

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

Revised

House Bill 324

(Delegate Grosfeld, *et al.*)

Judiciary

Domestic Violence - Penalties

This bill provides that a respondent who willfully fails to complete court-ordered counseling or a domestic violence program pursuant to a protective order for relief from domestic violence is guilty of a misdemeanor. On conviction, the person is subject to:

for a first offense, a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both; and

for a second or subsequent offense, a fine not exceeding \$2,500 or imprisonment not exceeding one year or both.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Current Law: A person who fails to comply with certain types of relief granted in a protective order is guilty of a misdemeanor. Upon conviction the person is subject to:

- for a first offense, a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both; and
- for a second or subsequent offense, a fine not exceeding \$2,500 or imprisonment not exceeding one year or both.

The specific types of relief for which violation is a misdemeanor include an order that the respondent:

- refrain from further abuse or threats of abuse of a person eligible for relief;
- refrain from contacting, attempting to contact, or harassing a person eligible for relief;
- refrain from entering the residence of a person eligible for relief;
- vacate the home where the respondent and person eligible for relief reside together; and
- remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members.

Background: The following table shows judicial activity with regard to protective orders for fiscal 2000 (the most recent year for which data is available from the Administrative Office of the Courts):

<u>Jurisdiction</u>	<u>Protective Order Hearings</u>	<u>Protective Orders Granted</u>
District Court	13,710	7,139
Circuit Court	2,134	1,151
Total Actions	15,844	8,290

The Institute for Law and Justice and the National Institute of Justice completed a 50 state survey of domestic violence legislation in October 2000 and found that 43 states and the District of Columbia make violation of a court order against domestic violence a separate offense. In 38 states, violation of the terms of a protective order is a misdemeanor.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction (DOC) facilities. The bill is not expected to result in a significant number of prosecutions.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2003 are estimated to range from \$10 to \$61 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$1,850 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$300 per month.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$20 to \$84 per inmate in fiscal 2003.

Additional Information

Prior Introductions: This bill was introduced in the 2001 session as House Bill 253. The bill passed the House and Senate, but was not reported out of conference committee. In 1996, a similar bill was introduced as House Bill 355. It received an unfavorable report from the Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Institute for Law and Justice, National Institute of Justice, National Conference of State Legislatures, Maryland Network Against Domestic Violence, Department of Legislative Services

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