

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

House Bill 1182
 Judiciary

(Delegate Glass, *et al.*)

Judicial Proceedings

Family Law - Protective Orders - Additional Relief

This bill expands the relief available in a final protective order by authorizing a judge to order the respondent to remain a specified distance away from the residence, place of employment, school, or temporary residence of a person eligible for relief.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$43,800 in FY 2014 only for programming changes. Otherwise, the bill’s changes can be implemented and enforced using existing resources.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	43,800	0	0	0	0
Net Effect	(\$43,800)	\$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: 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. Although a judge is authorized to require a respondent to refrain from entering the residence of a person eligible for relief and remain away from the place of employment, school, or temporary residence of a person eligible for relief, statutory language does not expressly authorize a judge to specify proximity limitations.

A final protective order may order the 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;
- remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members; or
- remain away from a child care provider of a person eligible for relief while the child is in the provider's care.

A final protective order may also:

- in certain cases, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief;
- award temporary custody of a minor child of the respondent and a person eligible for relief;
- establish temporary visitation with a minor child of the respondent and a person eligible for relief under certain conditions;
- award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support;

- 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;
- order the respondent to participate in professionally supervised counseling or a domestic violence program (such order may also apply to any or all of the persons eligible for relief);
- order the respondent to pay filing fees and costs of the proceeding; or
- award temporary possession of any pet belonging to the person eligible for relief or the respondent.

The court may only grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief if the person eligible for relief is listed on the lease or deed to the home or has shared the home with the respondent for a period of at least 90 days within one year before the filing of the petition.

The final protective order must require the respondent to surrender to law enforcement authorities any firearm in the respondent's possession and to refrain from possession of any firearm for the duration of the protective 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 clear and convincing 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 violates specified provisions of a final protective order, including the surrender of firearms, 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.

Background: According to the *2012 Uniform Crime Report*, 17,615 domestic violence crimes were reported in Maryland, a 3% decrease compared to the calendar 2011 total of 18,209. Assault was by far the most frequently reported crime, with 16,269 incidents in calendar 2012. Of reported assaults, simple assaults comprised 13,384 incidents. Aggravated assaults totaled 2,881, or 18%, of the reported domestic violence assaults for the same period.

In fiscal 2012 (the latest information readily available), the circuit courts granted 2,082 temporary protective orders and 1,412 final protective orders. In fiscal 2013, the District Court granted 15,832 temporary protective orders and 7,250 final protective orders.

Additional Information

Prior Introductions: HB 892 of 2013 received an unfavorable report from the House Judiciary Committee. Its cross file, SB 731, received an unfavorable report from the Senate Judicial Proceedings Committee. SB 561 of 2012 received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 883, passed the House, but received an unfavorable report from the Senate Judicial Proceedings Committee. HB 1018 of 2011 passed the House and Senate with amendments, but no further action was taken.

Cross File: None.

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

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ncs/kdm

Analysis by: Jennifer K. Botts

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