

**Department of Legislative Services**  
2012 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 1160  
Judiciary

(Charles County Delegation)

Judicial Proceedings

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**Family Law - Interim and Temporary Peace and Protective Orders - Duration**

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This bill establishes that if the court is closed on the day on which an interim peace or protective order is due to expire, the interim order is effective until the next day on which the court is open, at which time the court shall hold a temporary peace or protective order hearing. If the court is closed on the day on which a temporary peace or protective order is due to expire, the temporary order is effective until the second day on which the court is open, by which time the court must hold a final peace or protective order hearing.

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**Fiscal Summary**

**State Effect:** The bill's changes can be implemented and enforced with existing budgeted resources.

**Local Effect:** The bill's changes can be implemented and enforced with existing budgeted resources.

**Small Business Effect:** None.

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**Analysis**

**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 following shows the types of relief that may be imposed, depending on whether the order is interim or temporary.

An interim or a temporary protective order may order a respondent to:

- refrain from abusing or threatening to abuse any person eligible for relief;
- refrain from contacting, attempting to contact, or harassing any person eligible for relief;
- refrain from entering the residence of any person eligible for relief;
- vacate the home immediately, as specified and in certain cases, award temporary use and possession of the home to the person eligible for relief;
- remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members; and
- comply with an award of temporary possession of a pet of the person eligible for relief or the respondent.

An interim protective order may:

- if child abuse is alleged, award temporary custody of a minor child of the respondent and the person eligible for relief; or
- if a person eligible for relief and the respondent are residing together at the time of the alleged abuse, award temporary custody of any child of the person eligible for relief and the respondent then residing in the home.

A temporary order may order a respondent to

- remain away from a child care provider of the person eligible for relief while the child is in the provider's care; or
- comply with an award of temporary custody of a child of the person eligible for relief and the respondent.

In addition, a temporary protective order may require a respondent to surrender any firearms for the duration of the order and to refrain from possessing any firearm under specified circumstances.

A law enforcement officer must immediately serve an interim or temporary protective order on the respondent. An interim protective order is effective until the earlier of (1) the temporary protective order hearing; or (2) the end of the second business day the Office of the Clerk of the District Court is open following the issuance of the interim protective order. The temporary protective order is effective a maximum of seven days after service of the order. A judge is authorized to extend the temporary protective order as needed to effectuate service of the order where necessary to provide protection or for

other good cause. An extension of a temporary protective order may not exceed six months. A temporary protective order must state the date and time of the final protective order hearing.

An individual who does not meet the specified relationship requirements under protective order statutes may file a petition for a peace order with the District Court or the District Court commissioner (if the Office of the District Court Clerk is not open) 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 commissioner or 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 commissioner or judge may issue an interim or temporary peace order, respectively, to protect the petitioner. The order must contain only the relief that is minimally necessary to protect the petitioner. An interim or a temporary peace order can order a respondent to (1) refrain from certain behavior and conduct; (2) refrain from contacting, attempting to contact, harassing, or approaching the petitioner; or (3) stay away from specific locations.

An interim peace order is effective until the earlier of (1) the temporary peace order hearing; or (2) the end of the second business day the Office of the Clerk of the District Court is open following the issuance of the interim peace order. 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 to effectuate service of the order or for other good cause. The temporary peace order must state the date and time of the final peace order hearing.

**Background:** Because temporary peace orders and temporary protective orders expire on the day on which the final peace order or final protective order hearing is scheduled (and interim peace or protective orders expire on the day on which the temporary peace order or protective order hearing is scheduled), the bill is intended to ensure that an order will not expire in case of an unplanned court closing due to inclement weather or other reasons.

In fiscal 2010, the circuit courts granted 2,636 temporary protective orders. In fiscal 2010, the District Court granted 15,567 temporary protective orders and 16,462 temporary peace orders. The District Court also granted 11,241 interim protective orders and 6,575 interim peace orders in fiscal 2010.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 21, 2012  
ncs/kdm Revised - House Third Reader - March 26, 2012

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