

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 296
 Judiciary

(Delegate Crutchfield)

Judicial Proceedings

Temporary Protective Orders - Electronic Filing and Video Conferencing Hearings

This bill authorizes a petitioner to file electronically a petition for a temporary protective order from specified locations, including a hospital where the petitioner is receiving medical treatment. A court that receives a petition filed electronically must hold a hearing on the petition through the use of video conferencing, as specified. To implement the bill, an uncodified provision requires the Judiciary to develop a method to receive electronically filed petitions and hold video conferencing hearings for temporary protective order petitions.

Fiscal Summary

State Effect: General fund expenditures increase by \$96,500 in FY 2023 only for programming changes. Revenues are not affected.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	96,500	0	0	0	0
Net Effect	(\$96,500)	\$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 impact the operations or finances of the circuit courts.

Small Business Effect: None.

Analysis

Bill Summary: A petitioner may file electronically a petition for a temporary protective order with a court from:

- a domestic violence prevention or assistance program;
- a sexual assault prevention or assistance program;
- a human trafficking prevention or assistance program;
- a child advocacy center;
- a vulnerable adult program;
- a hospital where the petitioner is receiving medical treatment, while the petitioner is at the hospital; or
- another location approved by the court.

The hospital must refer petitioners filing on the grounds of domestic violence and sexual assault to related prevention or assistance programs, as specified.

A court that receives a petition filed electronically in accordance with the bill's provisions must hold a hearing on the petition through the use of video conferencing on (1) the same business day if the petition is filed during regular court hours and the court is open or (2) the next business day the court is open if the petition is not filed during regular court hours.

Current Law: An individual who meets specified relationship requirements under the domestic violence statutes is a "person eligible for relief" and may file a petition for a protective order. A person eligible for relief initiates the process for a protective order during court operating hours by filing a petition for a temporary protective order in the District Court or a circuit court. If the courts are not open, a person eligible for relief initiates the process by filing a petition for an interim protective order with a District Court Commissioner.

Generally, if an interim protective order is granted by a District Court Commissioner, a temporary protective order hearing is heard on the first or second day on which a District Court judge is sitting after issuance of the interim protective order. Generally, if a temporary protective order is granted, a final protective order hearing occurs one week later.

In a domestic violence 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.

Among other relief, a final protective order may order the respondent to (1) refrain from abusing or threatening to abuse any person eligible for relief; (2) refrain from contacting, attempting to contact, or harassing any person eligible for relief; (3) refrain from entering the residence of any person eligible for relief; (4) remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members; or (5) 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 address issues relating to custody and visitation, use and possession of a home or vehicle, emergency family maintenance, counseling, payment of costs, and temporary possession of a pet. A 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 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. A subsequent circuit court order pertaining to any of the provisions in the final protective order supersedes those provisions in the final protective order. Statutory provisions set forth circumstances under which a final protective order may be modified, rescinded, or extended.

A person who violates specified provisions of an interim, temporary, or final protective 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.

State Expenditures: General fund expenditures increase by \$96,468 in fiscal 2023 for the Judiciary to make necessary programming changes. The Judiciary also advises that the bill likely has a meaningful operational impact in the District Court, whose commissioners handle all interim protective orders and whose judges handle the vast majority of temporary protective orders. For example, in fiscal 2021, over 30,000 protective orders were initiated in the District Court (compared to just over 2,600 filed in the circuit courts). The extent of the operational impact cannot be reliably predicted in advance, as it depends on the number of petitioners who file electronically once authorized to do so under the limited circumstances set forth in the bill and the procedures the Judiciary implements to facilitate this ability.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 280 (Senator Hettleman, *et al.*) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2022
fnu2/lgc Third Reader - March 23, 2022
Revised - Amendment(s) - March 23, 2022

Analysis by: Jennifer K. Botts

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