

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 653

(Senator Forehand, *et al.*)

Judicial Proceedings

Family Law - Domestic Violence - Definition of Abuse

This bill expands the definition of abuse as it applies to petitions for domestic violence protective orders to include harassment, trespassing, and the malicious destruction of property. The bill makes the acts for which a protective order can be issued the same as the underlying acts for a peace order.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures for the Judiciary to process additional protective orders. Revenues are not affected.

Local Effect: Minimal increase in expenditures for the circuit courts to process additional protective orders. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: Abuse” is defined as:

- an act that causes serious bodily harm;
- an act that places a person eligible for relief in fear of imminent serious bodily harm;
- assault in any degree;
- rape or sexual offense or attempted rape or sexual offense in any degree;
- false imprisonment; or
- stalking.

“Harassment” is following another in or about a public place or maliciously engaging in conduct that alarms or seriously annoys the other (1) with the intent to harass, alarm, or annoy; (2) without a legal purpose; and (3) after receiving a reasonable request or warning to stop the behavior. Harassment is a misdemeanor and a violator is subject to maximum penalties of 90 days imprisonment and/or a fine of \$500.

“Trespass” generally means entering on property that is posted conspicuously against trespass or entering, crossing over, or remaining on, private property after having been notified by the owner or the owner’s representative not to do so. The crime is a misdemeanor and the maximum penalties for violation of the trespass laws are 90 days imprisonment and/or a \$500 fine for a first violation; or 6 months imprisonment and/or a \$1,000 fine for a second violation within two years after the first violation; or one year imprisonment and/or a \$2,500 fine for each subsequent violation occurring within two years after the preceding violation, depending on the severity of the violation.

“Malicious destruction of property” is generally the willful and malicious destruction, injury, or defacement of the real or personal property of another. Property damage of less than \$500 is a misdemeanor, and a violator is subject to maximum penalties of 60 days imprisonment and/or a fine of \$500. Property damage of at least \$500 is a misdemeanor and a violator is subject to maximum penalties of three years imprisonment and/or a \$2,500 fine.

A “person eligible for relief” includes:

- the current or former spouse of the respondent;
- a cohabitant of the respondent;
- a person related to the respondent by blood, marriage, or adoption;
- a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition;
- a vulnerable adult; or
- an individual who has a child in common with the respondent.

A petitioner may seek relief from abuse by filing a petition alleging abuse of any person eligible for relief by the respondent by filing with the court, or if the clerk’s office is closed, with a District Court Commissioner.

Background: According to the Maryland *Uniform Crime Report*, there were 18,556 domestic violence crimes reported during calendar 2009. Of the reported crimes, there were 118 cases of domestic violence involving the malicious destruction of

property. The offenses of harassment and trespassing are not tracked for reporting on domestic violence crimes.

The following table shows judicial activity in fiscal 2009 with regard to protective orders (the latest available).

<u>Jurisdiction</u>	<u>Hearings</u>	<u>Interim Orders Granted</u>	<u>Temporary Orders Granted</u>	<u>Final Orders Granted</u>
Circuit Court	4,122	N/A	2,483	1,758
District Court	25,054	10,745	16,042	9,090

Additional Information

Prior Introductions: None.

Cross File: HB 416 (Delegate Lee, *et al.*) - Judiciary.

Information Source(s): Baltimore City, Howard and Montgomery counties, Commission on Criminal Sentencing Policy, Office of Public Defender, Judiciary (Administrative Office of the Courts), Maryland State Police, Department of Legislative Services

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ncs/kdm

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