

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 811

(Senator Muse, *et al.*)

Judicial Proceedings

Judiciary

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**Domestic Violence - Duration of Protective Order - Subsequent Act of Abuse**

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This bill extends, from one to two years, the maximum duration of a final protective order that 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 expires, if the final protective order was issued for a period of at least six months.

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**Fiscal Summary**

**State Effect:** The bill does not substantively change State activities or operations.

**Local Effect:** The bill does not substantively change local activities or operations.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** In a domestic violence proceeding, if a judge finds by clear and convincing 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. Unless continued for good cause, a hearing on a final protective order must be held no later than seven days after a temporary protective order is served on the respondent.

A final protective order may include any or all of the following relief:

- (1) order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;
- (2) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;
- (3) order the respondent to refrain from entering the residence of any person eligible for relief;
- (4) where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and, in certain cases, award temporary use and possession of the home to the person eligible for relief;
- (5) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;
- (6) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the provider's care;
- (7) award temporary custody of a minor child of the respondent and a person eligible for relief;
- (8) establish temporary visitation with a minor child of the respondent and a person eligible for relief under certain conditions;
- (9) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support;
- (10) award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief under certain conditions;
- (11) direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program;
- (12) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession for the duration of the protective order; or
- (13) order the respondent to pay filing fees and costs of the proceeding.

All relief granted in a final protective order is effective for the period stated in the order, up to a maximum of 12 months. 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. 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.

**Background:** In the mid-Atlantic region, the maximum durations of final protective orders range from one year to indefinitely, as shown in **Exhibit 1**.

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**Exhibit 1**  
**Duration of Final Protective Orders**

<u>State/Jurisdiction</u>	<u>Maximum Duration</u>	<u>Extension Allowed</u>
Delaware	One year	Yes; up to 6 months
District of Columbia	One year	Yes (time limit unspecified)
Maryland	One year	Yes; up to 6 months or permanently for specified dangerous offenders
New Jersey	Indefinite unless court imposes time limit	n/a
New York	Two years or five years <sup>1</sup>	n/a
Pennsylvania	Three years	Yes; if court finds continued danger (time limit unspecified)
Virginia	Two years or five years <sup>1</sup>	No; unless otherwise authorized by law

<sup>1</sup>If court finds aggravating circumstances or a violation of a protective order.

Source: American Bar Association; WomensLaw.org; *District of Columbia Official Code*; *Delaware Code Annotated*; *New Jersey Permanent Statutes*; *McKinney's Consolidated Laws of New York*; *Purdon's Pennsylvania Statutes and Consolidated Statutes*; *Annotated Code of Virginia*

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The following table shows judicial activity in fiscal 2007 (the latest information available) with regard to protective orders.

<u>Jurisdiction</u>	<u>Hearings</u>	<u>Interim Protective Orders Granted</u>	<u>Temporary Orders Granted</u>	<u>Final Protective Orders Granted</u>
Circuit Court	7,106	n/a	1,936	1,290
District Court	53,952	10,170	15,491	7,814

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### Additional Information

**Prior Introductions:** None.

**Cross File:** HB 971 (Delegate Ivey, *et al.*) - Judiciary.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of State Police, Montgomery County, American Bar Association, WomensLaw.org, Department of Legislative Services

**Fiscal Note History:** First Reader - February 18, 2009  
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