

Department of Legislative Services
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 136

(Chair, Judiciary Committee)(By Request - Departmental
- Public Safety and Correctional Services)

Judiciary

Judicial Proceedings

Family Law - Protective Orders - Notification of Service

This departmental bill extends for an additional two years (until December 31, 2013) the termination date of the law that establishes a system for notification to the petitioner regarding the service of a protective order. The bill also requires that the system used for the electronic notification of the service of a temporary protective order be approved and provided by the Department of Public Safety and Correctional Services (DPPSCS).

Fiscal Summary

State Effect: Federal fund expenditures increase by \$82,000 in FY 2012 and by \$164,000 in FY 2013, contingent on the receipt of federal funds. If funds are received, federal fund expenditures increase by \$82,000 in FY 2014, which reflects the bill's December 31, 2013 termination date. Revenues are not affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
FF Expenditure	82,000	164,000	82,000	0	0
Net Effect	(\$82,000)	(\$164,000)	(\$82,000)	\$0	\$0

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

Local Effect: Local law enforcement agencies can handle the bill's requirements with existing budgeted resources.

Small Business Effect: The Department of Human Resources has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law:

Notification of Protective Orders: A law enforcement officer is required to electronically notify DPSCS of the service of an interim or temporary protective order on the respondent within two hours after the service. If the petitioner has requested notification of the service of a protective order, DPSCS must (1) notify the petitioner of the service on the respondent of an interim or a temporary protective order within one hour after a law enforcement officer electronically notifies DPSCS of the service; and (2) notify the petitioner of the service on the respondent of a final protective order within one hour after knowledge of service of the order on the respondent. The requirement to notify the petitioner upon request of the service of a protective order within the specified time limits and the requirement for law enforcement serving such orders to notify DPSCS within the specified time limits terminate on December 31, 2011, unless legislation is enacted to continue the requirements.

Obtaining a Protective Order: 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. The interim protective order must state the date, time, and location for a temporary protective order hearing. A law enforcement officer is required to serve a respondent immediately on receipt of a petition and interim protective order and immediately make a return of service to the commissioner's office, or, if the Office of the District Court Clerk is open for business, to the clerk.

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. Unless a respondent has already been served with an interim protective order, a law enforcement officer must immediately serve the temporary protective order on the respondent. A respondent who has been served with an interim protective order must be served with the temporary protective order in open court or, if the respondent is not present at the temporary protective order hearing, by first-class mail at the respondent's last known address.

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. The maximum duration of a final protective order is generally one year, but may have a duration of up to two years, or be made permanent, under specified circumstances. A copy of the final protective order must be served on the respondent in open court or, if the respondent is

not present at the final protective order hearing, by first-class mail to the person's last known address.

Background: Pursuant to Chapter 711 of 2009, DPSCS was required to develop an electronic notification system so that law enforcement officers serving interim and temporary protective orders could notify DPSCS of service within specified time limits.

Chapter 711 of 2009 took effect January 1, 2010, and was contingent on the receipt, by January 1, 2010, of federal funds under the American Recovery and Reinvestment Act of 2009 by the Governor's Office of Crime Control and Prevention. The contingency was met as federal funding for the notification requirements was received before the statutory deadline and the required electronic notification system was developed by DPSCS. The law further specifies that if the funding contingency is met, the law remains in effect for two years. The law terminates on December 31, 2011, with no further action required by the General Assembly.

The following table shows judicial activity in fiscal 2009 (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	4,122	n/a	2,483	1,758
District Court	25,054	10,745	16,042	9,090

State Fiscal Effect: Federal fund expenditures increase by \$82,000 in fiscal 2012, accounting for continuation of the notification program as of January 1, 2012. In fiscal 2013, federal fund expenditures increase by \$164,000, which reflects system maintenance of the notification system for a full year. Federal fund expenditures increase by \$82,000 in fiscal 2014 which reflects the bill's December 31, 2013 termination date.

DPSCS advises that the electronic system required by the bill has been developed and its use can continue. The Governor's Office of Crime Control and Prevention (GOCCP) advises that although grants from the America Recovery and Reinvestment Act of 2009 will be expended by the end of calendar 2011, adequate federal funding to continue the notification program is available from the Byrne Justice Assistance Grants program, including Statewide Automated Victim Information and Notification grants. The notification system also qualifies for federal funding from the Violence Against Women Act.

A flat fee contract for system maintenance was negotiated with the existing vendor, regardless of the number of protective order notifications that must be issued. The fiscal

estimate assumes that the contract with the existing vendor continues or that a similar contract with another vendor is procured while the law is in effect.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 8, 2011
ncs/kdm Revised - House Third Reader - March 22, 2011

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law – Temporary Protective Orders – Electronic Notification of Service

BILL NUMBER: HB 136

PREPARED BY: Department of Public Safety and Correctional Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.