

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 227 (Delegate Angel, *et al.*)
 Judiciary

Family Law - Domestic Violence - Definition of Abuse

This bill expands the definition of “abuse” as it applies to petitions for domestic violence protective orders to include harassment, trespassing, and the malicious destruction of property if the person eligible for relief has not resided with the respondent for at least seven days before the filing of the petition. The bill makes the acts for which a protective order can be issued the same as the underlying acts for a peace order.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$11,600 in FY 2016 only for programming changes. Otherwise, the bill is not anticipated to materially impact the workload of the Judiciary. The enforcement of additional protective orders can also be handled using existing budgeted 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 does not materially impact the workload of the circuit courts. The enforcement of additional protective orders can also be handled using existing budgeted resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: An individual may seek relief from “abuse” by filing a petition for a protective order with the court, or if the clerk’s office is closed, with a District Court commissioner.

“Abuse” is defined as:

- an act that causes serious bodily harm;
- an act that places a person eligible for relief in fear of imminent serious bodily harm;
- assault in any degree;
- rape or sexual offense or attempted rape or sexual offense in any degree;
- false imprisonment; or
- stalking.

If the person for whom relief is sought is a child, “abuse” may also include abuse of a child as defined in statute. “Abuse” may also include abuse of a vulnerable adult, as defined in statute, if the person for whom relief is sought is a vulnerable adult.

“Harassment” is following another in or about a public place or maliciously engaging in conduct that alarms or seriously annoys the other (1) with the intent to harass, alarm, or annoy; (2) without a legal purpose; and (3) after receiving a reasonable request or warning to stop the behavior. Harassment is a misdemeanor, and a violator is subject to maximum penalties of 90 days imprisonment and/or a fine of \$500 for a first offense or 180 days imprisonment and/or a \$1,000 fine for a second or subsequent violation.

“Trespass” generally means entering on property that is posted conspicuously against trespass or entering, crossing over, or remaining on private property after having been notified by the owner or the owner’s representative not to do so. The crime is a misdemeanor. The maximum penalties for violation of the trespass laws are 90 days imprisonment and/or a \$500 fine for a first violation, six months imprisonment and/or a \$1,000 fine for a second violation within two years after the first violation, or one year imprisonment and/or a \$2,500 fine for each subsequent violation occurring within two years after the preceding violation.

“Malicious destruction of property” is generally the willful and malicious destruction, injury, or defacement of the real or personal property of another. Property damage of less than \$1,000 is a misdemeanor, and a violator is subject to maximum penalties of 60 days imprisonment and/or a fine of \$500. Property damage of at least \$1,000 is a misdemeanor, and a violator is subject to maximum penalties of three years imprisonment and/or a \$2,500 fine.

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.

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.

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 also 377 reported cases of domestic violence involving the malicious destruction of property. The offenses of harassment and trespassing are not specifically tracked by the Department of State Police for reporting on domestic violence crimes. 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.

Additional Information

Prior Introductions: HB 416 of 2011, a similar bill, received an unfavorable report from the House Judiciary Committee. Its cross file, SB 653, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State Prosecutor's Office, State's Attorneys' Association, Department of State Police, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2015
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