

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1196

(Delegate Ramirez, *et al.*)

Judiciary

Judicial Proceedings

Domestic Violence - Protective Orders - Notification of Service

This bill provides for the notification to a petitioner of the service of a protective order.

The bill takes effect January 1, 2010, and is contingent on the receipt, by January 1, 2010, of federal funds under the American Recovery and Reinvestment Act of 2009 by the Governor's Office of Crime Control and Prevention (GOCCAP) to fund implementation of the notification requirements under the bill. If federal funds are not received for this purpose by January 1, 2010, the bill terminates. If federal funds are received, the bill terminates December 31, 2011.

Fiscal Summary

State Effect: Federal fund expenditures increase by \$300,000 in FY 2010 and by \$276,000 in FY 2011, contingent on the receipt of federal funds under the American Recovery and Reinvestment Act of 2009. If funds are received, federal fund expenditures increase by \$138,000 in FY 2012, which reflects the bill's December 31, 2011 termination date. Revenues are not affected.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	\$0	\$0	\$0	\$0	\$0
FF Expenditure	300,000	276,000	138,000	0	0
Net Effect	(\$300,000)	(\$276,000)	(\$138,000)	\$0	\$0

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

Local Effect: Local law enforcement agencies can handle the bill's requirements with existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: A law enforcement officer is required to electronically notify the Department of Public Safety and Correctional Services (DPSCS) of the service of an interim or temporary protective order on the respondent within two hours after the service. If the petitioner has requested notification of the service of a protective order, DPSCS must (1) notify the petitioner of the service on the respondent of an interim or a temporary protective order within one hour after a law enforcement officer electronically notifies DPSCS of the service; and (2) notify the petitioner of the service on the respondent of a final protective order within one hour after knowledge of service of the order on the respondent.

DPSCS is required to develop a notification request form and procedures for notification under the bill. The court clerk or District Court Commissioner is required to provide the notification request form to a petitioner.

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. The interim protective order must state the date, time, and location for a temporary protective order hearing. A law enforcement officer is required to serve a respondent immediately on receipt of a petition and interim protective order and immediately make a return of service to the commissioner's office, or, if the Office of the District Court Clerk is open for business, to the clerk. (*See Family Law Article § 4-504.1.*)

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. Unless a respondent has already been served with an interim protective order, a law enforcement officer must immediately serve the temporary protective order on the respondent. A respondent who has been served with an interim protective order must be served with the temporary protective order in open court or, if the respondent is not present at the temporary protective order hearing, by first-class mail at the respondent's last known address. (*See Family Law Article § 4-505.*)

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. The maximum duration of a final protective order is generally one year. A copy of the final protective order must be served on the respondent in open court or, if the respondent is not present at the final protective order hearing, by first-class mail to the person's last known address. (*See Family Law Article § 4-506.*)

Background: The following table shows judicial activity in fiscal 2007 (the last 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

State Fiscal Effect: DPSCS advises that redesign and modification of computer programs to implement the notification program are needed, generating one-time start-up costs of approximately \$300,000, based on updated estimates. Annual support and maintenance costs are also anticipated to be \$276,000. Accordingly, contingent on the receipt of the specified federal funds, expenditures increase by \$300,000 in fiscal 2010 and by \$276,000 in fiscal 2011 for ongoing support and maintenance costs. Due to the bill's termination date of December 31, 2011, federal fund expenditures in fiscal 2012 increase by \$138,000 only. GOCCAP has previously advised that the notification function in the bill is eligible for federal funding from the American Recovery and Reinvestment Act of 2009 and that adequate funding for this function should be available on or before January 1, 2010.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Cecil County, Carroll County, St. Mary's County, Baltimore County, Harford County, Judiciary (Administrative Office of the Courts), Montgomery County, Department of State Police, Department of Legislative Services

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mcp/kdm Revised - House Third Reader - April 6, 2009
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