

BILL NO: Senate Bill 595
TITLE: Family Law – Protective Order – Rescission
COMMITTEE: Judicial Proceedings
HEARING DATE: February 20, 2020
POSITION: **SUPPORT**

Senate Bill 595 would make a small alteration to the way courts handle requests for rescission of civil protective orders. The Women's Law Center (WLC) supports Senate Bill 595 because we have seen the misuse of the current law in certain circumstances, and hope to give the court some discretion to deny a request without a hearing if appropriate.

Under current Maryland law, parties to a protective order are entitled to request a rescission of the order, and the court *must* hold a hearing before either granting or denying the rescission. The WLC has had two recent cases where the requirement that a hearing be held was used by abusers/Respondents to forward their own agendas at the time and expense of both the court and the survivors in those cases.

In the first instance, the parties had been in a dating relationship that led to abuse, and Petitioner successfully obtained a protective order for him to stay away and have no contact with her. As part of a continuing effort to keep in contact with Petitioner, Respondent filed to rescind the Protective Order. When asked outside the courtroom on the day of the hearing why he had filed, his response was he “just wanted to see her again.” We successfully argued to deny his request.

In the second case, a respondent had entered into a consent protective order after consultation with two lawyers. About a month later, Respondent, through one of his attorneys, filed to rescind, with a 30 paragraph addendum to the Courts' form Request for Rescission. In half those paragraphs, the Respondent used very insulting and denigrating language about petitioner, and was essentially trying to re-litigate the case. There was absolutely no basis for rescission. The WLC filed a Motion to Dismiss, also requesting attorney fees and sanctions, but we knew the court had no ability to grant the Motion to Dismiss as the current law requires a hearing.

Senate Bill 595 is a very small adjustment to the Code, in light of these troubling scenarios. It would merely allow the court, if a Respondent files to rescind a protective order, to deny the request without a hearing if the Petitioner objects, informing the court that the Petitioner does not want the rescission. The Court can still hold the hearing if it chooses. Additionally, it would require a party filing to rescind to articulate its reasons (“state with particularity”) for such request. We hope in this way, that some petitioners will be able to avoid coming to court when they do not want the order rescinded. In appropriate cases, petitioners can avoid being re-traumatized by having to see their abuser again, and not undergo the expense of missing work or finding child care, etc. If there is no basis for the request to rescind, the court should be given the ability to deny the request, which right now the court can't.

Therefore, the Women's Law Center of Maryland, Inc. urges a favorable report on Senate Bill 595.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change. The Women's Law Center operates two hotlines, Protection Order Advocacy and Representation Projects in Baltimore City, Baltimore County and Carroll County and the Multi-Ethnic Domestic Violence Project.