

Department of Legislative Services
2016 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 534

(Delegate Sanchez, *et al.*)

Judiciary

Judicial Proceedings

Family Law - Protective Orders - Notification of Service - Sunset Repeal

This bill repeals the termination date for provisions of law that established a system for the Department of Public Safety and Correctional Services (DPSCS) to notify a petitioner of the service of a protective order.

Fiscal Summary

State Effect: DPSCS can continue the notification program with existing resources.

Local Effect: Local law enforcement agencies can continue providing notifications with existing budgeted resources.

Small Business Effect: None.

Current Law:

Notification of Protective Orders: A law enforcement officer is required to electronically notify DPSCS of the service of an interim or temporary protective order on the respondent within two hours after the service. If the petitioner has requested notification of the service of a protective order, DPSCS must (1) notify the petitioner of the service on the respondent of an interim or a temporary protective order within one hour after a law enforcement officer electronically notifies DPSCS of the service and (2) notify the petitioner of the service on the respondent of a final protective order within one hour after knowledge of service of the order on the respondent. The requirement for DPSCS to notify the petitioner upon request of the service of a protective order within the specified time limits and the requirement for law enforcement serving such orders to notify DPSCS within the specified time limits terminate on December 31, 2016, unless legislation is enacted to continue the requirements.

Obtaining a Protective Order: 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. The interim protective order must state the date, time, and location for a temporary protective order hearing. A law enforcement officer is required to serve a respondent immediately on receipt of a petition and interim protective order and immediately make a return of service to the commissioner's office, or, if the Office of the District Court Clerk is open for business, to the clerk.

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. Unless a respondent has already been served with an interim protective order, a law enforcement officer must immediately serve the temporary protective order on the respondent. A respondent who has been served with an interim protective order must be served with the temporary protective order in open court or, if the respondent is not present at the temporary protective order hearing, by first-class mail at the respondent's last known address.

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. The maximum duration of a final protective order is generally one year, but may have a duration of up to two years, or be made permanent, under specified circumstances. A copy of the final protective order must be served on the respondent in open court or, if the respondent is not present at the final protective order hearing, by first-class mail to the person's last known address.

Background: Pursuant to Chapter 711 of 2009, DPSCS was required to develop an electronic notification system so that law enforcement officers serving interim and temporary protective orders could notify DPSCS of service within specified time limits.

Chapter 711 took effect January 1, 2010, and was contingent on the receipt, by January 1, 2010, of federal funds under the American Recovery and Reinvestment Act of 2009 by the Governor's Office of Crime Control and Prevention. The contingency was met, and the required electronic notification system was developed by DPSCS. The Act further specified that if the funding contingency was met, the Act would remain in effect for two years (until December 31, 2011). Chapter 103 of 2011 extended the termination date by two years to December 31, 2013. Chapter 79 of 2013 extended the termination date for an additional three years to December 31, 2016.

In fiscal 2014 (the latest information readily available), the circuit courts granted 1,795 temporary protective orders and 1,287 final protective orders. In fiscal 2015, the District Court granted 10,598 interim protective orders, 14,732 temporary protective orders, and 6,832 final protective orders.

Additional Information

Prior Introductions: None.

Cross File: SB 924 (Senator Ramirez) - Judicial Proceedings.

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

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