

**Department of Legislative Services**  
 Maryland General Assembly  
 2005 Session

**FISCAL AND POLICY NOTE**

House Bill 1368 (Delegate Miller)  
 Judiciary

**Criminal Procedure - Protective Order Violation - Notice to Victim of Defendant's Pretrial Release**

This bill provides that if a victim has requested notice of the pretrial release of a defendant who is being held for the violation of an interim, temporary, or final protective order and has provided a phone number to the arresting officer, then the court must order, as a condition of pretrial release, that the victim be contacted by phone and be given at least four hours notice of the defendant's release.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$41,300 in the Department of Public Safety and Correctional Services (DPSCS) for additional staff to provide the majority of notification to victims. Out-years include annualization and inflation. Potential minimal expenditures for the District Court to provide notification to victims during nights and weekends.

| (in dollars)   | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|----------------|------------|------------|------------|------------|------------|
| Revenues       | \$0        | \$0        | \$0        | \$0        | \$0        |
| GF Expenditure | 41,300     | 49,700     | 52,800     | 56,100     | 59,700     |
| Net Effect     | (\$41,300) | (\$49,700) | (\$52,800) | (\$56,100) | (\$59,700) |

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** The bill's requirements could be met with existing resources.

**Small Business Effect:** None.

## Analysis

**Current Law:** The court or a District Court commissioner must consider including reasonable protections for the safety of the alleged victim, as a condition of pretrial release for a defendant. If the victim has requested reasonable protections for safety, the court or a District Court commissioner must consider including provisions that prohibit contact with the alleged victim or the alleged victim's premises or place of employment, as a condition of pretrial release. In accordance with the procedures and criteria established under the Maryland Rules, as a condition of the defendant's pretrial release, the court may require that the defendant be monitored by a private home detention monitoring agency. A defendant detained at home in this manner must pay the agency's monitoring fee directly to the monitoring agency.

**Background:** A protective order may be filed in either the District Court or circuit court. The maximum duration of a final protective order is one year. According to the Administrative Office of the Courts (AOC), most final protective orders are issued for a period of one year.

For fiscal 2004 (the most recent data available from AOC), the following table shows judicial activity with regard to protective orders.

| <u>Jurisdiction</u>  | <u>Interim Orders<br/>Granted</u> | <u>Temporary<br/>Orders Granted</u> | <u>Final Orders<br/>Granted</u> | <u>Total Orders<br/>Granted</u> |
|----------------------|-----------------------------------|-------------------------------------|---------------------------------|---------------------------------|
| District Court       | 7,760                             | 14,071                              | 7,395                           | 29,226                          |
| Circuit Court        | <u>N/A</u>                        | <u>1,920</u>                        | <u>1,254</u>                    | <u>3,174</u>                    |
| <b>Total Actions</b> | <b>7,760</b>                      | <b>15,991</b>                       | <b>8,649</b>                    | <b>32,400</b>                   |

According to the *2003 Uniform Crime Report* issued by the Maryland State Police, there were 17,860 domestic violence crimes that took place in Maryland in calendar 2003. This includes 15 murders, 58 rapes, 30 robberies, and 16,699 assaults. The statistics do not include occurrences in Baltimore City, which did not report crime statistics to the Maryland State Police for calendar 2003. The extent to which these crimes happen after the issuance of a protective order by a court is not known.

**State and Local Expenditures:** Potential minimal general fund expenditure increase for the Judiciary, to the extent that the victims request notification at night or on weekends, when the District Court commissioners would need to arrange for notification within the deadline established by the bill. Otherwise, since the bill requires the court to issue an order that the defendant be contacted, the courts should be able to meet the bill's requirements within existing resources.

In fiscal 2004, the circuit courts granted 3,174 temporary and final orders; the District Court granted 29,226 interim, temporary, and final protective orders. The Judiciary advises that while information is noted in the case file, statistics are not collected on the number of defendants who come before the court for violation of a protective order.

General fund expenditures for DPSCS could increase by an estimated \$41,309 in fiscal 2006, which accounts for the bill's October 1, 2005 effective date. This estimate reflects the cost of hiring one administrative officer to monitor requests for notification and to arrange for contacting the victim. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

To calculate this estimate, it is assumed that for the majority of instances where a victim asks for notification prior to the release of a defendant who was held for violating a protective order, the court would order the Division of Pretrial Detention and Services in DPSCS to notify the victim as required in the bill. Since notification of the victim is limited to those instances where the defendant is being held for violating a protective order and the victim has requested notification and left a phone number, Legislative Services advises that one additional position could meet the bill's requirements.

|   |                 |
|---|-----------------|
| Salary and Fringe Benefits              | \$35,903        |
| Other Related Operating Expenses        | <u>5,406</u>    |
| <b>Total FY 2006 State Expenditures</b> | <b>\$41,309</b> |

Future year expenditures reflect (1) a full salary with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Maryland State Police, Department of Legislative Services

**Fiscal Note History:** First Reader - March 21, 2005  
mam/jr

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