

MSBAFamilyLaw_FAV_SB595

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Position: FAV

To: Members of The Senate Judicial Proceedings Committee

From: Family & Juvenile Law Section Council (FJLSC)
by Ilene Glickman, Esquire and Daniel Renart, Esquire

Date: February 20, 2020

Subject: **Senate Bill 595:**
Family Law – Protective Order - Rescission

Position: **SUPPORT**

The Maryland State Bar Association (MSBA) FJLSC **supports Senate Bill 595 – Family Law – Protective Order - Rescission.**

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MSBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

SB 595 is important legislation designed to allow for the rescission of a protective order, but contemporaneously prevents Respondents who have a protective order entered against them from forcing the petitioner to continue to interact with them despite the entry of the protective order. This legislation, authorizes the Court to rescind a protective order, provided certain criteria are met. First, the petition to rescind a protective order must establish with particularity the basis for the rescission. Second, notice of the requested rescission would have to be provided to all affected parties. Third, that in order to rescind the order, the Court would have to have a hearing. A Judge would have discretion to deny a petition to rescind a protective order without a hearing, if the affected person eligible for relief objects to the rescission. These provisions make it less likely that a Respondent will be able to misuse a request for rescission of a protective order for the sole purpose of continuing contact with the Petitioner/victim.



520 West Fayette St., Baltimore, MD 21201
410-685-7878 | 800-492-1964
fax 410-685-1016 | tdd 410-539-3186
msba.org

For the reason(s) stated above, the MSBA **supports Senate Bill 595 and urges a favorable committee report.**

Should you have any questions, please contact Daniel Renart by e-mail at drenart@rghlawyers.com or by telephone at (301) 383-1525.

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Victor L. Velazquez
Executive Director

House of Ruth_FAV_SB595

Uploaded by: Lennig, Dorothy

Position: FAV



Marjorie Cook Foundation
Domestic Violence Legal Clinic

2201 Argonne Drive • Baltimore, Maryland 21218 • 410-554-8463 • dlennig@hruthmd.org

TESTIMONY IN SUPPORT OF SENATE BILL 595

February 20, 2020

DOROTHY J. LENNIG, LEGAL CLINIC DIRECTOR

The House of Ruth Maryland is a non-profit organization providing shelter, counseling, and legal services to victims of domestic violence throughout the State of Maryland. Senate Bill 595 would require a person requesting rescission of a protective order to state with particularity the reasons for the request and would permit the court to deny the rescission if the person eligible for relief objects. **We urge the Senate Judicial Proceedings Committee to issue a favorable report on Senate Bill 595.**

Under current law, a court may rescind a protective order after notice to both parties and a hearing, but provides no further requirements for the process. SB 595 would require the person filing to rescind the protective order to state the reasons for their request with particularity, thus providing further clarity in the process and more detailed notice to the other party.

The House of Ruth urges the Senate Judicial Proceedings Committee to report favorably on Senate Bill 595.

Ruth WLC_FAV_SB595

Uploaded by: Ruth, Laure

Position: FAV

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.

Lee_FAV_SB595

Uploaded by: Senator Lee, Senator Lee

Position: FAV

SUSAN C. LEE
Legislative District 16
Montgomery County

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James Senate Office Building
11 Bladen Street, Room 223
Annapolis, Maryland 21401
410-841-3124 · 301-858-3124
800-492-7122 Ext. 3124
Susan.Lee@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 20, 2020

Senate Judicial Proceedings Committee

Senate Bill 595 – Protective Order - Rescission

The need for Senate Bill 595 was brought to my attention by Laure Ruth from the Women’s Law Center early in session. This legislation aims to prevent the misuse of our current law through some discretion of the courts to deny a request without requiring a hearing when appropriate.

If you have questions about the specific process please ask the practitioners, but put simply, the procedure of rescission is available for the respondent of a protective order along with a modification motion. If notice is provided to the petitioner, a hearing is granted. The courts currently do not deny the hearing, even if there is no basis for the rescission request.

This is a small alteration to the code to prevent some scenarios that the Women’s Law Center will bring to your attention. Courts may still hold a hearing under the proposed change. Petitioners filing to rescind must articulate their reasons for the request with particularity. The goal is to avoid re-traumatization from being in a room with your abuser and the expense associated with missing work and finding child care for frivolous legal hooks when there is no basis for the request to rescind.

Sometimes we try to take discretion away from the courts, this bill does the opposite, it simply empowers the courts to deny the request without a hearing.

For these reasons I respectfully request a favorable report on SB 595.