition to current and former spouses and cohabitants, a “person eligible for relief” within the protective order statute includes (1) individuals related by blood, marriage, or adoption; (2) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for specified time periods; (3) vulnerable adults; and (4) individuals with a child in common.

In fiscal 2013 (the latest information readily available), the circuit courts granted 1,919 temporary protective orders and 1,425 final protective orders. In fiscal 2014, the District Court granted 11,384 interim protective orders, 14,983 temporary protective orders, and 6,841 final protective orders.

Additional Information

Prior Introductions: None.

Cross File: HB 225 (Delegate Dumais, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510