

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 309
Judiciary

(The Speaker, *et al.*) (By Request - Administration)

Judicial Proceedings

Family Law - Domestic Violence - Permanent Final Protective Orders

This Administration bill expands the circumstances under which a permanent final protective order must be issued by requiring a court to issue an order against an individual who is *sentenced to serve* a term of imprisonment of at least five years for specified underlying acts of abuse and has served at least 12 months. The bill also adds the crime of second degree assault to the list of crimes, the commission of which subjects an individual to the issuance of a permanent final protective order.

Fiscal Summary

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

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

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: A victim of abuse who was the person eligible for relief in an original final protective order may request the issuance of a new final protective order. A court must issue a new final protective order against an individual if (1) the individual was previously a respondent against whom a final protective order was issued and (2) the individual was convicted and *served* a term of imprisonment of at least five years for attempted murder in the first or second degrees, first degree assault, first or second degree

rape, first or second degree sexual offense, or attempted rape or sexual offense in the first or second degree. The specified crimes must have been the act of abuse that led to the issuance of the original final protective order.

Unless terminated at the request of the victim, a new final protective order issued under these provisions is permanent. A new final protective order may contain only the relief that was granted in the original order that required the respondent to refrain from abusing or threatening to abuse the person eligible for relief or to refrain from contacting, attempting to contact, or harassing the person eligible for relief.

Pursuant to § 3-203 of the Criminal Law Article, a person is prohibited from committing an assault. A violator is guilty of the misdemeanor of second degree assault and subject to imprisonment for up to 10 years and/or a maximum fine of \$2,500. Assault means the crimes of assault, battery, and assault and battery, which are defined through case law. A person commits a felony second degree assault if he/she intentionally causes physical injury to another if the person knows or has reason to know that the other is a law enforcement officer or parole or probation agent engaged in the performance of the officer/agent's official duties. "Physical injury" means any impairment of physical condition, excluding minor injuries. Violators are subject to imprisonment for up to 10 years and/or a maximum fine of \$5,000.

Background: According to the *2012 Uniform Crime Report*, 17,615 domestic violence crimes were reported in Maryland, a 3% decrease compared to the calendar 2011 total of 18,209. Assault was by far the most frequently reported crime, with 16,269 incidents in calendar 2012. Of reported assaults, simple assaults comprised 13,384 incidents. Aggravated assaults totaled 2,881, or 18%, of the reported domestic violence assaults for the same period.

In fiscal 2012 (the latest information readily available), the circuit courts granted 2,082 temporary protective orders and 1,412 final protective orders. In fiscal 2013, the District Court granted 15,832 temporary protective orders and 7,250 final protective orders. As of September 1, 2012 (the latest information readily available), there have been 21 petitions for permanent protective orders filed. Of those, five were granted, with the remainder being denied, dismissed, or rescinded.

State/Local Fiscal Effect: The bill's changes do not materially impact the workload of the District Court or circuit courts. Any minimal computer reprogramming costs for the Judiciary in fiscal 2015 can be absorbed within existing budgeted resources. State and local law enforcement can process and enforce any additional permanent protective orders issued under the bill's provisions using existing budgeted resources.

Additional Information

Prior Introductions: SB 417 of 2013 passed the Senate as amended and received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, HB 853, passed the House and passed the Senate as amended. A conference committee was appointed but failed to reach agreement before the end of the legislative session.

Cross File: SB 334 (The President, *et al.*) (By Request - Administration) - Judicial Proceedings.

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

Fiscal Note History: First Reader - January 24, 2014
ncs/kdm Revised - House Third Reader - March 11, 2014

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law – Domestic Violence – Permanent Final Protective Order

BILL NUMBER: Senate Bill 334/House Bill 309

PREPARED BY: Governor's Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.