

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 743 (Senator Waldstreicher)
 Judicial Proceedings

Family Law - Protective Orders - Crimes of Violence and Stalking

This bill generally expands eligibility for a domestic violence protective order by altering the definition of “person eligible for relief” to include any individual who alleges that the respondent, within six months before the filing of the petition, committed the act of stalking against the individual. The bill repeals existing statute that governs the issuance of a permanent protective order (PPO) and establishes new circumstances under which a court must issue a PPO.

Fiscal Summary

State Effect: General fund expenditures increase by \$24,000 in FY 2025 only for one-time computer programming costs for the Judiciary. Otherwise, the bill is not anticipated to materially affect State operations or finances.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	24,000	0	0	0	0
Net Effect	(\$24,000)	\$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 affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: A court must issue a PPO if (1) an interim, temporary, or final protective order has been issued against the individual; (2) the individual was convicted of either a “crime of violence” or “stalking” (as defined in specified statutory provisions) for the act of abuse that led to the issuance of the prior protective order; and (3) the victim of the act of abuse, who was the person eligible for relief in the prior protective order, requests issuance of a PPO.

Courts may grant only the same relief in a PPO that was granted in the original, prior protective order that requires the respondent to (1) refrain from abusing or threatening to abuse the person eligible for relief and (2) refrain from contacting, attempting to contact, or harassing the person eligible for relief. PPOs are permanent unless terminated at the request of the victim.

Current Law:

Protective Orders

Only a “person eligible for relief” may file for a protective order under the Family Law Article. A “person eligible for relief” includes:

- the current or former spouse of the respondent;
- a cohabitant of the respondent;
- a person related to the respondent by blood, marriage, or adoption;
- a parent, stepparent, child or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition;
- a vulnerable adult;
- an individual who has a child in common with the respondent;
- an individual who has had a sexual relationship with the respondent within one year before filing of the petition; and
- an individual who alleges that the respondent committed (or attempted), within six months before the filing of the petition, rape or specified sexual offenses.

A person eligible for relief may file a petition for a protective order, alleging that the respondent has committed an act of “abuse.” For the purpose of protective orders, “abuse” means (1) an act that causes serious bodily harm; (2) an act that places a person eligible for relief in fear of serious bodily harm; (3) assault in any degree; (4) rape or sexual offense, as specified; (5) false imprisonment; (6) *stalking*; or (7) revenge porn.

In general, 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. Statutory provisions also set forth circumstances under which a final protective order may be modified, rescinded, or extended. Under limited circumstances, a PPO may be issued (as discussed below).

A person who violates specified provisions of a protective order, including the surrender of firearms, 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.

Permanent Protective Orders

A court must grant a PPO against an individual if an interim, temporary, or final protective order has been granted and either (1) the individual was convicted and sentenced to serve a term of imprisonment of at least five years for the act of abuse that led to the original protective order *and* has served at least 12 months of the sentence or (2) during the term of

the original protective order, the individual committed an act of abuse against the person eligible for relief and was convicted and sentenced to serve a term of imprisonment of at least five years *and* has served at least 12 months. PPOs must be requested by the victim of the original protective order and, if granted, are permanent unless the victim requests the termination. A PPO may contain only the relief that was granted in the original protective order that required the respondent to refrain from abusing or threatening to abuse the person eligible for relief or to refrain from contacting, attempting to contact, or harassing the person eligible for relief.

Peace Orders

An individual who does not meet the requirements of a “person eligible for relief” under the protective order statute may file a petition for a peace order with the District Court or the District Court Commissioner that alleges the commission of specified acts (including stalking) against the petitioner by the respondent, if the act occurred within 30 days before the filing of the petition. Relief granted in a final peace order is effective for the period stated in the order but may not exceed six months; on a showing of good cause and as otherwise specified, a peace order may be extended for an additional six months.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 745 (Delegate Shetty, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

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