

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 522

(Senator Forehand, *et al.*)

Judicial Proceedings

Judiciary

Domestic Violence - Violation of Protective Order - Arrest

This bill clarifies that an officer is required to arrest with or without a warrant and take into custody a person who the officer has probable cause to believe has violated an out-of-state order of protection or specified provisions of an interim, temporary, or final protective order issued in this State that is in effect at the time of the violation.

Fiscal Summary

State Effect: None. The bill clarifies current law.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill clarifies that an officer is required to arrest an individual who the officer has probable cause to believe has violated one of the following provisions in an interim, temporary, or final protective order:

- refraining from further abuse or threats of abuse of a person eligible for relief;
- refraining from contacting, attempting to contact, or harassing a person eligible for relief;
- refraining from entering the residence of a person eligible for relief;
- vacating the home immediately;

- remaining away from the place of employment, school, or temporary residence of a person eligible for relief; or
- remaining away from the residence of any family member of a person eligible for relief.

The bill also clarifies that an officer is required to arrest an individual who the officer has probable cause to believe has violated an order of protection that was issued by the court of another state or a Native American tribe that is in effect at the time of the violation.

A respondent who violates a provision in a final protective order requiring the surrender to law enforcement of any firearms in the respondent's possession is also subject to arrest.

Current Law: A petition for an interim protective order may be filed with a District Court commissioner if the clerk of the circuit court or clerk of the District Court is not open for business. If the commissioner finds there are reasonable grounds to believe that the respondent has abused a person eligible for relief, the commissioner may issue an interim protective order. If, after a hearing on a petition, whether *ex parte* or otherwise, a judge finds that there are reasonable grounds to believe a person eligible for relief has been abused, the judge may issue a temporary protective order. The judge may proceed with a final protective order hearing instead of a temporary protective order hearing if the respondent appears at the hearing, the respondent has been served with an interim protective order, or the court otherwise has personal jurisdiction over the respondent, and the petitioner and respondent expressly consent to waive the temporary protective order hearing. (*See* Family Law Article §§ 4-504.1 and 4-505.)

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. (*See* Family Law Article § 4-506.)

A person who fails to comply with certain relief granted in an interim, temporary, or final protective order is guilty of a misdemeanor and subject to a fine not exceeding \$1,000 and/or imprisonment not exceeding 90 days for a first offense and a \$2,500 fine and/or one-year imprisonment for a second or subsequent offense.

An officer is required to arrest with or without a warrant and take into custody a person who the officer has probable cause to believe is in violation of an interim, temporary, or final protective order in effect at the time of the violation.

A law enforcement officer must arrest with or without a warrant and take into custody a person whom the officer has probable cause to believe is in violation of an order for

protection that was issued by a court of another state or a Native American tribe and is in effect at the time of the violation if the person seeking the assistance of the law enforcement officer (1) has filed a copy of the order with the District Court or circuit court for the appropriate jurisdiction; or (2) displays or presents to the law enforcement officer a copy of the order that appears valid on its face.

Background: The following table shows judicial activity in fiscal 2007 (the latest information available) with regard to protective orders:

<u>Jurisdiction</u>	<u>Hearings</u>	<u>Interim Protective Orders Granted</u>	<u>Temporary Orders Granted</u>	<u>Final Protective Orders Granted</u>
Circuit Court	7,106	n/a	1,936	1,290
District Court	53,952	10,170	15,491	7,814

According to the State Police Uniform Crime Report issued for calendar 2007, 19,391 domestic violence crimes occurred in Maryland, a 12% decrease compared to the calendar 2006 total of 21,965. Assault was by far the most frequently reported crime, with 17,995 incidents in calendar 2007. Of reported assaults, simple assaults comprised 13,728 incidents. Aggravated assaults totaled 4,261 or 23.7 % of the reported domestic violence assaults for the same period. In 2007, 30 homicides were attributed to domestic violence incidents.

Additional Information

Prior Introductions: None.

Cross File: HB 454 (Delegate Dumais) - Judiciary.

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

Fiscal Note History: First Reader - February 17, 2009
ncs/kdm Revised - Senate Third Reader - March 27, 2009

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510