

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1562
 Judiciary

(Delegate Gutierrez, *et al.*)

Peace Orders and Protective Orders – Surrender of Firearms

This bill expands the applicability of a court order to surrender firearms to the issuance of a temporary or final peace order and *requires* a court to issue the order to surrender firearms. The bill also repeals provisions that authorize a court to order a respondent to surrender any firearms upon the issuance of a temporary protective order and require a respondent to surrender any firearms upon issuance of a final protective order. Instead, the bill *requires* a court to order a respondent to surrender any firearms upon the issuance of either a temporary or final protective order. The court must order a respondent to surrender to law enforcement authorities any firearm in the respondent’s possession within 24 hours after service of the order and to refrain from possessing a firearm during the duration of the order.

Fiscal Summary

State Effect: General fund expenditures increase by \$81,720 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	81,700	0	0	0	0
Net Effect	(\$81,700)	\$0	\$0	\$0	\$0

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

Local Effect: Law enforcement expenditures in some jurisdictions increase to comply with the bill’s requirements, as discussed below. **This bill may impose a mandate on a unit of local government.** Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: A peace order and a temporary peace order must contain a list of authorized locations for surrendering firearms. If the respondent fails to surrender a firearm, a law enforcement officer must accompany the respondent to the place where the firearm is located and take custody of the firearm. If the respondent fails to surrender a firearm and the respondent is prohibited from entering the location where the firearm is located, the law enforcement officer must seize the firearm.

The bill also repeals (1) provisions authorizing a temporary protective order to include a requirement for a respondent to surrender any firearms in the respondent's possession under specified circumstances and (2) provisions requiring a final protective order to include a requirement for a respondent to surrender to law enforcement authorities any firearm in the respondent's possession and to refrain from possession for the duration of the protective order. Instead, the provisions set forth above also apply to temporary and final protective orders.

Current Law: Statutory provisions set forth a process by which 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. Among other provisions, a temporary protective order may order a 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 temporary protective order if the abuse consisted of (1) the use of a firearm by the respondent against a person eligible for relief; (2) a threat by the respondent to use a firearm against a person eligible for relief; (3) serious bodily harm to a person eligible for relief caused by the respondent; or (4) a threat by the respondent to cause serious bodily harm to a person eligible for relief.

In a final domestic violence protective order proceeding, if a judge finds by a preponderance of the 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. A final protective order must order 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 in specified circumstances set forth in statute. 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. 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 under specified circumstances.

An individual who fails to comply with the provisions in a temporary or final protective order regarding 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. For a second or subsequent offense, the maximum penalty is a \$2,500 fine and/or one year imprisonment.

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. A peace order must contain only the relief that is minimally necessary to protect the petitioner. There are no provisions authorizing a peace order to include the surrender of firearms as part of the relief available. All relief granted in a final peace order is effective for the period stated in the order, not to exceed six months. A peace order may be extended for up to six months, as specified.

Background: 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. In fiscal 2017, the District Court granted 7,331 interim peace orders, 16,067 temporary peace orders, and 5,723 final peace orders.

State Expenditures: General fund expenditures increase by \$81,720 in fiscal 2019 only for the Judiciary to make necessary programming changes. Otherwise, the bill is not anticipated to materially impact the Judiciary's workload.

The Department of State Police advises that while there may be an increase in the number of firearms surrendered and stored, it is not anticipated to impact storage costs.

Local Fiscal Effect: Depending on the jurisdiction, local law enforcement expenditures may increase for costs associated with storing additional firearms and the need for additional resources to ensure that firearms are surrendered, as required. While some jurisdictions, such as Dorchester and Garrett counties, anticipate no fiscal impact, jurisdictions with larger populations anticipate a likely, but unquantifiable, fiscal impact. For example, Baltimore City advises that it will need to secure firearms for peace orders, potentially increasing the workload of the Sheriff's Office. Prince George's County notes that the bill increases the frequency and volume of firearm recoveries, which will require additional resources. Montgomery County also assumes a need for additional resources to track, collect, seize, and store firearms.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Anne Arundel, Baltimore, Dorchester, Garrett, Montgomery, and Prince George's counties; cities of Bowie and Takoma Park; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2018
nb/kdm

Analysis by: Jennifer K. Botts

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