

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 763 (Chairman, Judiciary Committee)
(Maryland Judicial Conference)

Judiciary

**Interim Domestic Violence Orders and Interim Peace Orders - Issuance by
District Court Commissioners**

This bill implements a proposed constitutional amendment allowing District Court commissioners to issue interim orders for protection pending hearings on domestic violence and peace order petitions.

The bill also provides that, in connection with a petition for relief from domestic violence, whenever a court finds reasonable grounds to believe that abuse of a child or abuse of a vulnerable adult has occurred, the court must forward to the local department of social services a copy of the petition and temporary order for relief. The local department must investigate the alleged abuse and send to the court a copy of the report of the investigation by the date of the protective order hearing.

In addition, the bill eliminates the requirement that a hearing on a petition for a temporary domestic violence order or a temporary peace order be ex parte.

Fiscal Summary

State Effect: Minimal general fund expenditure increase for the District Court in FY 2002. Potential additional general fund expenditures in FY 2003 and thereafter depending on how many interim orders are sought.

Local Effect: It is expected that the bill's requirements could be met by local governments using existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: A petition for an order for protection from domestic violence or a peace order petition may be filed with a District Court commissioner if the office of the District Court clerk is not open for business. If such a petition is filed with a commissioner and the commissioner finds that there are reasonable grounds to believe that the respondent has committed, and is likely to commit in the future, a specified act against the petitioner, the commissioner may issue an interim order to protect the petitioner. The bill sets forth the types of relief that an interim order may contain. An interim peace order shall contain only the relief that is minimally necessary to protect the petitioner.

A petitioner may not be required to pay a filing fee or costs for the issuance or service of an interim order for relief from domestic violence.

An interim order shall state the date, time, and location for a temporary order hearing. A temporary order hearing shall be held on the first or second day on which a District Court judge is sitting after issuance of the interim order, unless the court continues the hearing for good cause.

The bill specifies notices that an interim order must contain, procedures that a commissioner must follow when issuing an interim order, and procedures that a law enforcement officer must follow when serving an interim order. An interim order is effective until issuance or denial of a temporary order.

An individual who fails to comply with the relief granted in an interim order is guilty of a misdemeanor. A violator of an interim peace order is subject to maximum penalties of a fine of \$1,000 and/or imprisonment of 90 days. A violator of an interim order for protection from domestic violence is subject, for a first offense, to maximum penalties of a fine of \$1,000 and/or imprisonment of 90 days. For a second or subsequent offense, a violator is subject to maximum penalties of a fine of \$2,500 and/or imprisonment of one year. A law enforcement officer must arrest and take into custody an individual whom the officer has probable cause to believe is in violation of an interim order.

Current Law: The Maryland Constitution provides that District Court commissioners may exercise power only with respect to warrants of arrest, or bail or collateral or other terms of pretrial release pending hearing, or incarceration pending hearing, and then only as prescribed by law or by rule.

A petitioner may seek relief from abuse by filing with a court a petition that alleges abuse of any person eligible for relief by the respondent. In general, a relative, spouse, or cohabitant of the respondent may qualify as a person eligible for relief. If the court finds

that there are reasonable grounds to believe that the person eligible for relief has been abused, the court, in an ex parte proceeding, may enter a temporary order for protection from abuse. Subsequently, a protective order hearing must be held, at which the respondent shall have an opportunity to be heard. At the conclusion of that hearing, the court may issue a protective order containing specified types of relief.

An individual who is not eligible for relief from domestic violence and who can show a legitimate reason to fear harm from another individual may apply for a peace order requiring the other individual to stay away. The application and issuance procedures for a peace order are similar to those for a protective order.

Background: SB 657 of 2001 seeks to amend the Maryland Constitution to expand the powers of District Court commissioners to include the issuance of interim orders for protection. This bill would not be effective unless SB 657 is enacted and ratified by voters during the November 2002 election.

State Expenditures: The interim order procedure would not go into effect until at least December 2002. The District Court advises that any expenditures in fiscal 2002 would be minimal and would involve research, computer programming, and development of training programs and forms. In fiscal 2003 and beyond, additional expenditures could be incurred. The amount of any such expenditure increase cannot be estimated at this time because it is not known how many interim orders would be sought. The District Court did not provide a cost projection.

The Department of Human Resources advises that the bill's provision relating to investigations by local departments of social services will have no fiscal impact.

The bill's penalty provisions are not expected to materially affect governmental finances.

Local Expenditures: Legislative Services advises that, although it is unknown how many interim orders would be sought, it is likely that the bill's changes could be handled by local governments using existing budgeted resources.

Montgomery County, however, advises that the bill would necessitate 3.5 additional deputies and 4 additional clerical employees, at an annual salary cost of \$360,460. Montgomery County further advises that additional costs would be incurred for training, uniforms and equipment, office space, computers, furnishings, and vehicles.

Additional Information

Prior Introductions: None.

Cross File: SB 658 (Chairman, Judicial Proceedings Committee) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts, District Court of Maryland); Department of Human Resources; Garrett, Montgomery, and Prince George's counties; Department of Legislative Services

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