

Department of Legislative Services
2014 Session

FISCAL AND POLICY NOTE

House Bill 352

(Delegate Valentino-Smith, *et al.*)

Judiciary

Judicial Proceedings

Peace Orders and Protective Orders - Penalties - Second or Subsequent Offenses

This bill establishes that a prior conviction for failing to comply with specified provisions in an interim, temporary, or final peace order qualifies as a prior offense for the purpose of determining penalties for a second or subsequent violation of an interim, temporary, or final protective order. It also establishes that a prior conviction for failing to comply with specified provisions in an interim, temporary, or final protective order qualifies as a prior offense for the purpose of determining penalties for a second or subsequent violation of an interim, temporary, or final peace order.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the expanded eligibility for enhanced penalties for subsequent offender status.

Local Effect: Potential minimal increase in revenues and expenditures due to the expanded eligibility for enhanced penalties for subsequent offender status.

Small Business Effect: None.

Analysis

Current Law:

Protective Orders

A “person eligible for relief” alleging abuse may file a petition for a protective order. A “person eligible for relief” includes (1) a current or former spouse of the respondent; (2) a cohabitant of the respondent; (3) a person related to the respondent by blood, marriage, or adoption; (4) a parent, stepchild, child, or stepchild of the respondent or the person

eligible for relief who resides with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition; (5) a vulnerable adult; or (6) an individual who has a child in common with the respondent.

In addition to other relief specified in statute, an interim, temporary, or final protective order granted by the court may:

- order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;
- order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;
- order the respondent to refrain from entering the residence of any person eligible for relief;
- in certain cases, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief; and
- 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.

In addition, a temporary order may order the respondent to surrender any firearms for the duration of the order and refrain from possessing any firearms under specified circumstances. A final protective order *must* order the respondent to surrender any firearms and to refrain from the possession of any firearms for the duration of the order.

A person who fails to comply with the relief specified above is guilty of a misdemeanor and subject to a fine not exceeding \$1,000 and/or imprisonment not exceeding 90 days for a first offense and a \$2,500 fine and/or one year imprisonment for a second or subsequent offense.

Peace Orders

An individual who does not meet the relationship requirements of a “person eligible for relief” may file a petition for a peace order 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.

In addition to other relief that may be included in a final peace order, an interim, temporary, or final peace order may order the respondent to (1) refrain from committing or threatening to commit specified acts; (2) refrain from contacting, attempting to contact, or harassing the petitioner; (3) refrain from entering the residence of the petitioner; or (4) remain away from the place of employment, school, or temporary residence of the petitioner.

An individual who fails to comply with these 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 for a first offense and a \$2,500 fine and/or one year imprisonment for a second or subsequent offense.

Additional Information

Prior Introductions: None.

Cross File: SB 369 (Senator Stone) - Judicial Proceedings.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of State Police; Office of the Public Defender; Department of Public Safety and Correctional Services; State's Attorneys' Association; Baltimore, Carroll, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Department of Legislative Services

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mc/kdm

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