

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 46 (Senator Stone)
Judicial Proceedings

Domestic Violence - Ex Parte Orders - Expungement

This bill provides for the expungement of an *ex parte* order issued pursuant to an allegation of abuse under the domestic violence provisions.

Fiscal Summary

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

Local Effect: Potential minimal.

Small Business Effect: None.

Analysis

Bill Summary: This bill requires a court to state the reasons on the record if, after a hearing, the court denies a petition for a temporary or final protective order.

The bill provides that a person who was the respondent in a proceeding involving an allegation of domestic abuse may file a petition to expunge an *ex parte* order if a final protective order was not issued in the proceeding. The person who wants to expunge the *ex parte* order must file a petition in the court where the *ex parte* order was issued.

If the court finds that the petition for relief from domestic abuse was in bad faith or without substantial justification, the court must order the expungement of all police and court records about the *ex parte* order.

Within 60 days after the entry of an expungement order, each custodian of police and court records that are subject to the expungement order must advise the court and the person seeking expungement of compliance with the order.

Current Law: An *ex parte* order may be entered after a hearing in which only the petitioner appears without notice to the respondent.

State law provides for the expungement of police and court records in criminal cases under specified circumstances.

Background: According to the latest information available from the Administrative Office of the Courts, in fiscal 2005, 16,728 *ex parte*/temporary orders were granted by the courts and 8,343 final protective orders were granted in fiscal 2005. There were 7,933 *ex parte*/temporary orders granted which did not result in a final protective order during the same period.

In fiscal 2004, 4,306 domestic cases were filed in the circuit courts. The circuit courts held 3,244 hearings for temporary protective orders and granted 1,920 orders. There were 3,023 hearings for final protective orders and 1,254 orders were granted.

In the District Court, 22,934 domestic cases were filed in fiscal 2004. During the same period, the District Court held 8,956 hearings for interim orders and granted 7,760 interim orders. The District Court held 24,481 hearings for temporary orders and granted 14,701 orders. There were 14,729 hearings for final protective orders held in fiscal 2004 in the District Court and 7,395 of the requested orders were issued.

Local Fiscal Effect: The fiscal effect of this bill varies in the counties. For example, Prince George's and Somerset counties indicated the bill would have no fiscal impact. Frederick County estimates it could cost \$79 annually to expunge an estimated 50 records. Montgomery County Clerk of the Circuit Court, on the other hand, advises that to expunge an anticipated workload of 250 records annually, one family clerk would need to be hired at a cost of \$19,849 annually and that \$7,500 in revenue could be attained. The Montgomery County Police Department advises that the bill would have no fiscal impact.

Additional Information

Prior Introductions: This bill is a reintroduction of SB 362 of 2005, which received an unfavorable report from the Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Somerset County, Montgomery County, Prince George's County, Charles County, Judiciary (Administrative Office of the Courts), Department of State Police, Baltimore County, Frederick County, Department of Public Safety and Correctional Services, Department of Legislative Services

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