

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

House Bill 213  
Judiciary

(Delegate Simmons, *et al.*)

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**Domestic Violence - Attorney's Fees - Pro Bono Attorneys**

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This bill authorizes a court to order a respondent to pay reasonable attorney's fees, including fees to an attorney or organization providing pro bono legal services in a final protective order.

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**Fiscal Summary**

**State Effect:** Any increase in the workload for the Judiciary can be absorbed within existing budgeted resources.

**Local Effect:** Any increase in the workload for the circuit courts can be absorbed within existing budgeted resources.

**Small Business Effect:** None.

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**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.

Courts are authorized to order either party to pay or reimburse the other party for counsel fees in other proceedings relating to divorce, alimony, property disposition,

child custody, child support, or child visitation. (See Family Law Article § 7-107, 8-214, 11-110, 12-103.)

**Background:** Rule 6.1 of the Maryland Rules of Professional Conduct suggests that full-time practicing attorneys provide 50 hours of pro bono service annually; however, there are no mandatory service requirements. Maryland Rule 16-903 requires attorneys to report annually on any pro bono activities.

According to information compiled by the Judiciary, in calendar 2007 Maryland attorneys provided almost 1.1 million hours of pro bono service and 47% of attorneys reported some pro bono activity. Family law was the service area for which the most pro bono hours were reported. Attorneys who primarily practice family law also had the greatest percent of participation in pro bono activity, with 69% of attorneys reporting some pro bono service. Many domestic violence service providers throughout the State of Maryland offer pro bono legal services to victims seeking protective orders.

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

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

**State and Local Fiscal Effect:** The workload for the Judiciary and circuit courts may be affected to the extent that courts consider and enforce a provision ordering a respondent to pay reasonable attorney's fees as allowed under this bill. Although there is no way to reliably predict how many cases will be affected, it is anticipated that the District Court and the circuit courts can absorb any increase in workload within existed budgeted resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 18, 2009  
mlm/kdm

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