



**Maryland SHRM State Council, Inc.**



## **Testimony in Support of HB126**

### **“Peace Orders – Workplace Violence”**

**Submitted to the House Judiciary Committee**

**January 23, 2020**

Chairman Clippinger and Members of the Committee:

My name is Cheryl Brown and I’m testifying on behalf of the Maryland Society for Human Resource Management State Council, Inc.

We strongly support HB126 that, if enacted into law, would provide employers standing to seek a peace order to protect an employee and others in their organizations from an imminent threat of harm while at the workplace.

Maryland SHRM represents more than 7,000 members of the Society for Human Resource Management (SHRM) across the state. HR professionals are intimately aware of the threat and realities of workplace violence.

According to the U.S. Bureau of Labor Statistics, in 2017, 458 people were fatally injured in work-related attacks. That’s about 9% of the 5,147 workplace deaths that year. Workplace violence is the third leading cause of death for healthcare workers, and employees in professional and business services like education, law and media, according to *Injury Facts 2016*<sup>1</sup>. Of the 50 active shooter incidents that occurred in the U.S. in 2016 and 2017, 3 of them occurred in Maryland. Maryland was the 5<sup>th</sup> highest state of active shooter incidents in the country.<sup>2</sup>

In Maryland in 2018 alone, businesses lost a number of employees to active shooter situations by either an employee, a former disgruntled employee or an unhappy customer. 6 people shot and 3 killed at Advanced Granite Solutions in Edgewood; 7 people shot and 3 killed at a Rite Aid shooting in Aberdeen, 5 people killed and several others injured at the Capital Gazette shooting in Annapolis.

---

<sup>1</sup> <https://injuryfacts.nsc.org/work/work-overview/work-related-fatality-trends/>

<sup>2</sup> “Active Shooter Incidents in the United States in 2016 and 2017”, U.S. Dept. of Justice, Federal Bureau of Investigation, 2018.

In 2019, SHRM lost two HR professionals in a workplace violence shooting by a disgruntled employee who killed 5 employees and injured 5 others at a worksite in Aurora, IL<sup>3</sup>.

To date, at least 11 states have enacted Workplace Restraining Order Laws allowing the employer to apply for a restraining or peace order prohibiting acts of violence at the employer's workplace<sup>4</sup>. In Maryland, the employer does not have standing to seek a peace order if it is aware that one or more of its employees is threatened with an imminent harm at the workplace.

Maryland Occupational Safety and Health (MOSH) covers every Maryland employer in a business, trade, commercial or industrial activity, who has one or more employees, including State and local governments. MOSH's mission is to promote and assure workplace safety and health, and reduce workplace fatalities, injuries and illnesses.

The enactment of HB126 into law will provide MD employers with another tool to protect the health and safety of their employees at the workplace. This bill is not a mandate on employers. Rather; it will allow an employer the opportunity to decide whether or not seeking a peace order makes sense for their organization. The bill also provides a safeguard from any civil liability an employer for failure to file a petition on behalf of an employee should an incident occur.

Under current law, the court can issue a peace order filed by the individual if it finds by a preponderance of the evidence that the aggressor engaged in or threatened unlawful violence. If the employer has the ability to seek a peace order, that action might take the pressure off the victim and could result in protecting others in the workplace at the same time.

HB126 would provide employees and their employers with the opportunity to secure the work environment when a potential threat to either or both exists. HB126 will bar the aggressor from: "entering the workplace, following an employee and/or contacting the employee by any means."

Often, HR professionals and employers have first-hand knowledge of an imminent threat of harm, as they are the ones who are charged with terminating employees; HR professionals are the ones who hear complaints from other co-workers, who witness the emotions of a disgruntled or angry employee and observe the impact that threats of violence have on an employee's performance and attendance in the workplace. The passage of HB126 would provide employers a way to deter workplace violence from even entering the workplace when they are aware that a threat exists.

MD SHRM strongly urges your favorable consideration of HB 126.

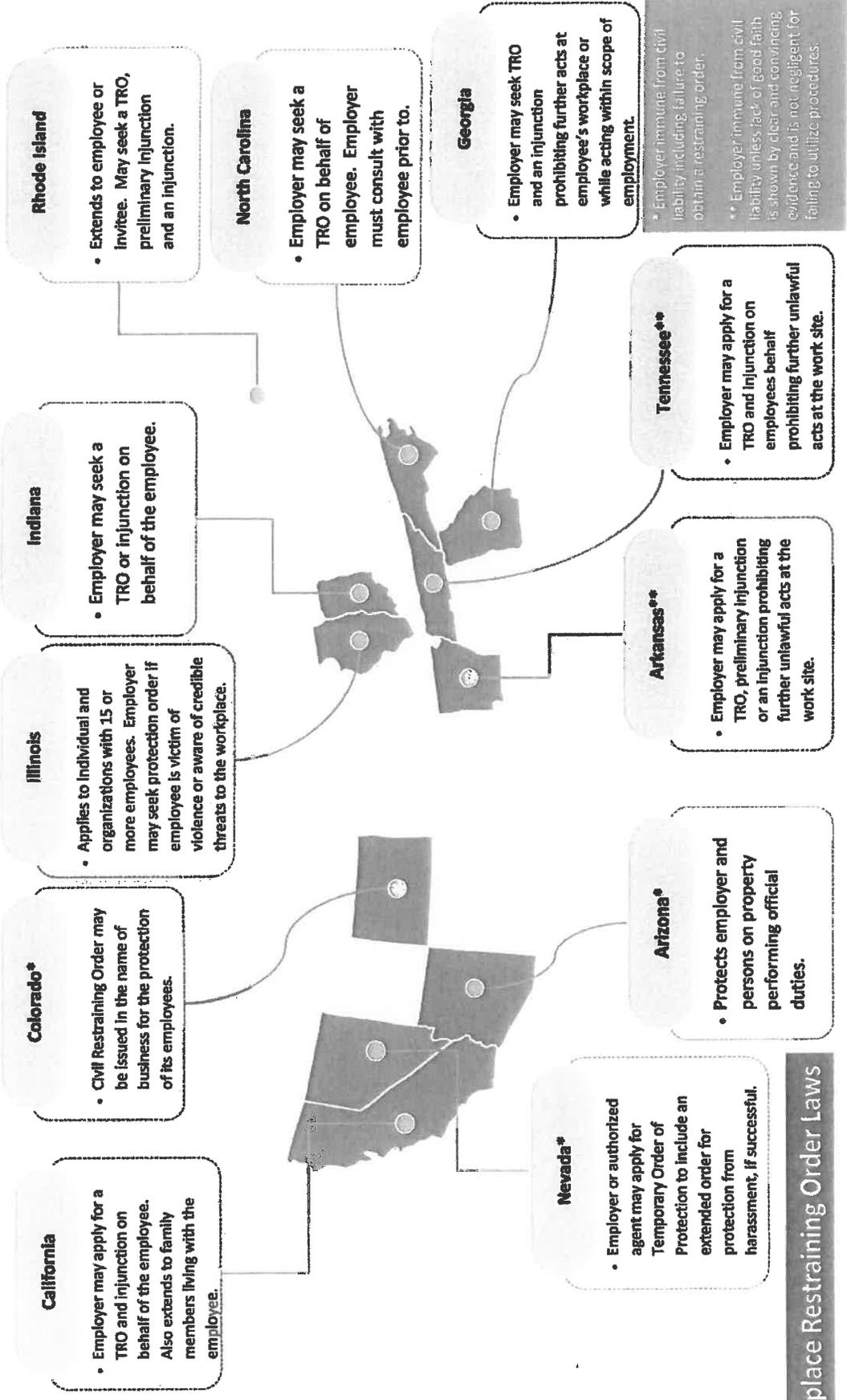
Respectfully submitted,

Cheryl U. Brown, Esq.  
MD SHRM Governmental Affairs, Chair

---

<sup>3</sup> Smith, Allen, "A Workplace Shooting Is Every HR Professional's Fear." February 19, 2019, SHRM.

<sup>4</sup> See attached Map of the United States showing states with Workplace Violence laws, SHRM 2019.



\* Employer immune from civil liability including failure to obtain a restraining order.

\*\* Employer immune from civil liability unless lack of good faith is shown by clear and convincing evidence and is not negligent for failing to utilize procedures.

**Workplace Restraining Order Laws**

## State Statutes

### Workplace Violence Restraining Orders

**Alaska:** Permits an employer to seek a protective order for an employee reasonably believed to be a victim of stalking or sexual assault. Alaska Stat. § 18.65.850.

**Arizona:** Permits an employer to seek an injunction on behalf of an employee to end workplace harassment. Ariz. Rev. Stat. Ann. § 12-1810.

**Arkansas:** Permits an employer to combat unlawful violence, a threat of violence, or harassment (including stalking) in the workplace by seeking a temporary restraining order, preliminary injunction or injunction in accordance with state law. A.C.A. § 11-5-115.

**California:** Permits an employer to combat unlawful violence, and a threat of violence, or harassment (including stalking) in the workplace by seeking a temporary restraining order, preliminary injunction or injunction in accordance with state law. Cal. Civ. Proc. Code § 527.8.

**Colorado:** Permits employers to seek restraining orders to prevent imminent danger to employees. Colo. Rev. Stat Ann. § 13-14-102(4). Also permits leave for victims of domestic abuse, sexual assault, stalking, or other domestic violence-related crimes. Colo. Rev. Stat. Ann. § 24-34-402.7.

**Connecticut:** Health care employers must “establish and convene an ongoing workplace safety committee to address issues related to the health and safety of health care employees, [and] ...[annually] undertake a risk assessment of the factors that put any health care employee at risk for being a victim of workplace violence. Based on the findings of the risk assessment ... each health care employer, in collaboration with the workplace safety committee, shall develop and implement a written workplace violence prevention and response plan.” Conn. Gen. Stat. Ann. § 19a-490q. Employers must also maintain records of workplace violence. Conn. Gen. Stat. Ann. § 19a-490r.

**Georgia:** Permits an employer to seek an injunction for an employee who has suffered unlawful violence or a credible threat of violence in the workplace. O.C.G.A. §34-1-7.

**Illinois:** Requires health care providers to adopt and implement a plan to reasonably prevent and protect employees from workplace violence, review/update the plan at least every three years, and conduct violence prevention training. 405 Ill. Comp. Stat. Ann. 90/15 et seq. (Health Care Workplace Violence Prevention Act). Leave is permitted for employees who are the victims of domestic violence. 820 Ill. Comp. Stat. Ann. 180/1.

**Indiana:** Permits an employer to combat unlawful violence, and a credible threat of violence, by seeking a temporary restraining order or injunction on behalf of an employee to prohibit further violence or a threat of violence. Ind. Code § 34-26-6-6.

**Nevada:** Employer may seek a temporary order of protection to prevent workplace harassment. Nev. Rev. Stat. §§ 33.200 et seq.

**North Carolina:** Permits an employer to seek a no-contact order on behalf of an employee who has been subjected to harassment and/or the threat of harassment. N.C. Gen. Stat. Ann. § 95-260 et seq.

**Rhode Island:** Permits an employer to seek a temporary restraining order, preliminary injunction or injunction on behalf of an employee to prohibit further violence or a threat of violence in the workplace. R.I. Ann. § 28-52-2.

**Tennessee:** Permits an employer to seek a temporary restraining order, preliminary injunction or injunction on behalf of an employee to prohibit further unlawful violence or a credible threat of violence in the workplace. Tenn. Code Ann. § 20-14-102.