

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

House Bill 663 (Chairman, Judiciary Committee, *et al.*)
(Maryland Judicial Conference)

Judiciary

Judicial Proceedings

**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 judge 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 protective order. The local department must investigate the alleged abuse and send the court the report of the investigation by the date of the final protective order hearing.

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

Fiscal Summary

State Effect: Minimal general fund expenditure increase for the District Court in FY 2003. Potential additional general fund expenditures in FY 2004 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 a protective order from domestic violence or a peace order 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 peace order or an interim protective order to protect the petitioner. The bill sets forth the types of relief that an interim peace or protective order may contain. An interim peace order shall contain only the relief that is minimally necessary to protect the petitioner. An interim protective order does not have a similar limitation.

A petitioner may not be required to pay a filing fee or costs for the issuance or service of an interim peace or protective order for relief from domestic violence. The bill clarifies the exclusive original jurisdiction of the District Court for temporary and final peace order proceedings.

An interim order for peace or protection shall state the date, time, and location for a temporary peace or protective order hearing and a tentative time, date, and location for final peace or protective order hearings. A temporary peace or protective order hearing shall be held on the first or second day on which a District Court judge is sitting after issuance of the interim peace or protective order, unless the court continues the hearing for good cause. Within seven days after issuance of a temporary peace or protective order, a hearing for a final peace or protective order must be held. A respondent has the opportunity to be heard at a final peace or protective order hearing. Under specified circumstances, a judge may proceed with a final peace or protective order hearing, instead of having a hearing on the temporary peace or protective order.

The bill specifies notices that an interim peace or protective order must contain procedures that a commissioner must follow when issuing an interim peace or protective order, and procedures that a law enforcement officer must follow when serving an interim peace or protective order. An interim peace or protective order is effective until the earlier of the temporary peace or protective order hearing or the end of the second business day the District Court clerk's office is open following the issuance of an interim peace or protective order. The commissioner's decision to grant or deny relief is not binding on any judge who is petitioned to grant a temporary or final order of peace or protection in the proceeding. A person who knowingly provides false information in a temporary peace order petition is guilty of a misdemeanor and is subject to imprisonment for up to 90 days, a maximum fine of \$1,000, or both.

An individual who fails to comply with the relief granted in an interim peace or protective 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 protective order 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 peace or protective order.

Current Law: The Maryland Constitution provides that District Court commissioners may exercise power only with respect to warrants of arrest, bail 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 (either District Court or circuit 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: HB 6 and SB 500 of 2002 seek to amend the Maryland Constitution to expand the powers of District Court commissioners to include the issuance of interim orders for peace or protection. This bill would not be effective unless either HB 6 or SB 500 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 2003 would be minimal and would involve research, computer programming, and development of training programs and forms. In fiscal 2004 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 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: Although it is unknown how many interim orders would be sought, Legislative Services advises that it is likely that the bill's changes could be handled by local governments using existing budgeted resources. Service of an interim order eliminates the requirement for personal service of a temporary order by a law enforcement officer.

Additional Information

Prior Introductions: A similar bill, HB 763 of the 2001 session, was withdrawn after a hearing in the House Judiciary Committee. SB 658 of the 2001 session, which was an identical cross-file to HB 763, passed the Senate with amendments, but was not reported out of the House Judiciary Committee.

Cross File: SB 501 (Chairman, Judicial Proceedings Committee, *et al.*) (Maryland Judicial Conference) – Judicial Proceedings.

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

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