

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 27
Judiciary

(Delegate Benson)

Domestic Violence - Protective Orders

This bill establishes that all relief contained in a final protective order continues in effect without a specific termination date and repeals the maximum 12-month duration of final protective orders. That continuation is subject to certain provisions: • a subsequent circuit court order pertaining to any of the provisions of the final protective order supersedes those in the final protective order; and • a protective order may also be modified or rescinded after giving notice to all affected persons and after a hearing.

Fiscal Summary

State Effect: None. The bill's requirements could be met with existing resources.

Local Effect: None. The bill's requirements could be met with existing resources.

Small Business Effect: None.

Analysis

Current Law: In a domestic violence proceeding, if a judge finds by clear and convincing evidence that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

A final protective order may include any or all of the following relief:

- (1) order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;

- (2) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;
- (3) order the respondent to refrain from entering the residence of any person eligible for relief;
- (4) in certain cases where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief;
- (5) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;
- (6) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the provider's care;
- (7) award temporary custody of a minor child of the respondent and a person eligible for relief;
- (8) establish temporary visitation with a minor child of the respondent and a person eligible for relief under certain conditions;
- (9) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support;
- (10) award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief under certain conditions;
- (11) direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program;
- (12) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession for the duration of the protective order; or
- (13) order the respondent to pay filing fees and costs of the proceeding.

All relief granted in a final protective order is effective for the period stated in the order, up to a maximum of 12 months. A subsequent circuit court order pertaining to any of the

provisions in the final protective order supersedes those in the final protective order. A protective order may be modified or rescinded during the term of the order after giving notice to all those eligible for relief and respondents and after a hearing. For good cause shown, a judge may extend the term of the protective order for six months beyond the period specified in the final protective order after giving notice to all affected parties and after a hearing.

If a District Court grants or denies a petition for a protective order, a respondent, an eligible person, or a petitioner may appeal to the circuit court in the county where the District Court is located. If an appeal is filed, the District Court judgment remains in effect until superseded by a judgment of the circuit court. Modification and enforcement of the District Court order must be by the District Court unless the circuit court orders otherwise.

Background: The following table shows judicial activity in fiscal 2006 (the latest available) with regard to protective orders.

<u>Jurisdiction</u>	<u>Hearings</u>	<u>Interim Orders Granted</u>	<u>Temporary Orders Granted</u>	<u>Final Orders Granted</u>
Circuit Court	7,299	N/A	2,083	1,380
District Court	52,042	9,429	14,867	7,654

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Human Resources, Department of Legislative Services

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ncs/hlb

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