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FISCAL AND POLICY NOTE
 Revised

House Bill 224
 Judiciary

(Delegate Dumais, *et al.*)

Judicial Proceedings

Domestic Violence - 2-Year Protective Order

This bill expands the circumstances under which a court may issue a final protective order with a maximum duration of two years by authorizing a court to do so if a final protective order is issued by consent of the respondent within one year after the expiration date of a prior final protective order issued against the same respondent on behalf of the same person eligible for relief. An existing requirement that the prior final protective order must have been issued for a period of at least six months applies to protective orders issued under the bill’s provisions. The bill also expands the circumstances under which a court may extend the term of a final protective order for a maximum of two years by authorizing a court to do so if the respondent named in the protective order consents to the extension.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$50,000 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	50,000	0	0	0	0
Net Effect	(\$50,000)	\$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: 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.

A final protective order may order the 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;
- remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members; or
- remain away from a child care provider of a person eligible for relief while the child is in the provider's care.

A final protective order may also:

- 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;
- award temporary custody of a minor child of the respondent and a person eligible for relief;
- establish temporary visitation with a minor child of the respondent and a person eligible for relief under certain conditions;
- award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support;
- award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief under certain conditions;
- order the respondent to participate in professionally supervised counseling or a domestic violence program (such order may also apply to any or all of the persons eligible for relief);
- order the respondent to pay filing fees and costs of the proceeding; or

- award temporary possession of any pet belonging to the person eligible for relief or the respondent.

The court may only grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief if the person eligible for relief is listed on the lease or deed to the home or has shared the home with the respondent for a period of at least 90 days within one year before the filing of the petition.

The final protective order must require the respondent to surrender to law enforcement authorities any firearm in the respondent's possession and to refrain from possession of any firearm for the duration of the protective order.

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.

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.

Additional Information

Prior Introductions: None.

Cross File: SB 315 (Senator Ramirez, *et al.*) – Judicial Proceedings.

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

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