

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

House Bill 189 (Delegate Feldman)
 Judiciary

Courts - Peace Orders - Acts Committed Against Employees

This bill allows specified business entities to file for a peace order by altering the definition of petitioner to mean a *person* who files a petition, rather than an *individual*. The bill also authorizes the issuance of an interim, temporary, or final peace order to protect a petitioner’s “employee.”

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$22,900 in FY 2014 only for programming changes; however, if other legislation is passed requiring computer reprogramming changes, economies of scale could be realized, thereby reducing the costs associated with this bill and other legislation affecting the Judiciary. The District Court can handle any additional cases as a result of this bill using existing resources.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	22,900	0	0	0	0
Net Effect	(\$22,900)	\$0	\$0	\$0	\$0

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

Local Effect: The circuit courts can handle any additional cases as a result of this bill using existing resources. Local law enforcement agencies can handle enforcement of any additional peace orders using existing resources.

Small Business Effect: Minimal. A small business will be eligible to file for a peace order if specified circumstances exist.

Analysis

Bill Summary: The bill authorizes an interim, temporary, or final peace order to include provisions to protect a petitioner's employee, such as requiring a respondent to refrain from contacting or entering the residence of a petitioner's employee. The bill also authorizes an interim, temporary, or final peace order to include provisions ordering a respondent to remain away from and refrain from entering a place of business.

The bill defines an "employee" as an individual who is employed by a person or a volunteer or independent contractor who performs services for a person at the person's worksite. An "employer" means a person engaged in a business, industry, profession, trade, or other enterprise in the State and includes a person who acts directly or indirectly in the interest of another employer with an employee.

The provisions of law regarding peace orders do not alter the duty of an employer to provide a safe workplace for employees and other persons. An employer that acts in accordance with the provisions regarding peace orders is presumed to be acting in good faith and is immune from civil liability unless a lack of good faith is shown by clear and convincing evidence. The failure of an employer to act in accordance with these provisions is not negligence, and evidence that an employer did not act in accordance with the provisions is not admissible as evidence of negligence.

The bill may not be construed as authorizing a court to issue an interim, temporary, or final peace order prohibiting speech or other activities that are protected by the State or federal constitutions or by any other provision of law.

Current Law: Unless such a construction would be unreasonable, the word "person" includes corporations, partnerships, business or statutory trusts, or limited liability companies.

A person who does not meet specified relationship standards under the Family Law Article, which governs protective orders, may file a petition for a peace order. A petition for a peace order must allege that specified acts occurred against the petitioner by the respondent within 30 days before the filing of the petition. Specified acts include (1) an act that causes serious bodily harm; (2) an act that places the petitioner in fear of imminent serious bodily harm; (3) assault in any degree; (4) rape or sexual offense, as specified or attempted rape or sexual offense in any degree; (5) false imprisonment; (6) harassment; (7) stalking; (8) trespass; or (9) malicious destruction of property.

A petition for an interim peace order may be filed with a District Court Commissioner if the clerk of the District Court is not open for business. If the commissioner finds there are reasonable grounds to believe that the respondent has committed and is likely to

commit in the future one of the acts specified above, the commissioner may issue an interim peace order. A temporary peace order hearing must be held on the first or second day on which a District Court judge is sitting after issuance of the interim protective order, unless the judge continues the hearing for good cause.

If after a hearing on a petition, a judge finds that there are reasonable grounds to believe that the respondent has committed, and is likely to commit in the future, one of the specified acts against the petitioner, the judge may issue a temporary peace order to protect the petitioner. The order must contain only the relief that is minimally necessary to protect the petitioner. A temporary peace order can order respondent to (1) refrain from certain behavior and conduct; (2) refrain from contacting, attempting to contact, harassing, or approaching the petitioner; or (3) stay away from specific locations. Temporary peace orders are effective for not more than 7 days after service of the order, but may be extended for up to 30 days. The temporary peace order must state the date and time of the final peace order hearing.

After a final peace order hearing, if a judge finds by clear and convincing evidence that the respondent has committed, and is likely to commit in the future, one of the previously mentioned acts against the petitioner, or if the respondent consents to the entry of a peace order, the court may issue a final peace order to protect the petitioner. The order must contain only the relief that is minimally necessary to protect the petitioner. Final peace orders can direct the respondent or petitioner to participate in counseling or mediation, as well as the forms of relief available under a temporary peace order. Relief granted in a final peace order is effective for the period stated in the order but may not exceed six months.

An individual who fails to comply with specified provisions of an interim, temporary, or final peace order is guilty of a misdemeanor and subject to maximum penalties of a \$1,000 fine and/or 90 days imprisonment for a first offense and a \$2,500 fine and/or one year imprisonment for a second or subsequent offense. Although the District Court hears most misdemeanor cases, the jurisdiction of the District Court is concurrent with that of the circuit court for cases in which a penalty includes a fine of \$2,500 or more.

Background: In fiscal 2012, 20,202 peace order cases were filed in the District Court. District Court Commissioners granted 7,615 interim orders, and the District Court granted 16,843 temporary orders and 6,913 final orders. The circuit courts heard 116 peace order cases on appeal in fiscal 2012.

Additional Information

Prior Introductions: HB 1210 of 2006 and HB 1298 of 2001, similar bills, that would have extended to employers the eligibility to file peace order under specified circumstances, both received unfavorable reports from the House Judiciary Committee.

Cross File: None.

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

Fiscal Note History: First Reader - February 5, 2013
ncs/kdm

Analysis by: Jennifer K. Botts

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