

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 209

(Senator Zirkin, *et al.*)

Judicial Proceedings

Judiciary

Peace Orders – Relief Eligibility and Duration – Rape and Sexual Offenses

This bill eliminates the requirement that in order to issue an interim peace order on the basis of rape or sexual offenses, as specified, a commissioner must find that a specified act is likely to be committed by the respondent against the petitioner in the future. The bill eliminates the same requirement as it applies to the issuance of a temporary or final peace order by a judge. The bill also extends the maximum duration, from six months to one year, of a final peace order that is issued on the basis of specified rape and sexual offenses.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$24,600 in FY 2020 only for programming changes. Revenues are not affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	24,600	0	0	0	0
Net Effect	(\$24,600)	\$0	\$0	\$0	\$0

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

Local Effect: The bill’s changes can be implemented and enforced using existing resources.

Small Business Effect: None.

Analysis

Current Law:

Peace Orders

An individual who does not meet specified relationship requirements under domestic violence protective order statutes may file a petition for a peace order with the District Court or the District Court commissioner that alleges the commission of specified acts against the petitioner by the respondent, if the act occurred within 30 days before the filing of the petition. Such acts include rape and sexual offenses, as specified, or an attempted rape or sexual offense in any degree. An interim or temporary peace order may be issued if the commissioner or judge, as appropriate, 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.

After a final peace order hearing, if a judge finds by a preponderance of the evidence that the respondent has committed, and is likely to commit in the future, one of the specified 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. A final peace order can order the respondent to (1) refrain from committing or threatening to commit specified acts; (2) refrain from contacting, attempting to contact, or harassing the petitioner; (3) refrain from entering the residence of the petitioner; or (4) remain away from the place of employment, school, or temporary residence of the petitioner. Final peace orders can also direct the respondent or petitioner to participate in counseling or mediation and order either party to pay filing fees and costs. Relief granted in a final peace order is effective for the period stated in the order, but may not exceed six months. Statutory provisions set forth circumstances under which a final peace order may be modified, rescinded, or extended.

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.

Background: In fiscal 2018, the District Court granted 6,608 interim peace orders, 13,967 temporary peace orders, and 5,157 final peace orders.

State/Local Fiscal Effect: General fund expenditures increase by \$24,604 in fiscal 2020 only for the Judiciary to make necessary programming changes. Otherwise, the bill does not materially affect the workload of the District Court. The bill also does not materially affect the service or enforcement of peace orders by law enforcement.

Additional Information

Prior Introductions: None.

Cross File: HB 122 (Delegate Dumais, *et al.*) - Judiciary.

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

Fiscal Note History: First Reader - January 30, 2019
mm/kdm Third Reader - March 26, 2019
Revised - Amendment(s) - March 26, 2019

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