

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 390
 Judiciary

(Delegate Atterbeary, *et al.*)

Judicial Proceedings

Protective Order and Peace Order Petitions - Maryland Residents

This bill specifically authorizes the filing of a protective order petition or a peace order petition if (1) the abuse or underlying act is alleged to have occurred in the State or (2) the petitioner or the person eligible for relief is a resident of the State, regardless of where the abuse or underlying act is alleged to have occurred. The bill also specifies that it is the intent of the General Assembly that an order for protection issued by a court of this State must be accorded full faith and credit by a court of another state to the extent required by federal law.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$62,200 in FY 2016 only for programming changes. Otherwise, the bill’s changes can be implemented and enforced using existing resources. Revenues are not affected.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	62,200	0	0	0	0
Net Effect	(\$62,200)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

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

Small Business Effect: None.

Analysis

Current Law:

Protective Orders

Only a “person eligible for relief” may file a petition for a protective order under the Family Law Article. A “person eligible for relief” includes:

- a 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 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.

In a domestic violence proceeding, if a judge finds by a preponderance of the evidence that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

All relief granted in a final protective order is effective for the period stated in the order, generally up to a maximum of 12 months. A final protective order may be issued for up to two years if it is issued against a respondent for an act of abuse committed within one year after the date that a prior final protective order issued against the same respondent on behalf of the same person eligible for relief expired, if the prior final protective order was issued for a period of at least six months. In limited circumstances specified by statute, the court may issue a permanent protective order that requires the respondent to refrain from abusing or threatening to abuse the person eligible for relief or refrain from contacting, attempting to contact, or harassing the person eligible for relief.

A subsequent circuit court order pertaining to any of the provisions in the final protective order supersedes those provisions in the final protective order. A final protective order may be modified or rescinded during its term after giving notice to all affected persons eligible for relief and the respondent and after holding a hearing. For good cause shown, a judge may extend the term of a protective order for six months beyond the specified period after giving notice to all affected persons eligible for relief and the respondent and after a hearing. A final protective order may also be extended for two years if, under specified circumstances, the court finds by a preponderance of the evidence that the respondent named in the protective order committed a subsequent act of abuse against a person eligible for relief who was named in the protective order.

A person who violates specified provisions of a final protective order, including the surrender of firearms, 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.

Peace Orders

An individual who does not meet the requirements of a “person eligible for relief” under protective order statutes may file a petition for a peace order with the District Court or the 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. Underlying acts for which an individual may seek relief by petitioning for a peace order include (1) an act that causes serious bodily harm; (2) an act that places the petitioner in fear of imminent serious bodily harm; (3) assault in any degree; (4) rape or sexual offenses, as specified, or attempted rape or sexual offense in any degree; (5) false imprisonment; (6) harassment; (7) stalking; (8) trespass; or (9) malicious destruction of property.

After a final peace order hearing, if a judge finds by a preponderance of the evidence that the respondent has committed, and is likely to commit in the future, one of the specified 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. 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 for a first offense and a \$2,500 fine and/or one year imprisonment for a second or subsequent offense.

Full Faith and Credit

An “order for protection,” as specified, issued by a court of another state or a Native American tribe must be accorded full faith and credit by a court of this State and enforced to the extent that the order affords relief that is permitted pursuant to State law regarding temporary or final protective orders.

Pursuant to the federal Violence Against Women Act, any order for protection meeting specified requirements that is issued by the court of one state, Native American tribe, or territory (the issuing jurisdiction) must be accorded full faith and credit by the court of another state, tribe, or territory and enforced by the court and law enforcement personnel as if it were the order of the enforcing jurisdiction. “Full faith and credit” requirements apply to any order for protection entered pursuant to a complaint, petition, or motion filed by or on behalf of a person seeking protection if (1) the issuing court has jurisdiction over the parties and subject matter under the law of the state, tribe, or territory and (2) notice and an opportunity to be heard is given to the person against whom the order is sought.

Background: According to the *2013 Uniform Crime Report*, 27,785 domestic violence crimes were reported in Maryland. Assault was by far the most frequently reported crime, with 25,188 incidents in calendar 2013. Of reported assaults, simple assaults comprised 20,422 incidents. Aggravated assaults totaled 4,760, or approximately 19%, of the reported domestic violence assaults for the same period. There were 54 domestic violence homicides. Although the number of domestic violence crimes increased considerably from the 2012 report (in which 17,615 domestic violence crimes were reported), the State Uniform Crime Reporting program expanded the definition of domestic violence to include additional relationships in 2013.

Prior to 2013, the only reported relationships between domestic violence victims and offenders were husbands, wives, and cohabitants. The *2013 Uniform Crime Report* was revised to include statistics for any crime committed by an offender against a victim (1) who is a “person eligible for relief,” as defined in the protective order statutes, or (2) who had a sexual relationship with the offender within 12 months before the commission of the crime. Homosexual relationships are also included.

In fiscal 2013 (the latest information readily available), the circuit courts granted 1,919 temporary protective orders and 1,425 final protective orders. In fiscal 2014, the District Court granted 14,983 temporary protective orders and 6,841 final protective orders. In the same year, 19,784 peace order cases were filed in the District Court; the District Court granted 7,518 interim peace orders, 16,644 temporary peace orders, and 6,501 final peace orders.

Additional Information

Prior Introductions: None.

Cross File: SB 270 (Senator Lee, *et al.*) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, National Center on Protection Orders and Full Faith and Credit, Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2015
min/kdm Revised - Enrolled Bill - April 27, 2015

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510