

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 98
Judiciary

(Delegate Simmons, *et al.*)

Judicial Proceedings

Domestic Violence - Temporary Protective Orders - Extension

This bill authorizes a judge to extend a temporary protective order for up to six months, rather than up to 30 days, to effectuate service of the order where necessary to provide protection or for other good cause.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources.

Local Effect: The bill's requirements can be handled with existing budgeted resources.

Small Business Effect: None.

Analysis

Current Law: 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. The following shows the types of relief that may be provided by a temporary protective order.

A temporary 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;

- vacate the home immediately, award temporary custody of a child, as specified and in certain cases, and award temporary use and possession of the home to the person eligible for relief;
- remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;
- remain away from child care provider of person eligible for relief while child is in provider's care; and
- comply with an award of temporary custody of a child of the person eligible for relief and the respondent.

A law enforcement officer must immediately serve the temporary protective order on the respondent. The temporary order is effective a maximum of seven days after service of the order. A judge is authorized to extend the temporary protective order as needed to effectuate service of the order where necessary to provide protection or for other good cause. An extension of a temporary protective order may not exceed 30 days.

A temporary protective order must state the date and time of the final protective order hearing. Unless continued for good cause, the final protective order hearing must be held no later than seven days after the temporary protective order is served on the respondent. (See Family Law Article § 4-506.)

Background: Although law enforcement is required to serve a temporary protective order immediately, there are instances when a respondent is not located and served before the final protective order hearing (which is generally held seven days after a temporary protective order has been issued). In those cases, a judge can extend the temporary protective order to allow additional time for service, but the extension cannot exceed 30 days. If a respondent is still not served within this time, a judge must dismiss the order and the petitioner has to refile. According to information provided by the Administrative Office of the Courts, over a three-month period in 2008, an average of 16 protective order cases were dismissed each month due to a lack of service.

According to the State Police Uniform Crime Report issued for calendar 2007, 19,391 domestic violence crimes occurred in Maryland, a 12% decrease compared to the calendar 2006 total of 21,965. Assault was by far the most frequently reported crime, with 17,995 incidents in calendar 2007. Of reported assaults, simple assaults comprised 13,728 incidents. Aggravated assaults totaled 4,261 or 23.7% of the reported domestic violence assaults for the same period. In 2007, 30 homicides were attributed to domestic violence incidents.

State and Local Fiscal Effect: Most protective orders are served and enforced by sheriff's offices and local police departments. To the extent that protective orders are

extended to allow additional time for service, it is assumed that local law enforcement will make additional attempts at service. This can be accomplished using existing budgeted resources.

The Judiciary advises that software modifications are needed to reflect the extension of temporary orders. This can be done with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File:SB 601 (Senator Zirkin) - Judicial Proceedings.

Information Source(s):Department of Human Resources, 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