

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 263
 Judiciary

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

Judicial Proceedings

Domestic Violence - Permanent Protective Orders - Conspiracy or Solicitation to Commit Murder

This bill expands the circumstances under which a court is required to issue a permanent final protective order to include the conviction of an individual for conspiracy or solicitation to commit murder if the individual was convicted and sentenced to serve a term of imprisonment of at least five years and the individual has served at least 12 months of the sentence.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$11,600 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	11,600	0	0	0	0
Net Effect	(\$11,600)	\$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:

Permanent Protective Orders

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 sentenced to serve a term of imprisonment of at least five years for attempted murder in the first or second degrees, first- or second-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.

Conspiracy or Solicitation to Commit Murder

Under the common law, solicitation involved urging, advising, or otherwise inciting another person to commit a crime. Solicitation, like an attempt to commit a crime or a conspiracy to commit a crime, is referred to as an “inchoate” crime. Inchoate crimes reflect steps taken toward the commission of another crime (the substantive crime), that are serious enough that they are considered criminal behavior worthy of punishment. Under the common law, solicitation is a misdemeanor regardless of whether the substantive crime that is the basis of the solicitation is a misdemeanor or felony. Conspiracy is a combination by two or more persons to accomplish a criminal or unlawful act, or to do a lawful act by criminal or unlawful measure. (*See, e.g., Quaglione v. State*, 15 Md. App. 571 (1972)). The maximum penalty for an attempt or conspiracy to commit a crime is the maximum penalty for the crime that is the subject of the attempt or conspiracy.

A murder is in the first degree if it is (1) a deliberate, premeditated, and willful killing; (2) committed by lying in wait; (3) committed by poison; or (4) committed in the perpetration of or an attempt to perpetrate specified crimes, including first-degree arson, burglary in the first through third degrees, kidnapping, carjacking, rape, or a first- or second-degree sexual offense. First-degree murder is a felony punishable by imprisonment for life or imprisonment for life without the possibility of parole. A murder that is not in

the first degree is considered second-degree murder, a felony punishable by imprisonment for up to 30 years.

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 addition to current and former spouses and cohabitants, a “person eligible for relief” within the protective order statute includes (1) individuals related by blood, marriage, or adoption; (2) 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 specified time periods; (3) vulnerable adults; and (4) individuals with a child in common.

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. Although specific statistics are not readily available, the Judiciary advises that, due to the limited circumstances under which they are available, very few permanent protective orders are issued per year.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 25, 2015
min/kdm

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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.