

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 121

(Senator Zirkin, *et al.*)

Judicial Proceedings

Judiciary

Family Law - Domestic Violence - Definition of Abuse

This bill expands the definition of “abuse” as it applies to petitions for domestic violence protective orders to include “revenge porn.”

Fiscal Summary

State Effect: General fund expenditures increase by \$92,300 in FY 2019 only for programming changes, as discussed below. Revenues are not affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	92,300	0	0	0	0
Net Effect	(\$92,300)	\$0	\$0	\$0	\$0

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

Local Effect: The bill is not anticipated to materially affect local finances or operations, as discussed below.

Small Business Effect: None.

Analysis

Current Law:

Definition of “Abuse” and Related Protective Orders

An individual may seek relief from “abuse” by filing a petition for a protective order with the court or, if the clerk’s office is closed, with a District Court commissioner.

“Abuse” is defined as:

- an act that causes serious bodily harm;
- an act that places a person eligible for relief in fear of imminent serious bodily harm;
- assault in any degree;
- rape or sexual offense or attempted rape or sexual offense in any degree;
- false imprisonment; or
- stalking.

If the person for whom relief is sought is a child, “abuse” may also include abuse of a child, as defined in statute. “Abuse” may also include abuse of a vulnerable adult, as defined in statute, if the person for whom relief is sought is a vulnerable adult.

Revenge Porn

A person is prohibited from intentionally causing serious emotional distress to another by intentionally placing on the Internet a photograph, film, videotape, recording, or any other reproduction of the image of the other person that reveals the identity of the other person with his or her intimate parts exposed or while engaged in an act of sexual contact (1) knowing that the other person did not consent to the placement of the image on the Internet and (2) under circumstances in which the other person had a reasonable expectation that the image would be kept private. For purposes of the prohibition, the statute provides specific definitions for “intimate parts” and “sexual contact.” The prohibition does not apply to (1) lawful and common practices of law enforcement, the reporting of unlawful conduct, or legal proceedings or (2) situations involving voluntary exposure in public or commercial settings.

Background: According to the 2015 *Uniform Crime Report* (the latest information readily available), 30,534 domestic violence crimes were reported in Maryland. Assault was by far the most frequently reported crime, with 25,996 incidents in calendar 2015. Of reported assaults, simple assaults comprised 21,054 incidents. There were 68 domestic violence homicides.

In fiscal 2016 (the latest information readily available), the circuit courts granted 1,784 temporary protective orders and 1,308 final protective orders. In fiscal 2017, the District Court granted 15,257 interim protective orders, 19,688 temporary protective orders, and 8,933 final protective orders.

A person who does not meet specified relationship status under the Family Law Article, which governs protective orders, may file a petition for a peace order to protect the person

from further harm. Chapters 550 and 551 of 2016 added “revenge porn” to the list of offenses for which an individual may seek a peace order.

State and Local Fiscal Effect: General fund expenditures increase by \$92,290 in fiscal 2019 only for the Judiciary to make necessary programming changes. Although the bill may result in increased petitions for domestic violence protective orders, it is not anticipated to materially impact the workload of the District Court. It also does not materially impact the workload of the circuit courts.

It is anticipated that local jurisdictions can handle the enforcement and service of additional protective orders using existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: HB 328 (Delegate Dumais, *et al.*) - Judiciary.

Information Source(s): Anne Arundel, Charles, and Montgomery counties; cities of Frederick and Havre de Grace; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; State’s Attorneys’ Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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