

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 480

(Senators Forehand and Ramirez)

Judicial Proceedings

Judiciary

Courts - Peace Orders - Penalties

This bill increases the penalties for a second or subsequent offense for violating an interim, temporary, or final peace order. Under the bill, a second or subsequent violation of a peace order is subject to maximum penalties of imprisonment for one year and/or a \$2,500 fine. The current statutory penalties for violation of a peace order apply to a first violation. The bill makes the expanded penalties for violations of peace orders consistent with the penalties for violations of protective orders.

Fiscal Summary

State Effect: Minimal increase in general fund revenues from monetary penalties imposed in the District Court. Minimal increase in general fund expenditures for the Department of Public Safety and Correctional Services for extended incarcerations in Baltimore City.

Local Effect: Minimal increase in local revenues from monetary penalties imposed in the circuit courts. Minimal increase in local expenditures as a result of the increased incarceration penalty under the bill.

Small Business Effect: None.

Analysis

Current Law: An individual who does not meet the requirements of a “person eligible for relief” under protective order statutes in the Family Law Article may file a petition for a peace order with the District Court or, if the clerk’s office is closed, a District Court

commissioner, that alleges the commission of specified acts against the petitioner by the respondent, if the act occurred within 30 days before the filing of the petition.

If after a hearing on a petition, a judge finds that there are reasonable grounds to believe that the respondent has committed, and is likely to commit in the future, one of the specified acts against the petitioner, the judge may issue a temporary peace order to protect the petitioner. The order must contain only the relief that is minimally necessary to protect the petitioner. A temporary peace order may order a respondent to (1) refrain from committing or threatening to commit specified acts; (2) refrain from contacting, attempting to contact, or harassing the petitioner; or (3) stay away from specific locations. Temporary peace orders are effective for not more than 7 days after service of the order, but may be extended for up to 30 days. The temporary peace order must state the date and time of the final peace order hearing.

After a final peace order hearing, if a judge finds by clear and convincing evidence that the respondent has committed, and is likely to commit in the future, one of the previously mentioned acts against the petitioner, or if the respondent consents to the entry of a peace order, the court may issue a final peace order to protect the petitioner. The order must contain only the relief that is minimally necessary to protect the petitioner. Final peace orders may direct the respondent or petitioner to participate in counseling or mediation, as well as the forms of relief available under a temporary peace order. Relief granted in a final peace order is effective for the period stated in the order, but may not exceed six months.

An individual who fails to comply with specified provisions of an interim, temporary, or final peace order is guilty of a misdemeanor and subject to maximum penalties of a \$1,000 fine and/or 90 days imprisonment.

Although the District Court hears most misdemeanor cases, the jurisdiction of the District Court is concurrent with that of the circuit court for cases in which a penalty includes a fine of \$2,500 or more.

Background: Information regarding the number of cases involving the violation of an interim, temporary, or final protective or peace order is not readily available.

In fiscal 2009, the District Court granted 5,890 interim peace orders, 15,489 temporary peace orders, and 7,195 final peace orders.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to people being committed for longer periods of time to Division of Correction (DOC) facilities for convictions in Baltimore City. The number of people sentenced under the proposed expanded penalties of this crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts. The circuit court has concurrent jurisdiction with the District Court for offenses punishable by imprisonment for three years or more or a fine of \$2,500 or more. The bill's changes to the penalty for violation of a peace order may move some cases to the circuit courts.

Local Expenditures: Expenditures increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from \$57 to \$157 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: HB 666 (Delegate Lee, *et al.*) - Judiciary.

Information Source(s): Baltimore, Garrett, and Howard counties; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2011
ncs/kdm

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