

SHRM_Brown_FAV_SB846

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Position: FAV



Maryland SHRM State Council, Inc.

Testimony in Support of SB846

“Peace Orders – Workplace Violence”

Submitted to the Senate Judicial Proceedings Committee

March 11, 2020

Chairman Smith and Members of the Committee:

My name is Cheryl Brown and I’m testifying on behalf of the Maryland Society for Human Resource Management State Council, Inc. Maryland SHRM represents more than 7,000 members of the Society for Human Resource Management (SHRM) across the state. HR professionals are intimately aware of the threat and realities of workplace violence.

We strongly support SB846 that, if enacted into law, would provide employers standing to seek a peace order to protect an employee and others in their organizations from an imminent threat of harm while at the workplace. Last month, the House passed HB126, 130-0.

According to the U.S. Bureau of Labor Statistics, in 2017, 458 people were fatally injured in work-related attacks. That’s about 9% of the 5,147 workplace deaths that year. Workplace violence is the third leading cause of death for healthcare workers, and employees in professional and business services like education, law and media, according to *Injury Facts 2016*¹. Of the 50 active shooter incidents that occurred in the U.S. in 2016 and 2017, 3 of them occurred in Maryland. Maryland was the 5th highest state of active shooter incidents in the country.²

In Maryland in 2018 alone, businesses lost a number of employees to active shooter situations by either an employee, a former disgruntled employee or an unhappy customer. 6 people shot and 3 killed at Advanced Granite Solutions in Edgewood; 7 people shot and 3 killed at a Rite Aid shooting in Aberdeen, 5 people killed and several others injured at the Capital Gazette shooting in Annapolis.

In 2019, SHRM lost two HR professionals in a workplace violence shooting by a disgruntled employee who killed 5 employees and injured 5 others at a worksite in

¹ <https://injuryfacts.nsc.org/work/work-overview/work-related-fatality-trends/>

² “Active Shooter Incidents in the United States in 2016 and 2017”, U.S. Dept. of Justice, Federal Bureau of Investigation, 2018.

Aurora, IL³. Most recently, 5 employees were shot by their co-worker in Milwaukee. And last year a former employee at a municipal building in Virginia Beach killed 12 people.

To date, at least 11 states have enacted Workplace Restraining Order Laws allowing the employer to apply for a restraining or peace order prohibiting acts of violence at the employer's workplace⁴. In Maryland, the employer does not have standing to seek a peace order if it is aware that one or more of its employees is threatened with an imminent harm at the workplace.

Maryland Occupational Safety and Health (MOSH) covers every Maryland employer in a business, trade, commercial or industrial activity, who has one or more employees, including State and local governments. MOSH's mission is to promote and assure workplace safety and health, and reduce workplace fatalities, injuries and illnesses.

The enactment of SB846 into law will provide MD employers with another tool to protect the health and safety of their employees at the workplace. This bill is not a mandate on employers. Rather; it will allow an employer the opportunity to decide whether or not seeking a peace order makes sense for their organization. The bill also provides a safeguard from any civil liability an employer for failure to file a petition on behalf of an employee should an incident occur.

Under current law, the court can issue a peace order filed by the individual if it finds by a preponderance of the evidence that the aggressor engaged in or threatened unlawful violence. If the employer has the ability to seek a peace order, that action might take the pressure off the victim and could result in protecting others in the workplace at the same time.

SB846 would provide employees and their employers with the opportunity to secure the work environment when a potential threat to either or both exists. SB846 will bar the aggressor from: "entering the workplace, following an employee and/or contacting the employee by any means."

Often, HR professionals and employers have first-hand knowledge of an imminent threat of harm, as they are the ones who are charged with terminating employees; HR professionals are the ones who hear complaints from other co-workers, who witness the emotions of a disgruntled or angry employee and observe the impact that threats of violence have on an employee's performance and attendance in the workplace. The passage of SB846 would provide employers a way to deter workplace violence from even entering the workplace when they are aware that a threat exists.

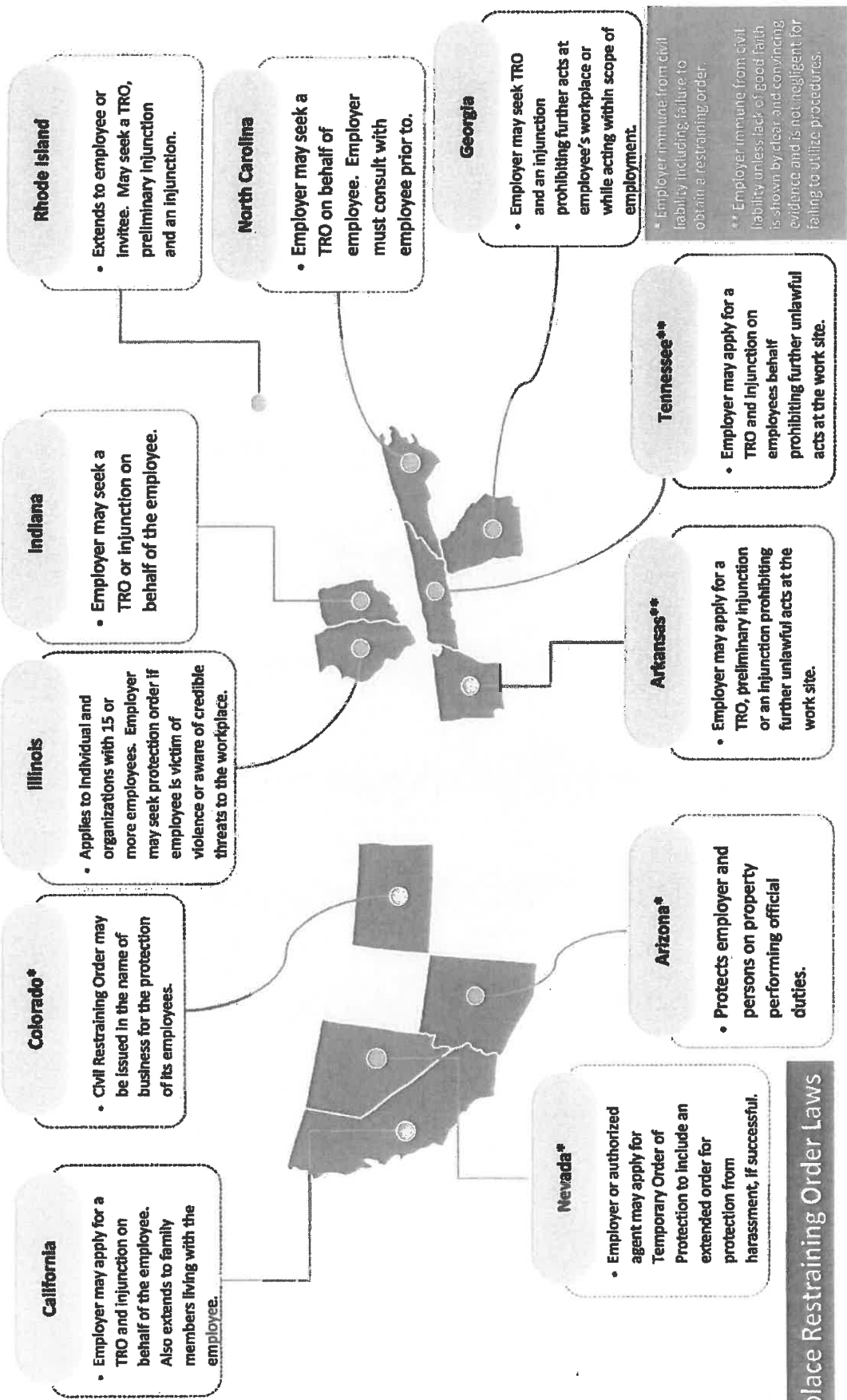
MD SHRM strongly urges your favorable consideration of SB846.

Respectfully submitted,

Cheryl U. Brown, Esq.
MD SHRM Governmental Affairs, Chair

³ Smith, Allen, "A Workplace Shooting Is Every HR Professional's Fear." February 19, 2019, SHRM.

⁴ See attached Map of the United States showing states with Workplace Violence laws, SHRM 2019.



Workplace Restraining Order Laws

Several states have proposed or enacted laws allowing employers to apply for restraining orders to prevent violence, harassment, or stalking of their employees. The laws vary in significant ways, such as whether the employer may seek a restraining order or injunction on behalf of itself rather than on behalf of the employee, and whether an employee who is the target of violence must be consulted prior to the employer's seeking a restraining order.

STATE LAWS

ARIZONA: Ariz. Rev. Stat. § 12-1810.

Allows an employer or an authorized agent of an employer to petition for an injunction prohibiting workplace harassment on behalf of the employer or "any person who enters the employer's property or who is performing official work duties." The employer must make a good faith effort to provide notice to the person(s) targeted. The law specifies that it does not change the duties of the employer to provide a safe workplace, and that the employer will be immune from civil liability for seeking/not seeking an injunction except if it seeks injunction for illegitimate purposes.

ARKANSAS: Ark. Code § 11-5-115. [*click open Arkansas Code; click open Title 11; click open Chapter 5; then click open Subchapter 1; then click on 11-5-115*]

Provides that "if an employer or employer's employee or invitee" has been a victim of unlawful violence, received a threat of violence that could be carried out at the work site, or been stalked or harassed by an individual at the work site, the employer may, in addition to or instead of filing criminal charges against the individual, seek a temporary restraining order (TRO), a preliminary injunction, or an injunction prohibiting further unlawful acts by that individual at the work site. The law specifies that the employer will be immune from civil liability for actions taken under the statute unless lack of good faith is shown by clear and convincing evidence, and any employer that does not seek such a restraining order "shall not be liable for negligence, nor shall evidence of the same be admissible as evidence of negligence."

CALIFORNIA: Cal. Civ. Proc. Code § 527.8 & § 527.85.

If an employee has suffered violence or a credible threat of violence that can "reasonably be construed to be carried out or to have been carried out at the workplace," the employer may apply for a TRO and injunction prohibiting an individual from carrying out further acts of unlawful violence or threats against the employee. The TRO and/or injunction may also include "other named family or household members who reside with the employee." The law states that it does not change the duties of the employer. Section 527.85 expands the reach of the act to private postsecondary educational institutions. The chief administrative officer or designated employee of such an institution may seek a temporary restraining order and an injunction, on behalf of a student or students at the campus, if the student has suffered a credible threat of violence made off the campus by any individual which can reasonably be construed to be carried out or to have been carried out at the school campus or facility. The school official seeking the order must first obtain the written consent of the student who received the threats.

COLORADO: Colo. Rev. Stat. 13-14-102(4)(B). [*click open Colorado Revised Statutes; click open Title 13; click on Civil Protection Orders; click on Article 14; then click on 13-14-102*].

A court, upon finding that "an imminent danger exists to the employees of a business entity," may issue a

civil restraining order in the name of the business for the protection of the employees. The law specifies that the employer shall not be subjected to liability for failure to obtain a restraining order under this law.

GEORGIA: Ga. Code Ann. § 34-1-7. [*click open Georgia Code; click open Title 34; click open Chapter 1; click open 34-1-7*]

“Any employer whose employee has suffered unlawful violence or a credible threat of violence from any individual, which can reasonably be construed to have been carried out at the employee’s workplace,” may seek a TRO and an injunction on behalf of the employer prohibiting further unlawful violence or threats “at the employee’s workplace or while the employee is acting within the course and scope of employment with the employer.” The court may grant a TRO if the petitioner demonstrates that “great or irreparable harm shall result to an employee if such an injunction is not granted.” The law specifies that it does not change the duties of the employer.

INDIANA: Ind. Code § 34-26-6.

On behalf of an employee, an employer may seek a TRO or injunction prohibiting further violence or threats of violence if: “(1) the employee has suffered unlawful violence or a credible threat of violence from the person; and (2) the unlawful violence has been carried out at the employee’s place of work or the credible threat of violence can reasonably be construed to be carried out at the employee’s place of work.” The law specifies that it does not change the duties of the employer.

MAINE: Me. Rev. Stat. tit. 5, §§ 4651 and 4655. A court in Maine may make a protective order directing someone “to refrain from harassing, threatening, assaulting, molesting, attacking or otherwise abusing the plaintiff or the plaintiff’s employees” and to stay away from the plaintiff, avoid interfering with the plaintiff’s property, avoid contacting the plaintiff, and pay plaintiff compensatory damages. Harassment is defined as “[t]hree or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person, family or business that are made with the intention of causing fear, intimidation or damage to personal property and that do in fact cause fear, intimidation or damage to personal property.”

NEVADA: Nev. Rev. Stat. § 33.200-.360.

An employer or an authorized agent of an employer may apply for a temporary order for protection (TOP) and, if successful, an extended order for protection against “harassment in the workplace.” If an employer has knowledge that a specific person is the target of harassment in the workplace, the employer shall make a “good faith effort” to notify the person who is the target that the employer intends to seek an order for protection. “Harassment in the workplace” is defined as occurring when a person knowingly injures or harms, or threatens to injure or harm, the property or the physical or mental health or safety of a person and the action is targeted against an employer, an employee of the employer while the employee performs his or her duties of employment, or a person present at the workplace of the employer. The law specifies that it does not change the duties of the employer, and that the employer will be immune from civil liability for seeking an injunction if acting in good faith, and immune from liability for failure to seek an injunction.

NORTH CAROLINA: N.C. Gen. Stat. § 95-261.

An employer may seek a civil no-contact order on behalf of an employee who has been subject to unlawful conduct, such as physical injury or threats of violence, at the workplace. Prior to seeking such an order, the employer must consult with the employee who is the target of the violence to determine whether the employee’s safety would be jeopardized by participating in the process. An employee who is the target cannot be disciplined based on their involvement or lack of involvement in the process.

RHODE ISLAND: R.I. Gen. Laws § 28-52-2.

If an employer or an employer’s employee or invitee has (1) suffered unlawful violence by an individual; or (2) received a threat of violence by an individual which can reasonably be construed as a threat which may be carried out at the worksite; or (3) been stalked or harassed at the worksite, the employer may seek a TRO, a

preliminary injunction, and an injunction (“in addition to, or instead of, filing criminal charges”). The law specifies that the employer will be immune from civil liability for actions taken under the statute unless lack of good faith is shown by clear and convincing evidence, and that the employer is not negligent for failing to utilize the procedures.

TENNESSEE: Tenn. Code §§ 20-14-101 to -109 [*click open Tennessee code; click on Title 20, then Chapter 14*]
An employer whose employee has experienced violence or a credible threat of violence that can reasonably be construed to have taken place in the employee’s workplace may seek a TRO and injunction on behalf of the employer, prohibiting “further unlawful violence or threats of violence by that individual at the employee’s workplace or while the employee is acting within the course and scope of employment with the employer.” The law specifies that it does not change the duties of the employer to provide a safe workplace.

RECENT LEGISLATIVE PROPOSALS

The following legislation has been introduced in the current or prior legislative sessions. The contents of the bills vary and the status of a particular bill may change very quickly. For more information about each bill, check your legislature’s website.

CONNECTICUT: H.B. 5496, Gen. Assemb. Feb. Sess. (Ct. 2010).

This bill would allow an employer, whose employee has suffered from unlawful violence or a credible threat of violence from any individual that can reasonably be construed to be carried out or to have been carried out at the workplace, to seek a restraining order on behalf of the employee and any other employees or animals at the workplace. The employer must provide a sworn affidavit about the threat or violence, and a hearing on the application will be held within 14 days. If the employer alleges an immediate and present physical danger, the court may issue an ex parte order. The bill died in committee.

FLORIDA: S.B. 200, 108th Reg. Sess. (Fla. 2006).

This bill would provide standing for a government employer to seek an injunction on behalf of an employee who is suffering from at least two incidents of violence or stalking in a public workplace. This bill is very similar to S.B. 512, introduced in 2005. This bill died in committee.

HAWAII: H.B. 2028, 26th Leg. (Haw. 2012).

This bill, entitled the “Hawaii Workplace Violence Prevention Act,” would allow an employer to petition for an ex parte restraining order or preliminary or permanent injunction in the circuit court of the employer’s principal place of business against an individual, including a co-worker, who subjects an employee to violence or a threat of violence at the workplace. No civil liability shall exist for an employer to fail to invoke the provisions of this bill. In contrast to a prior similar bill, H.B. 2940 (2010), there is no provision requiring an employer to consult an employee prior to filing a petition. Rather, the bill provides that a presumption exists that violence or a threat of violence constitutes “irreparable harm.” H.B. 2028 § 5(d). This bill also provides that an employee may apply for relief relating to workplace violence in the circuit court in which the employee resides on behalf of him or herself, or immediate family or household members. As of January 19, 2012, this bill was set for subsequent referral to the House Committee on Finance.

KENTUCKY: H.B. 221, 2003 Reg. Sess. (Ky. 2003).

“If an employer, or an employer’s employees or invitees have suffered unlawful violence...or received a threat of violence from an individual which can reasonably be construed as a threat which may be carried out at the worksite, or been stalked or harassed at the worksite, the employer may...seek a restraining order...prohibiting further unlawful acts by that individual at the worksite, which shall include any place at which work is being performed on behalf of the employer.” Not utilizing this procedure shall not be the basis for a finding of negligence, and evidence of not using it is not admissible as evidence of negligence.

Unless an employer and its agents lack good faith, as “shown by clear and convincing evidence,” they are immune from civil liability for actions taken under this section. This bill failed to win approval in the House.

MARYLAND: H.B. 1210, Reg. Sess. (Md. 2006).

The bill allows an employer to file for a peace order on behalf of an employee who has been the victim of certain unlawful acts at the workplace. The qualifying acts include: acts that cause or place the individual in fear of imminent serious bodily harm, assault, rape or sexual offense, false imprisonment, harassment, stalking, and malicious destruction of property. The bill requires the employer to “make[] a good faith effort to notify the alleged victim of the employer’s intention to seek the temporary restraining order.” The bill specifies that it does not change the duties of the employer. The bill died in committee.

MISSISSIPPI: H.B.1478, Reg. Sess. (Ms. 2013).

This bill allows an employer to file a civil action seeking a temporary restraining order or preliminary or permanent injunction against a person subjecting the employer, employee or group of employees to unlawful conduct. The employer must allege a reasonable belief that the person may carry out further “unlawful conduct” at the workplace. This bill is similar to H.B. 1359 (Ms. 2010), and sets forth that “unlawful conduct” is comprised of assault, rape, sexual battery, stalking, cyberstalking, or a credible threat of violence. This bill died in committee on March 6, 2012.

NEW JERSEY: A.1159, 213th Leg. (N.J. 2008).

An employer whose employee has been a “victim of an assault, harassment, stalking or has suffered a credible threat of violence from any individual, which can reasonably be construed to be carried out . . . at the work place” can seek a restraining order on behalf of the employee. If the alleged perpetrator of the violence or threats is also an employee of the employer, the court shall receive evidence concerning the employer’s decision to retain, terminate, or otherwise discipline that employee. An order may restrain the defendant from making “any communication likely to cause annoyance or alarm” with the victim or his or her family members, employer, or fellow workers; it may also require the defendant to pay a fine or reimburse the victim for “any reasonable medical expenses, including reasonable counseling costs” or prohibit the defendant from possessing a firearm. The Department of Labor shall develop a training course and curriculum for agencies involved in handling reports of violence in the workplace. The bill died in committee.

NEW YORK: A.B. 3280, 228th Leg. (N.Y. 2005).

Provides for the protection of employees from violence in the workplace through the use of temporary restraining orders and permanent injunctions to enjoin credible threats of violence; permits employer to seek such restraining order on behalf of an employee upon a showing that such employee has suffered unlawful violence or a credible threat. The bill specifies that it does not change the duties of the employer to provide a safe working environment. The bill died in committee.

NORTH DAKOTA: H.B. 1057, 58th Leg. Assembly (N.D. 2003).

This bill allows an employer to seek a temporary restraining order (TRO) and injunction prohibiting workplace harassment. The petition must specify the events “that constitute harassment toward the employer or any individual who enters the employer’s property or who is performing official work duties.” The court may restrain the defendant from coming near the employer’s property, contacting the employer or other individual while at the property or performing work duties, or “grant any other relief necessary for the protection of the employer, the workplace, the employer’s employees or any other individual who is on or at the employer’s property or place of business or is performing official work duties.” The bill does not “expand, diminish, alter, or modify the duty of an employer to provide a safe workplace.” “When the employer has knowledge that a specific individual is the target of harassment as defined by this section, the employer shall make a good-faith effort to provide notice to the individual that the employer intends to petition the court for a restraining order and injunction against workplace harassment.” “An employer is immune from civil liability for seeking or failing to seek a [TRO] and injunction under this section unless the

employer is seeking [them] primarily to accomplish a purpose for which this section was not designed.” The bill died in the House.

OKLAHOMA: H.B. 2395, 29th Leg., 2d Sess. (Okla. 2004).

An employer may seek an injunction prohibiting “workplace harassment” on the basis of harassment toward “the employer or any person who enters the property of the employer or who is performing official work duties.” The injunction may restrain the defendant from coming near the property of the employer or place of business and restrain the defendant from contacting the employer or “other person while that person is on or at the property of the employer or place of business or is performing official work duties,” as well as grant “any other relief necessary” to protect the subject of the harassment. When an employer has knowledge that a specific person is the target of the harassment, the employer “shall make a good faith effort to provide notice” to that person that the employer intends to seek an injunction. This section shall not “expand, diminish, alter or modify the duty of an employer to provide a safe workplace.” An employer generally is immune from civil liability for seeking or failing to seek an injunction under this section. The bill passed the House but died in the Senate.

WASHINGTON: H.B. 1591/S.B. 5552, 62nd Leg. (Wash. 2011). [*enter “1591” or “5552”*].

This bill would allow an employer or the employer’s authorized agent to petition for a civil anti-harassment protection order to “restrain a person from engaging in unlawful harassment affecting the workplace...the court may consider respondent’s unlawful harassment of an employer, employee and other persons affecting a workplace.” Under this bill, “unlawful harassment” includes a “knowing and willful course of conduct directed at a specific person or employer, which seriously alarms, annoys, harasses, or is detrimental to such person or employer, and which serves no legitimate or lawful purpose.” An employer with knowledge that a specific person is a target of unlawful harassment must make a “good faith effort” to provide notice to the person prior to petitioning the court. If the unlawful harassment stems from domestic violence, sexual assault, or stalking, the employer is required to provide notice and obtain consent prior to petitioning the court. This bill was introduced in January 2011 and as of April 11, 2012, was reintroduced in the House Committee to the Judiciary. S.B. 5552 was reintroduced to the Committee on Labor, Commerce and Consumer Protection. A similar bill, S.B. 6024, died in the Senate in 2003.

This state law guide, with links to cited laws and bills, is available on the Legal Momentum website at www.legalmomentum.org/statelawguides. For more information, contact our Public Education Office (PEO), peo@legalmomentum.org, at (212) 925-6635.

This project was supported by Grant No. 2009-TA-AX-K028 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expression in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

UMMS_Tara Carlson_FAV_SB 846

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Position: FAV

SB 846 Peace Orders Workplace Violence

March 11, 2020

Senate Judicial Proceedings Committee

Position: Support

The University of Maryland Medical System (“UMMS”) supports Senate Bill 846, Peace Orders- Workplace Violence. UMMS is a thirteen member hospital and health system that employs more than 28,000 people.

Senate Bill 846 would make provisions of law relating to the filing, issuance and modification of peace orders. One of the critical modifications that SB 846 proposes is allowing the victim’s employer to file the peace order on the employee’s behalf in order to protect the victim’s address.

This bill is an important measure to promote the safety and well-being of individuals across the state, especially in high – volume, high – pressure healthcare settings. Complex medical issues, stress and trauma – related symptoms can combine to make healthcare settings a landscape rife with abuse towards its workers. Increasingly, sad tales are illustrated in the media of attacks and threats against hospital personnel by disgruntled patients and families. Workplace violence significantly impacts all health care workers. (Phillips, 2016). According to the Bureau of Labor Statistics, 27% of fatalities in healthcare and social service settings in 2013 were due to assaults and violent acts. (OSHA, 2015). The incidence of workplace violence in healthcare settings is pervasive and on the rise.

According to the Occupational Safety and Health Administration (OSHA), approximately 75 percent of nearly 25,000 workplace assaults reported annually occurred in health care and social service settings; workers in health care settings are four times more likely to be victimized than workers in private industry. The National Crime Victimization Survey showed health care workers have a 20% higher chance of being the victim of workplace violence than other workers. The Bureau of Labor Statistics (BLS) data show that violence-related injuries are four times more likely to cause health care workers to take time off from work than other kinds of injuries. The Joint Commission’s Sentinel Event data shows 68 incidents of homicide, rape, or assault of hospital staff members over an eight-year period.

Alarmingly, the actual number of violent incidents involving health care workers is likely much higher because reporting is voluntary. Researchers at Michigan State University estimated that the actual number of reportable injuries caused by workplace violence, according to Michigan

state databases, was as much as three times the number reported by the BLS, which does not record verbal incidents. (Sentinel Event Alert, Issue 59, April 17, 2018).

Unfortunately, the staff in our health system are not immune to workplace violence, nor are these type of incidents limited to emergency rooms or psychiatric departments. Also unfortunate is the underreporting that occurs because of a belief that reporting these crimes will have no impact or that there will be a negative impact on the reporter in the form of retaliation or harassment.

Medical professionals and healthcare personnel, especially in hospitals, are extremely vulnerable. Hospital workers have a public schedule and work in an environment that is open to the public. Victims are very frightened and may not press charges for fear of escalating an aggressor's behavior. One known deterrent of participating with the criminal justice process is a fear of retaliation. Retaliation is a real and possible consequence, especially if the victim or witness' identifying information is included in the peace order or accompanying documents that become part of public record.

This bill can mitigate and interrupt the cycle of retaliatory violence, protect a witness from becoming a secondary victim and build trust between victims and the judiciary system. This legislation will provide needed additional protections for victims of workplace violence and strengthen layers of protection for victims, leading to empowerment and safety in our communities and workplaces.

For these reasons, the University of Maryland Medical System urges a favorable report on SB 846.

Respectfully Submitted,

Tara Carlson, MS, RN
Director, Community Outreach &
External Affairs
R A Cowley Shock Trauma Center

Donna L. Jacobs, Esq.
Senior Vice President
Government, Regulatory Affairs and Community Health
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BaltimoreCounty_FAV_SB0846

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BILL NO.: SB 846

TITLE: Peace Orders - Workplace Violence

SPONSOR: Senator Sydnor

COMMITTEE: Judicial Proceedings

POSITION: **SUPPORT**

DATE: March 11, 2020

Baltimore County **SUPPORTS** Senate Bill 846 – Peace Orders - Workplace Violence. This bill would allow an employer to file a peace order on behalf of an employee and extends the right to shield related court documents to the petitioner and the petitioner’s employee.

2018 saw a record high 20,790 non-fatal injuries resulting from workplace violence, according to the National Safety Council, as well as 453 fatalities. 70.7% of non-fatal injury victims of workplace violence are women, and across the board these injuries disproportionately affect young adults ages 25-34. Though the past few years have brought to light many of the injustices that occur in the workplace, there is much work to be done to remedy them.

Baltimore County supports initiatives to improve the health, comfort, and safety of employees in the workplace. This bill would provide employers the opportunity to assist their employees in preventing acts of workplace violence by allowing them to file for peace orders on behalf of that employee. Everyone has a responsibility to one another to ensure that the workplace remains a safe environment, and this bill would empower employers to fulfill it.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 846. For more information, please contact Chuck Conner, Chief Legislative Officer, at 443-900-6582.

MNA_FAV_SB 846

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Position: FAV



Support

Senate Bill 846 – Peace Orders – Workplace Violence

Senate Judicial Proceedings Committee

March 10, 2020

The Maryland Nurses Association (MNA) strongly supports *Senate Bill 846 – Peace Orders-Workplace Violence*. The bill would establish a mechanism for employers to file peace orders on behalf of their employees to prevent workplace violence.

Addressing workplace violence is MNA's top priority. We have heard from countless Maryland nurses about the impact of workplace violence on their professional and personal lives. We believe that it is an epidemic, and the statistics support this conclusion. According to the Occupational Safety and Health Administration, 21% of nurses reported physical abuse, and this number is low because of underreporting. Surveys show that 30-50% of events are never reported in writing.ⁱ

We have recently partnered with the Maryland Hospital Association to form the Workplace Violence Prevention Collaborative. The goal of the collaborative is to identify and promote best practices in preventing and addressing workplace violence incidents. We have begun a rigorous initiative to identify those best practices.

We have identified that nurses and other health care employees are afraid of reporting any workplace violence incidents to law enforcement and the legal system. Over and over again, we have heard that nurses are afraid of having their personal address on legal documents. This legislation offers an innovative solution. If employers can file peace orders, then there will be the opportunity to keep the personal address of the employee from becoming public.

The bill also provides employers a mechanism for shouldering the responsibility for navigating the legal process of filing a peace order. This reduces the stress on the employee while recovering from a workplace violence incident.

We urge a favorable vote. If we can provide any assistance with this legislation, please contact Robyn Elliott at (443) 926-3443 or relliott@policypartners.net.

The Maryland Nurses Association, a constituent member association of the American Nurses Association (ANA), representing Maryland's professional nurses since 1904

Maryland Nurses Association
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410-944-5800
Web Site: www.marylandrn.org

ⁱ OSHA 3826. Workplace Violence in Healthcare. Understanding the Challenge. (2015). <https://www.osha.gov/Publications/OSHA3826.pdf>

MOTA_FAV_SB 846

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Position: FAV



Maryland Occupational Therapy Association

PO Box 131 ♦ Stevenson, Maryland 21153 ♦ mota.memberlodge.org

Support

Senate Bill 846 – Peace Orders – Workplace Violence

Judiciary Proceedings Committee

March 11, 2020

The Maryland Occupational Therapy Association (MOTA) supports *Senate Bill 846 – Peace Orders – Workplace Violence*. The bill would allow employers to file peace orders to protect employees from workplace violence.

MOTA supports this bill because workplace violence is too frequent in health care facilities. Health care workers are at an increased risk for violence, with incidents of serious violence being four times more common in health care as other industries.¹ This bill would give health care facilities a tool to help keep their facilities safe by allowing the employer to file a peace order to protect an employee. Employees may be too frightened to have their personal address on legal filings, and this bill would alleviate this fear. It would also remove the burden from the employee from navigating a complex legal system. This is critical, especially when an employee is recovering from the trauma of workplace violence.

MOTA wants to ensure that health care facilities are safe. It is important for the lives of health care providers and patients. MOTA recognizes that this is a new initiative, and we pledge to work with the sponsor and Committee on any technical issues that need to be addressed.

We ask for a favorable report. If we can provide any additional information, please contact Robyn Elliott at (443) 926-3443 or relliott@policypartners.net.

¹ OSHA 3826. Workplace Violence in Healthcare. Understanding the Challenge. (2015). <https://www.osha.gov/Publications/OSHA3826.pdf>

MDChamber_Griffin_FAV_SB846

Uploaded by: Griffin, Andrew

Position: FAV



LEGISLATIVE POSITION:

Favorable

Senate Bill 846—Peace Orders—Workplace Violence

Senate Judicial Proceedings Committee

Wednesday, March 11, 2020

Dear Chairman Smith and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 4,500 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic growth for Maryland businesses, employees and families. Through our work, we seek to maintain a balance in the relationship between employers and employees within the State through the establishment of policies that promote fairness and ease restrictive burdens.

As presented, Senate Bill 846 authorizes an employer to file a petition for a peace order that alleges the commission of specified acts against the petitioner's employee at the employee's workplace. The bill extends statutory provisions relating to the filing, issuance and modification of peace orders, as well as the shielding of related court records, to peace orders filed by employers on this basis. An employer is immune from any civil liability that may result from the failure of the employer to file a petition for a peace order on behalf of an employee.

Workplace violence incidents are occurring with increasing frequency across the U.S., and, every year, approximately 2 million Americans are victims of non-fatal violence at their place of employment. What is more, officials at the U.S. Department of Justice found that violence is a leading cause of fatal injuries at work, and approximately 1,000 homicides occur in the workplace annually.

Eleven states have enacted laws allowing an employer to seek a restraining order on behalf of an employee. However, in Maryland, employers do not have standing to apply for a restraining order to prevent violence or harassment of their employees.

If enacted, this bill would allow a court to determine whether "imminent danger exists to the employees of a business entity" and issue a restraining order in the name of the business for the protection of employees. Employers would not be subjected to liability for failure to obtain a restraining order under the law.

We strongly believe that this legislation will provide Maryland employers with an additional tool to protect their employees from harm. By enabling employers to legally obtain an Order barring

an aggressor from entering the workplace and/or following, harassing or contacting an employee, Maryland's job creators will be better able to provide a safe workplace environment.

For these reasons, the Maryland Chamber of Commerce respectfully requests a **Favorable Report** on Senate Bill 846, as presented.

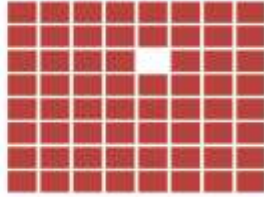


MDACEP_Danna Kauffman_FAV_SB0846

Uploaded by: Kauffman, Danna

Position: FAV

1211 Cathedral Street
Baltimore, MD 21201-5585
410-727-2237
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www.mdacep.org



Maryland Chapter AMERICAN COLLEGE OF EMERGENCY PHYSICIANS

TO: The Honorable William C. Smith, Jr., Chair
Members, Senate Judicial Proceedings Committee
The Honorable Charles E. Sydnor, III

FROM: Danna L. Kauffman
Pamela Metz Kasemeyer
J. Steven Wise
Richard A. Tabuteau

DATE: March 11, 2020

RE: **SUPPORT** – Senate Bill 846 – *Peace Orders – Workplace Violence*

The Maryland Chapter of the American College of Emergency Physicians (MDACEP) which represents the interests of emergency physicians and their patients throughout the State of Maryland **support** Senate Bill 846, which authorizes an employer to file a petition for a peace order that alleges the commission of specified acts against the petitioner's employee at the employee's workplace.

MDACEP supports this bill due to increasing violent acts occurring in emergency departments against emergency personnel. According to surveys by the national American College of Emergency Physicians and the Emergency Nurses Association, a staggering number of emergency physicians and nurses report being victims of violence. This bill provides an additional tool to protect emergency personnel and reduce the anxiety that often occurs with employees determining whether to file a peace order by authorizing the employer to do so. We urge a favorable vote.

For more information call:

Danna L. Kauffman
Pamela Metz Kasemeyer
J. Steven Wise
Richard A. Tabuteau
410-244-7000

Chiefs-Sheriffs_FAV_SB 846

Uploaded by: MANSFIELD, ANDREA

Position: FAV



Maryland Chiefs of Police Association Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith Jr., Chairman and
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 11, 2020

RE: **SB 846 – Peace Orders – Workplace Violence**

POSITION: SUPPORT

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) SUPPORT SB 846. This bill would authorize an employer under appropriate circumstances to file a peace order petition with the District Court of Maryland seeking protection on behalf of an employee, for certain misconduct affecting an employee, occurring in the workplace.

An employer in Maryland has a general obligation to provide its employees with a safe working environment (*see* Md. Code, Labor and Employment Article, § 5-104). SB 846 would authorize an employer to enhance employee safety, by allowing the employer to file a peace order petition seeking to protect its employee, if the employee becomes the victim of certain egregious conduct occurring in the workplace.

This amendment to the Maryland Peace Order law, Md. Code, Courts Article, § 3-1501 – 3-1510, would allow an employer to obtain a court order prohibiting a respondent from harming, threatening, harassing, or entering the employee's residence or place of employment. SB 846 is designed to curtail or prevent the occurrence of workplace related violence.

For these reasons, MCPA and MSA SUPPORT SB 846 and urge a FAVORABLE Committee report.

UMMS_Stan Mezewski_FAV_SB 846

Uploaded by: Mezewski, Stan

Position: FAV

Peace Orders – Workplace Violence

Senate Bill 846

Before the Senate Judicial Proceedings Committee

March 11, 2020

Position – Support

The University of Maryland Medical System (“UMMS”) supports Senate Bill 846, Peace Orders – Workplace Violence. UMMS is a thirteen member hospital and health system that employs more than 28,000 people.

Senate Bill 846 would: (1) authorize an employer to file a petition for a peace order on behalf of an employee for certain acts or threats against an employee at the employer’s worksite, (2) protect the employee’s address if disclosure would risk further harm to the employee, and (3) grant civil immunity to the employer from any civil liability that may result from the failure of the employer to file a petition for a peace order on behalf of an employee.

This bill is an important measure to promote the safety and well-being of individuals across the state, especially health care workers. Increasingly, sad tales are illustrated in the media of attacks and threats against hospital personnel by discontent patients and families. The incidence of workplace violence in health care settings is pervasive and on the rise.

According to the Occupational Safety and Health Administration (OSHA), approximately 75% of nearly 25,000 workplace assaults reported annually occurred in health care and social service settings. Workers in health care settings are four times more likely to be victimized than workers in private industry. The National Crime Victimization Survey showed health care workers have a 20% higher chance of being the victim of workplace violence than other workers. The Bureau of Labor Statistics (BLS) data show that violence-related injuries are four times more likely to cause health care workers to take time off from work than any other kind of injuries. The Joint Commission’s Sentinel Event data show 68 incidents of homicide, rape, or assault of hospital staff members over an eight-year period.

Alarming, the actual number of violent incidents involving health care workers is likely much higher because reporting is voluntary. Researchers at Michigan State University estimated that the actual number of reportable injuries caused by workplace violence, according to Michigan state databases, was as much as three times the number reported by the BLS, which does not record verbal incidents. (*Sentinel Event Alert, Issue 59, April 17, 2018*).

Unfortunately, the staff in our health system are not immune to workplace violence, nor are these type of incidents limited to emergency rooms or psychiatric departments. By way of illustration, an incident at UM Baltimore Washington Medical Center (“BWMC”) highlights the scope of the problem and why UMMS fully supports expanding the current law to allow an employer to intercede. BWMC had a patient who was unhappy with the outcome of his treatment and blamed the physician. He threatened to “find her,” “get even,” and “make her pay.” On several occasions while the patient was in the hospital, security staff had to respond to prevent harm by the patient to employees. BWMC also learned that the patient had a violent past and was quick to resort to violence.

Throughout this ordeal, the physician was very fearful. Once discharged, BWMC sent certified letters banning him from visiting the hospital except for emergency medical treatment. Nonetheless, the patient returned to the hospital twice. Security staff consulted with Anne Arundel County police who recommended that the physician obtain a protective order; however, the physician feared retribution and did not want to make matters worse.

At the time, under the law, only the “victim” could seek a protective order. The hospital could not apply on her behalf or shield her address.

Medical professionals and health care personnel, especially in hospitals, are extremely vulnerable. Hospital workers have a public schedule and work in an environment that is open to the public. Victims are very frightened and may not seek a protective order for fear of escalating an aggressor’s behavior. The ability for a hospital to obtain a protective order on behalf of the victim protects not only the targeted employee, but also protects other employees and guests in the facility as well. This legislation will provide needed additional protections for victims of workplace violence.

For these reasons, the University of Maryland Medical System urges a favorable report on SB 846.

Respectfully Submitted,

Stan Mezewski

Security Director, Baltimore Washington Medical Center

President, International Association of HealthCare Security Directors, Maryland Chapter

Donna L. Jacobs, Esq.

Senior Vice President

Government, Regulatory Affairs and Community Health

University of Maryland Medical System

Johns Hopkins_FAV_SB 846

Uploaded by: Paine, Lori

Position: FAV

TO: The Honorable William C. Smith Jr., Chair
Senate Judicial Proceedings Committee

FROM: Lori Paine, Dr. Ph., R.N., M.S., Senior Director of Patient Safety
The Johns Hopkins Medicine Armstrong Institute for Patient Safety and Quality
and The Johns Hopkins Hospital Johns Hopkins Medicine

DATE: March 11, 2020

Johns Hopkins supports **GBUY Bill , (* – Peace Orders – Workplace Violence**. This bill would authorize an employer to file a petition for a peace order on behalf of its employee if the act occurred at the workplace. It also protects an employer from civil liability that may result from the failure of the employer to file a petition for a peace order on behalf of an employee. The bill also requires an employer to notify an employee before the employer files any petition. The ability to file a petition for a peace order is an important and useful tool to protect employees.

As the largest private employer in the State, Johns Hopkins takes the responsibility to create a safe work environment for its employees very seriously. One of the ways an employer can create a safe work environment is to eliminate an employee's exposure to a threat. Peace orders may stop workplace violence by preventing an employee from being exposed to a person who may cause them harm. This level of protection allows employees to feel safe at work, and therefore, to perform better.

Indeed, workplace violence remains an ongoing concern for staff at Johns Hopkins. For example, since September 2018, staff across Johns Hopkins' hospitals in Maryland have reported approximately 1,382 events of verbal and/or physical aggression and violence at the hands of patients or their family members. The occupational injury clinic treats more than 20 employees per month for injuries sustained in violent and aggressive events by patients. The Johns Hopkins Hospital security office alone has reported an average six to seven assaults by patients as reported by employees, since 2018. Johns Hopkins remains committed to creating a safe work environment for its staff.

The changes in Senate Bill 846 would be welcomed enhancements to the policies and procedures that Johns Hopkins already has in place to reduce workplace violence and to aid employees who feel threatened. Employees may not have the time or knowledge to file a petition for a peace order themselves or may be fearful to do so. The ability to file a petition for a peace order would allow us to use our resources further to protect an employee who is being targeted at work.

Senate Bill 846 would create another avenue for creating the safe work environment to which all employees are entitled. Johns Hopkins urges a **favorable report on GBUY Bill , (6 – Peace Orders – Workplace Violence**.

cc: Members of the Senate Judicial Proceedings Committee
Senator Charles E. Sydnor, III

HowardCC_Pettiford_FAV_SB846

Uploaded by: Pettiford, Joseph

Position: FAV

Senate Judicial Proceedings Committee

Testimony: Senate Bill 846 – Peace Orders – Workplace Violence

Testimony Submitted by: Mr. Joseph Pettiford, Jr.
Associate Vice President of Human Resources, Howard Community College

Position: Support with Exemptions

March 11, 2020

Senator Sydnor III and Members of the Committee:

My name is Joseph B. Pettiford, Jr. and I'm testifying as a Human Resources (HR) professional and a higher education administrator.

I support SB 846 for private employers who wish to engage with their employees to seek a peace order for the protection of the employee and others from an imminent threat of harm while at the workplace. As an HR professional with over 20 years of experience, the threat and reality of workplace violence is ever present.

While SB 846 is of value to private employers, I would note that institutions of higher education have several provisions in Maryland's Education Article¹ that give them authority to control their campuses, issue non-trespass letters, and more. These statutes complement the college's own administrative regulations and procedures, the Code of Student Conduct, and other enactments adopted by the institution.

To illustrate, in the spring of 2019, I encountered a situation where a former employee that previously had been engaged in a relationship with a current employee entered the campus and sought to confront the employee. The situation quickly became threatening when the former employee told supervisors on campus that they carried a gun and would not hesitate to use it, if anyone interfered with their efforts. This situation was quickly addressed in the following ways:

- 1) The employee notified their supervisor immediately.
- 2) The supervisor notified HR and on-campus security simultaneously.
- 3) A recent picture of the former employee (archived photo was also available) was provided to security officials, in case an unsolicited onsite visit ensued and a Be On Look Out (BOLO) status was established.
- 4) The employee was encouraged to seek a self-initiated Peace Order and did so.
- 5) The judge denied the request and so campus officials immediately requested a campus ban. This notice was served when the former employee next visited the campus, and it was registered with local law enforcement. This ban was good for one year and would have resulted in an immediate arrest and subsequent charge for trespassing.

Had this situation involved a student, we would have utilized a host of internal Student Code of Conduct policies and due process measures to address the matter.

In short, the tools for educational institutions are reasonable and do not create unnecessary legal filings, court appearances, the need for case management staff and unbudgeted fiscal constraints

imposed upon an already challenging educational model. While the Fiscal Note for SB 846 states no material effect on localities' operations or finances, I do believe educational institutions will incur additional costs for legal advice, investigations, unsolicited responses to civil and/or criminal lawsuits, and possibly more. My institution marks its 50th anniversary this year, and during that time, we have successfully managed our resources and partnerships with law enforcement.

Many institutions of higher education, including my own, exercise active shooter drills, update emergency operation plans, and conduct emergency preparedness simulations regularly. These exercises are executed within the existing framework of the Maryland Education Article and within each of our institution's policies and procedures.

For these reasons, I ask the committee to support SB 846 for private companies, while granting an exemption for all higher education institutions for the aforementioned reasons. Private companies do not have the same Maryland Education Article from which to operate, and they may have the necessary economic resources to provide legal services to their employees.

Thank you for this opportunity to share my experiences as you consider this bill.

¹ Maryland Code, Education § 26-103,102, 103.

Subtitle 1—School Security

MD Educ D. IV, T. 26, Subt. 1, Refs. & Annos

§ 26-101. Disorderly Conduct or Obstruction of Activities, Administration, or Classes Prohibited

§ 26-102. Denial of Access to Public School Buildings or Grounds

§ 26-103. Alcohol Possession or Consumption on School Premises Prohibited

§ 26-104. Interference with School Bus Driver Prohibited

§ 26-101. Disorderly conduct or obstruction of activities, administration, or classes prohibited...
West's Annotated Code of Maryland
Education

West's Annotated Code of Maryland
Education (Refs & Annos)
Division IV. Other Education Provisions [Titles 21-End] (Refs & Annos)
Title 26. Prohibitions and Penalties (Refs & Annos)
Subtitle 1. School Security (Refs & Annos)

MD Code, Education, § 26-101

§ 26-101. Disorderly conduct or obstruction of activities, administration, or classes prohibited

Currentness

In general

(a) A person may not willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education.

Protection of students, employees, administrators, agents, or other individuals

(b) A person may not molest or threaten with bodily harm any student, employee, administrator, agent, or any other individual who is lawfully

(1) On the grounds or in the immediate vicinity of any institution of elementary, secondary, or higher education;

(2) On a school vehicle;

(3) At an activity sponsored by a school that is held off school property; or

(4) On property that is owned by a county board and is used for administrative or other purposes.

Threats against school employees by any means prohibited

(c) A person may not threaten with bodily harm any employee of any institution of elementary, secondary, or higher education at home by any means, including in person, by telephone, or by electronic mail. This prohibition applies only to threats arising out of the scope of the employee's employment.

Injunctions restraining activities in violation of section

(d) In addition to the penalties provided in this section or in § 6-40B of the Criminal Law Article, on application by the governing board of any institution of elementary, secondary, or higher education, the circuit court of the county in which the institution is located may issue an injunction restraining any specific activities that violate this section.

Misdemeanor violations

(e) Any person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500, imprisonment not exceeding 6 months, or both.

Credits

Added by Acts 1978, c. 22, § 2, eff. July 1, 1978. Amended by Acts 1998, c. 21, § 9, eff. April 14, 1998; Acts 1999, c. 561, § 1, eff. July 1, 1999; Acts 1999, c. 562, § 1, eff. July 1, 1999. Acts 2002, c. 213, § 6, eff. Oct. 1, 2002.

Formerly Art. 27, § 123A; Art. 77, § 96.

MD Code, Education, § 26-101, MD EDUC § 26-101

Current through all legislation from the 2019 Regular Session of the General Assembly.

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in general:

(a)(1) Unless locally approved by the county board of education, a person may not drink or possess any alcoholic beverage on the premises of any public school.

(2) A person who drinks or possesses any alcoholic beverage and causes a public disturbance at any elementary or secondary school athletic contest may not refuse to comply with a request by a law enforcement officer to stop drinking and causing the public disturbance. If the person complies with the first request, he may not be charged under this paragraph.

Citations issued for violations

(b)(1) Any person under 18 years of age who violates the provisions of this section shall be issued a citation and be subject to the dispositions for a violation under Title 3, Subtitle 8A of the Courts Article.

(2) Any person 18 years old or older violating the provisions of this section shall be issued a citation and be subject to § 10-119 of the Criminal Law Article.

Credits

Added by Acts 1978, c. 22, § 2, eff. July 1, 1978. Amended by Acts 1982, c. 844; Acts 1994, c. 483, § 2, eff. Oct. 1, 1994; Acts 1995, c. 3, § 1, eff. March 7, 1995; Acts 2001, c. 415, § 6, eff. Oct. 1, 2001; Acts 2002, c. 213, § 6, eff. Oct. 1, 2002.

Formerly Art. 27, §§ 122B, 123.

Editors' Notes

HISTORICAL AND STATUTORY NOTES

2000 Legislation

Acts 2001, c. 415, § 7, provides:

"SECTION 7. AND BE IT FURTHER ENACTED, That this Act does not affect the validity of any proceeding pending on the effective date of this Act and does not affect the release, extinguishment, or alteration, wholly or partly, of any penalty, forfeiture, or liability, whether civil or criminal, which shall have occurred under any statute amended or repealed by this Act and such statute shall be treated as still remaining in force for the purpose of sustaining any and all proper actions for the enforcement of such penalty, forfeiture, or liability and any judgment, decree, or order that can be rendered in such action."

MD Code, Education, § 26-103, MD EDUC § 26-103

Current through all legislation from the 2019 Regular Session of the General Assembly.

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§ 26-102. Denial of access to public school buildings or grounds
West's Annotated Code of Maryland
Education

West's Annotated Code of Maryland
Education (Refs & Annos)
Division IV. Other Education Provisions [Titles 21-End] (Refs & Annos)
Title 26. Prohibitions and Penalties (Refs & Annos)
Subtitle 1. School Security (Refs & Annos)

MD Code, Education, § 26-102

§ 26-102. Denial of access to public school buildings or grounds

Currentness

School resource officer defined

(a) In this section, "school resource officer" means a law enforcement officer as defined under § 3-101(a) of the Public Safety Article who has been assigned to a school in accordance with a memorandum of understanding between the chief of a law enforcement agency as defined under § 3-101(b) of the Public Safety Article and the local education agency.

Persons denied access to buildings or grounds of public school institutions

(b) The governing board, president, superintendent, principal, or school resource officer of any public institution of elementary, secondary, or higher education, or a person designated in writing by the board or any of these persons, may deny access to the buildings or grounds of the institution to any other person who:

- (1) Is not a bona fide, currently registered student, or staff or faculty member at the institution, and who does not have lawful business to pursue at the institution;
- (2) Is a bona fide, currently registered student at the institution and has been suspended or expelled from the institution, for the duration of the suspension or expulsion; or
- (3) Acts in a manner that disrupts or disturbs the normal educational functions of the institution.

Demands for identification and qualification to use or enter premises

(c) Administrative personnel, authorized employees of any public institution of elementary, secondary, or higher education, and persons designated in subsection (b) of this section may demand identification and evidence of qualification from any person who desires to use or enter the premises of the institution.

Agreements with law enforcement agencies

(d) The governing board of any public institution of elementary, secondary, or higher education may enter into an agreement with appropriate law enforcement agencies to carry out the responsibilities of this section when:

- (1) The institution is closed; or
- (2) None of the persons designated in subsection (b) of this section are present in the buildings or on the grounds of the institution.

Misdemeanor violations

(e) A person is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000, imprisonment not exceeding 6 months, or both if he:

- (1) Trespasses on the grounds of any public institution of elementary, secondary, or higher education;
- (2) Fails or refuses to leave the grounds of any of these institutions after being requested to do so by a person designated in subsection (b) of this section as being authorized to deny access to the buildings or grounds of the institution; or
- (3) Willfully damages or defaces any building, furnishing, statue, monument, memorial, tree, shrub, grass, or flower on the grounds of any of these institutions.

Credits

Added by Acts 1978, c. 22, § 2, eff. July 1, 1978. Amended by Acts 1980, c. 66, Acts 1981, c. 467; Acts 1983, c. 442; Acts 1998, c. 21, § 1, eff. April 14, 1998. Acts 2001, c. 153, § 1, eff. July 1, 2001; Acts 2002, c. 19, § 1, eff. April 9, 2002; Acts 2003, c. 17, § 1, eff. Oct. 1, 2003.

Formerly Art. 27, § 577B.

MD Code, Education, § 26-102, MD EDUC § 26-102

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§ 26-103. Alcohol possession or consumption on school premises prohibited
 West's Annotated Code of Maryland
 Education

West's Annotated Code of Maryland
 Education (Refs & Annos)
 Division IV. Other Education Provisions [Titles 21-End] (Refs & Annos)
 Title 26. Prohibitions and Penalties (Refs & Annos)
 Subtitle 1. School Security (Refs & Annos)

MD Code, Education, § 26-103

§ 26-103. Alcohol possession or consumption on school premises prohibited

Currentness

In general

(a)(1) Unless locally approved by the county board of education, a person may not drink or possess any alcoholic beverage on the premises of any public school.

(2) A person who drinks or possesses any alcoholic beverage and causes a public disturbance at any elementary or secondary school athletic contest may not refuse to comply with a request by a law enforcement officer to stop drinking and causing the public disturbance. If the person complies with the first request, he may not be charged under this paragraph.

Citations issued for violations

(b)(1) Any person under 18 years of age who violates the provisions of this section shall be issued a citation and be subject to the dispositions for a violation under Title 3, Subtitle 8A of the Courts Article.

(2) Any person 18 years old or older violating the provisions of this section shall be issued a citation and be subject to § 10-119 of the Criminal Law Article.

Credits

Added by Acts 1978, c. 22, § 2, eff. July 1, 1978. Amended by Acts 1982, c. 844; Acts 1994, c. 483, § 2, eff. Oct. 1, 1994; Acts 1995, c. 3, § 1, eff. March 7, 1995; Acts 2001, c. 415, § 6, eff. Oct. 1, 2001; Acts 2002, c. 213, § 6, eff. Oct. 1, 2002.

Formerly Art. 27, §§ 122B, 123.

Editors' Notes

HISTORICAL AND STATUTORY NOTES

2000 Legislation

Acts 2001, c. 415, § 7, provides:

"SECTION 7. AND BE IT FURTHER ENACTED. That this Act does not affect the validity of any proceeding pending on the effective date of this Act and does not affect the release, extinguishment, or alteration, wholly or partly, of any penalty, forfeiture, or liability, whether civil or criminal, which shall have occurred under any statute amended or repealed by this Act and such statute shall be treated as still remaining in force for the purpose of sustaining any and all proper actions for the enforcement of such penalty, forfeiture, or liability and any judgment, decree, or order that can be rendered in such action."

MD Code, Education, § 26-103, MD EDUC § 26-103
 Current through all legislation from the 2019 Regular Session of the General Assembly.

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MHA_FAV_SB 846

Uploaded by: Smith, Larry

Position: FAV



Maryland
Hospital Association

Senate Bill 846 – Peace Orders- Workplace

Position: Support

March 11, 2020

Senate Judicial Proceedings Committee

MHA Position

Maryland's 61 nonprofit hospitals and health systems care for more than 5 million people each year, treating 2.3 million in emergency departments and delivering more than 67,000 babies. The 108,000 people they employ are [caring for Maryland](#) around-the-clock every day.

Incidences of workplace violence occur every day in health care settings. The Occupational Safety and Health Administration estimates that 25,000 incidences are reported annually, 75% of which occur in the health care or social service settingⁱ. According to a 2018 survey conducted by the American College of Emergency Physicians, 47% of emergency physicians reported having been physically assaulted at work and 71% had witnessed an assaultⁱⁱ. When violence extends into the workplace, the effects can be seen in increased staff turnover, lost productivity, absenteeism, deterioration of employee morale and burnoutⁱⁱⁱ.

Maryland's hospitals have been incorporating innovative practices to prevent and address workplace violence. These include physical changes, such as unit modifications to improve lines of sight, investments in technology to improve security and hospital policy changes. Additionally, when an incident does occur, hospitals support their employees by providing transportation and accompaniment to court and offering peer to peer support programs. Every effort is made to ensure employees feel protected. However, despite these measures, when an incident of workplace violence does occur, hospitals are limited in how they can protect their employees legally.

SB 846 offers an additional tool to protect employees and the workplace from violent individuals who threaten to return to the hospital to cause harm. Health care workers are often reluctant to report, and even more reluctant to pursue legal actions, such as petitioning for a peace order. By allowing the employer to step in to petition on an employee's behalf, hospitals can further protect their employees. It is important to note that often incidences of violence in hospitals impact multiple employees. As an employer, our goal is to protect all employees who may have suffered from a violent incident. We are committed to protecting our employees and preserving a safe workplace for staff, patients and the community.

For these reasons, we urge a *favorable* report.

For more information, please contact:

Jennifer Witten

Jwitten@mhaonline.org

ⁱ The Joint Commission. (April 17, 2018). Sentinel Event Alert: Physical and Verbal Violence Against Health Care Workers. https://www.jointcommission.org/-/media/tjc/idev-imports/topics-assets/workplace-violence-prevention-implementing-strategies-for-safer-healthcare-organizations/sea_59_workplace_violence_4_13_18_finalpdf.pdf

ⁱⁱ American College of Emergency Physicians. (September, 2018). 2018 ACEP Emergency Department Violence Poll Results. <http://www.acep.org/administration/violence-in-the-emergency-department-resources-for-a-safer-workplace/>

ⁱⁱⁱ Milliman Research Report. (July 26, 2017). Cost of Community Violence to Hospitals and Health Systems: Report for the American Hospital Association. <https://www.aha.org/system/files/2018-01/community-violence-report.pdf>

Comparison of 2020 Legislation & Current Peace Order Statute

Current Law: An individual who does not meet specific relationship requirements under the domestic violence protective order statute, may file a petition for a peace order that alleges a specific act was committed against the petitioner by the respondent if the act occurred within 30 days of filing the petition. The acts include serious bodily harm, an act that places the petitioner in fear of imminent serious bodily harm, harassment, stalking, trespass, revenge porn, surveillance and malicious destruction of property. There are associated penalties for lack of compliance.

Why This New Approach?: SB 846/HB 126 allows an employer to file a petition for a peace order on behalf of its employee if a specific act is committed against the employee at the workplace. Most of the bill’s requirements parallel the current peace order statute. There are at least 10 states that make restraining orders available to employers.

Elements	Current Peace Order Statute	Peace Order Bill (SB 846/HB 126)
Allows employer to petition on employees’ behalf?	No	Yes
Defines acts that entitle a person or employer to petition for relief?	Yes	Yes
Does not limit employee or employer from pursuing other available legal remedies?	N/A	Yes
Limited to health care or hospital setting?	No	No
Who can file for these orders?	An individual who is not eligible for relief under section 4-501 under the Family Law Article	An individual who is not eligible for relief under section 4-501 the Family Law article, including an employer
Who can these orders be filed against?	An individual alleged in a petition to have committed specified acts against a petitioner	An individual alleged in a petition to have committed specified acts, including against an employee at the workplace
Length of time of order	Six months with the option to seek an extension up to an additional six months	Six months with the option to seek an extension up to an additional six months

If granted, what relief can be provided?	<ul style="list-style-type: none"> - Refrain from committing or threatening to commit certain acts against the petitioner - Refrain from contacting, attempting to contact or harassing the petitioner - Refrain from entering the home, school, place of employment or temporary residence of the petitioner 	<ul style="list-style-type: none"> - Refrain from committing or threatening to commit certain acts against the petitioner or petitioner’s employee - Refrain from contacting, attempting to contact or harassing the petitioner or the petitioner’s employee - Refrain from entering the home, school, place of employment or temporary residence of the petitioner or petitioner’s employee
Allows employer to obtain interim, temporary and final order?	N/A	Yes
Are employers provided immunity from liability that may result from failure to file a petition?	N/A	Yes- “An employer shall be immune from any civil liability that may result from the failure of the employer to file a petition on behalf of an employee...”.
Are employees provided with protection from retaliation from the employer for not participating in the process?	N/A	Yes- “An employer may not retaliate against an employee who does not provide information for or testify at a proceeding...”.
Is employee required to provide an address?	N/A	Yes, but would shield the employee’s address if disclosure would risk further harm
Does the employer have to obtain the consent of the employee to file a petition?	N/A	No, but an employer must provide notification to the employee before filing for a peace order

ISSUE BRIEF

Workplace Violence Prevention

When the Caregiver Becomes the Victim: Hospital Action to Prevent Workplace Violence

THE ISSUE:

Hospitals are places of healing and safety for patients, caregivers and visitors, but are not immune to violence from our communities. That is why Maryland's hospital leaders elevated workplace violence prevention in their strategic plan for the field.

Maryland's violent crime rate has been above the national average for 30 years.¹ The effects of violence take a toll on individuals and communities. When that violence extends into the workplace, the effects can be increased staff turnover, lost productivity, absenteeism, poor employee morale and burnout.^{2,3}

The U.S. Department of Labor defines workplace violence as "an action, whether verbal, written or physical, that is intended to control, cause or is capable of causing death or serious injury to the aggressor, others or property."⁴ 75% of workplace violence incidents reported to the Occupational Safety and Health Administration occur in health care or social services settings.⁵ One security officer at a Maryland community hospital reported recovering three to four weapons per week—mostly knives or other cutting objects.

*The rate of serious workplace violence incidents is **4x** greater in the health care field than in private industry.*

Violence in the Hospital: By the Numbers

The American College of Emergency Physicians 2018 Survey⁶

- 47%** Emergency physicians that have been physically assaulted at work
- 97%** Of assaults were committed by patients; 28% also involved a patient's family member/friend
- 83%** Emergency physicians that said the patient threatened to return and harm them or other staff
- 71%** Emergency physicians that have witnessed an assault at work

There are four types of workplace violence. The type is defined based on the relationship between the perpetrator and the victim:⁷

Type I: No legitimate relationship exists (criminal intent)

Type II: Customer, client or patient on worker violence

Type III: Worker on worker violence

Type IV: A personal relationship exists

88% of all hospital assaults were Type II— by patients against workers⁸

THE IMPACT:

Violence harms the physical and emotional well-being of staff, patients, visitors and the community. To ensure a safe and healing environment, Maryland's hospitals have changed policies, implemented multidisciplinary response teams, increased staff training and raised spending on security, including staffing, infrastructure, and technology.

Protecting and preserving the hospital's healing environment comes at a cost. A 2017 Milliman Research Report on the Cost of Community Violence to Hospitals and Health Systems estimated that U.S. hospitals and health systems spent **\$1.1 billion preserving the safety of patients, visitors and employees on hospital premises through security and training costs.** The same report estimated approximately \$2.7 billion hospitals spent addressing violence, both within the hospital and the community.⁹ In a 2019 MHA survey, **92% of hospitals reported increased spending on security over the past five years.** That included hiring additional security officers for evening and weekend shifts, installing security cameras in key locations, and issuing personal panic alarms to staff.

ISSUE BRIEF

Workplace Violence Prevention

THE RESPONSE:

Hospitals offer a safe and healing environment for patients, visitors and staff.

Many of Maryland's hospitals have protocols and resources to identify violent patients. Some use identifiers in the electronic medical record that ensure patients get specialized help and alert staff to take extra safety precautions.

Some hospitals take novel approaches, like symbolic signage within or outside of a patient's room to alert staff so they engage appropriately and prevent escalation to the best of their ability. Hospitals are also changing policies and procedures to encourage staff to report all incidents and promote a culture of zero tolerance.

When an incident requires legal action, hospitals often offer support because there is no formal, statewide response to assist victims of workplace violence.

At many hospitals, security personnel assist the employee, involving law enforcement as needed. Some also accompany victims to court and pay for transportation to court proceedings. Many hospitals offer peer support programs and other services.

SOLUTIONS:

Tackling workplace violence is a multi-stakeholder process. We need our partners—front-line staff, nurses, physicians, law enforcement, members of the legal system, elected officials and others—to raise awareness and help us prevent and respond to incidents of workplace violence.

To ensure violence is not a part of the job for our state's caregivers, we need:

- A legal remedy to keep hospital workers safe from those threatening to return and cause harm on our premises
- A single point of contact within each jurisdiction to help hospital staff navigate the legal process after an incident of workplace violence

Impact of violence in one Maryland community hospital

2019 MHA Survey

181 Incidents of violence against hospital employees by patients over two years

40% Incidents occurred in the emergency department

Maryland's Hospitals: Keeping Employees Safe

- Identifying high-risk individuals and establishing a preventive plan of action
- Increasing security coverage, especially at night and on the weekends
- Reducing entry points and requiring visitor identification bands
- Modifying unit layouts to better protect staff, provide clear lines of sight
- Building multi-disciplinary team responses to emergency codes
- Reviewing each incidence of violence to determine contributing factors
- Establishing and evaluating evidence-based quality improvement initiatives
- Training all staff in de-escalation, self-defense and active shooter
- Hosting community townhalls
- Creating peer-to-peer support programs

For footnotes and sourcing, go to mhaonline.org/workplace-violence-issue-brief

Emergency Nurses Assn_FAV_SB 846

Uploaded by: tennet, lisa

Position: FAV



EMERGENCY NURSES
ASSOCIATION

Maryland State Council

Safe Practice Safe Care

To: Senate Judicial Proceedings Committee
2 East Miller Senate Building, Annapolis, MD 21401

Chairman Will Smith will.smith@senate.state.md.us
Vice Chair Jeff Waldstreicher jeff.waldstreicher@senate.state.md.us
Senator Susan Lee susan.lee@senate.state.md.us
Senator Robert Cassilly Bob.Cassilly@senate.state.md.us
Senator Ronald Young ronald.young@senate.state.md.us
Senator Chris West chris.west@senate.state.md.us
Senator Charles Sydnor charles.sydnor@senate.state.md.us
Senator Justin Ready justin.ready@senate.state.md.us
Senator Jill Carter jill.carter@senate.state.md.us
Senator Michael Hough michael.hough@senate.state.md.us
Senator Shelly Hettleman shelly.hettleman@senate.state.md.us

From: Maryland State Council of the Emergency Nurses Association

Date: March 9, 2020

Re: Maryland Emergency Nurses Association requests a **FAVORABLE** vote on
SB 846 **Peace Orders - Workplace Violence**

Good afternoon Chairman Smith, Vice Chairman Waldstreicher and members of the Senate Judicial Proceedings Committee. My name is Margo Mancl and I am speaking on behalf of the Maryland State Council of the Emergency Nurses Association. We are in favor of Senate Bill 846, which would allow a peace order to be filed by EMPLOYERS when workplace violence is committed against an employee.

Maryland Emergency Nurses are on the front line of caring for patients during high stress situations. It is estimated that 100% of ER nurses report experiencing verbal abuse, and 70% report being physically assaulted by patients in the ER. Many times, patients threaten to find us and kill us and our families. Often, nurses say that they won't report their violent attacks or verbal threats out of fear that their attackers will locate them and follow through on the threats.

Last year an ER nurse from Queen Anne's ER testified before the House Judiciary Committee that after a patient punched her in the face and head, the patient also threatened to find her and kill her and her family. The nurse felt that she absolutely had to file charges in order to protect the lives of her family and identical twin sister. If her employer had filed the charges on her behalf, she would have felt an extra layer of protection because identifying information would

not have been available to the patient. This peace order modification will make it easier for ER nurse victims to report violent events and take appropriate legal steps against their aggressor. This will ultimately improve safety in this volatile workplace.

For those of us who work every day to provide compassionate care to the very people who commit crimes against us, SB 846 would be extremely helpful.

Thank you.

Margo E. Mancl

Margo E. Mancl, MS, RN, CPEN
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Lisa Tenney

Lisa Tenney, BSN, RN, CEN, CPHRM
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Barbara Maliszewski

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MedStar Health_FAV_SB 846

Uploaded by: Townsend, Pegeen

Position: FAV

SB 846 – Peace Orders – Workplace Violence

Position: *Support*

Bill Summary

SB 846 would: 1) authorize an employer to file a petition for a peace order for the benefit of an employee for certain act or threats against an employee at the employee's worksite; 2) shield the employee's address if disclosure would risk further harm to the employee; and 3) grant civil immunity to the employer from any civil liability that may result from the failure of the employer to file a petition for a peace order on behalf of and employee.

Bill Rationale

The bill is an important measure to promote the safety and well-being of individuals across the state and, more specifically, the health care workers in our state. The incidence of workplace violence in health care settings is on the rise and is pervasive.

According to the Occupational Safety and Health Administration (OSHA), approximately 75 percent of the nearly 25,000 workplace assaults reported annually occurred in health care and social service settings and workers in health care settings are four times more likely to be victimized than workers in other industries. The Bureau of Labor Statistics data show that violence-related injuries are four times more likely to cause health care workers to take time off from work than other kinds of injuries. Violence against health care workers occurs in virtually all settings, with the emergency department and inpatient psychiatric settings having the most recorded incidents.

Alarming, the actual number of violent incidents involving health care workers is likely much higher, because episodes of workplace violence are grossly underreported. Health care has several unique cultural factors that may contribute to underreporting or acceptance of workplace violence. For example, caregivers feel a professional and ethical duty to "do no harm" to patients. Some will put their own safety and health at risk to help a patient, and many health care professionals consider violence to be "part of the job."

Protecting our associates from the dangers of workplace violence is a key priority for MedStar Health. In 2017, MedStar Health established a Workplace Violence Prevention Committee that has:

- Developed and implemented a systemwide electronic system for reporting incidences of workplace violence;
- Developed a zero-tolerance policy for workplace violence;
- Trained over 2,400 associates working in three high risk areas (security, behavioral health, and emergency department) in de-escalation and physical skills;
- Implemented a new mandatory training module for all 36,000 associates on what efforts MedStar Health is undertaking to ensure the safety of associates and patients;

- Beginning in September 2019, de-escalation training for over 12,000 associates whose responsibilities place them in a position of dealing directly with patients, visitors and other members of the community;
- Produced and distributed video to educate all associates on MedStar Health’s Active Shooter – Code Silver policy and procedures; and
- Provided personal wearable safety alarms.

While MedStar Health’s comprehensive Workplace Violence Prevention Program has made strides in ensuring its associates are safe, SB 846 would provide another mechanism to help ensure their safety.

For the reasons above, we ask that you give SB 846 a **favorable** report.

SHRM_Walters_FAV_SB846

Uploaded by: Walters, Christine

Position: FAV



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COMPANY

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Testimony in Support of SB 846
“Peace Orders – Workplace Violence”
Submitted to the Senate Judicial Proceeding Committee
March 11, 2020

I am writing to ask for your support of SB 846, Peace Orders – Workplace Violence. As a human resources and employment law consultant, I have been honored to work with a number of organizations over nearly the last 20 years to advance the purpose behind this bill, preventing workplace violence. We first ventured onto this path in 2001 with HB 1298, Peace Orders for Acts Committed Against Employees. At that time, we heard one employee’s story. She came to her HR department seeking protection. A third party was threatening to come to the workplace and harm her. She was afraid and asked the employer to help protect her. The employer went to court to seek a peace order. The judge denied the employer’s request, noting that the employer did not have standing to seek the peace order. The threat was not being made against the employer, at least not directly. It was being made against the employee. The judge said the employee must petition the court directly. Therein lies the challenge; the employee was too frightened to do so. That’s why she asked her employer for help. So, not only was the employee still at risk, so was the entire workforce. Hers was not an isolated incident.

- In 1996, an employee of Proctor and Gamble in **Hunt Valley, MD** was shot in her car on the company’s parking lot by her former fiancée (*Baltimore Sun, 1/31/00*).
- On September 18, 2000 the **Baltimore County** Police Department reported receiving a number of calls from companies in the same area about employees “receiving threats at work from a family member or acquaintance.” (*Baltimore Sun, 9/18/00*).
- On October 18, 2017 three employees were killed by a coworker at a granite countertop maker in **Edgewood, MD**. A peace order that had previously been sought against the coworker had been deniedⁱ.
- Most of us have the painful memory of June 28, 2018 when five people were shot in the workplace of the **Annapolis Gazette**.
- *On May 31, 2019, in Virginia Beach city government offices, an employee who reportedlyⁱⁱ felt he had been treated unfairly in a performance review, shot 16 coworkers; 12 died, four were severely injured.
- *And, just since we testified in the House Committee a few weeks ago, on at the Molson Coors facility in Milwaukee, Wisconsin. Five people were shot; five people were killed.
- Sadly, the list goes on.

**These reports are new and were not included in my prior testimony before the House Judicial Proceedings Committee.*

It has been my honor to work the Maryland SHRM State Council, Inc. (MD SHRM) and the Maryland Chamber of Commerce on this matter for nearly twenty years. We first proposed this legislation in Maryland in 2001. We were not the first. At that time, at least seven (7) states had already enacted related legislationⁱⁱⁱ. Unfortunately, our efforts were unsuccessful.

We revisited the issue in 2006 with HB 1210, the Maryland Workplace Violence Protection Act. In the preceding five years, at least six (6) more states had proposed or enacted related legislation.^{iv} Again, we were again unsuccessful.

Now, fast forward to today. Just last month, on December 17, 2019 the Bureau of Labor Statistics reported that “violence and other injuries by persons...increased 3 percent in 2018” and totaled 453.^v These outcomes are the result of not just shootings but other bad acts, using other weapons. We need to act now.

So, here we are, 19 years later and we are again and still asking for your help and support to provide Maryland employers with one more tool to help provide a safe workplace. Please support SB 846.

Feel free to contact me if I can provide any more information or answer any questions you may have. Until then, I look forward to hearing of your vote in favor of SB 846.

Respectfully submitted,

Christine V. Walters

Christine V. Walters, J.D., MAS, SHRM-SCP, SPHR
Independent Consultant / Sole Proprietor

ⁱ <https://www.esrcheck.com/wordpress/2017/10/20/suspect-in-shootings-at-maryland-business-had-history-of-workplace-violence/>

ⁱⁱ <https://www.pilotonline.com/news/virginia-beach-mass-shooting/vp-nw-hillard-heintze-response-0304-20200304-ehygsiasozce7orsb7w2n7ngye-story.html>

ⁱⁱⁱ Arizona, Arkansas, California, Georgia, New Jersey, New York & Oklahoma.

^{iv} Alaska, Colorado, Indiana, Nevada, Rhode Island & Tennessee.

^v <https://www.bls.gov/news.release/pdf/cfoi.pdf>

MRHA_FAV_SB 846

Uploaded by: Wilson, Lara

Position: FAV



Statement of Maryland Rural Health Association

To the Judicial Proceedings Committee

March 11, 2020

Senate Bill 846: Peace Orders – Workplace Violence

POSITION: SUPPORT

Senator Sydnor, Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee, the Maryland Rural Health Association (MRHA) is in SUPPORT of Senate Bill 846: Peace Orders – Workplace Violence.

This legislation would authorize an employer to file a petition for a peace order that alleges the commission of specified acts against the petitioner’s employee at the employee’s workplace. The employer must notify the employee before filing for the peace order. It extends existing statutory provisions relating to the filing, issuance, and modification of peace orders, as well as the shielding of related court records, to peace orders filed by employers on this basis. An employer is immune from any civil liability that may result from the failure of the employer to file a petition for a peace order on behalf of an employee. An employer may not retaliate against an employee who does not provide information for or testify at a peace order proceeding.

MRHA’s mission is to educate and advocate for the optimal health and wellness of rural communities and their residents. Membership is comprised of health departments, hospitals, community health centers, health professionals, and community members in rural Maryland. Rural Maryland represents almost 80 percent of Maryland’s land area and 25% of its population. Of Maryland’s 24 counties, 18 are considered rural by the state, and with a population of over 1.6 million they differ greatly from the urban areas in the state.

Maryland law states that “many rural communities in the State face a host of difficult challenges relating to persistent unemployment, poverty, changing technological and economic conditions, an aging population and an out-migration of youth, inadequate access to quality housing, health care and other services, and deteriorating or inadequate transportation, communications, sanitation, and economic development infrastructure.” (West’s Annotated Code of Maryland, State Finance and Procurement § 2-207.8b)

This legislation would strengthen health care delivery by providing a means to increase the safety of health care workers in the workplace. Health care workers are at high risk for verbal and physical abuse. According to OSHA, workplace violence affecting health care and social service workers accounts for approximately 70% of workplace occurrences.

<https://www.osha.gov/Publications/osh3148.pdf>

Lara Wilson, Executive Director, larawilson@mdruralhealth.org, 410-693-6988

MAJ_FWA_SB 846

Uploaded by: MacAlister, James

Position: FWA



Maryland Association for Justice, Inc.

2020 Position Paper

SB 846 & HB 126 – Peace Orders – Workplace Violence FAVORABLE WITH AMENDMENT

The Maryland Association for Justice (MAJ) supports SB 846 & HB 126 with an amendment to clarify that, while the bill authorizes employers to file a petition for a peace order on behalf of their employees, the Legislature does not intend to impose a new legal duty upon employers to file such petitions.

Under current law, a person may file a petition for a peace order under circumstances where the person has been subjected to certain objectionable conduct enumerated in Md. Cts. & Jud. Procs. Code Ann. § 3-1503. SB 846 & HB 126 simply authorizes an employer to seek a peace order on behalf of an employee under the same circumstances.

However, SB 846 & HB 126 further provides (at page 4, lines 30-32) that “an employer shall be immune from any civil liability that may result from the failure of the employer to file a petition on behalf of an employee under the provisions of this subtitle.” This language goes too far.

In general, civil liability for damages requires all of the following: (a) a person has a legal duty to act, (b) the person fails to act in accordance with his or her legal duty, and (c) the failure to act causes harm to another person. Under current law, employers have no exposure to civil liability because they have no legal duty (indeed, they have no authority) to file a petition for a peace order on behalf of an employee.

In authorizing employers to file petitions for peace orders on behalf of their employees, SB 846 & HB 126 empowers employers to act on behalf of their employees *but does not impose a legal duty upon employers to do so*. However, a legal duty to act may arise in ways other than by statute – e.g., by contract, or (more commonly) as customs and practices change over time. By granting immunity (as opposed to limiting the imposition of a new legal duty), SB 846 & HB 126 precludes forever the possibility of civil liability arising from duties created by contract or otherwise. As such, the immunity language in SB 846 & HB 126 is needlessly broad and should be clarified.

SB 846 & HB 126 should be amended to clarify that the statutory authority granted to employers to file a petition for a peace order on behalf of employees is not intended, in and of itself, to impose a legal duty to act upon employers. Such language would protect employers from the creation of a new legal duty, while protecting employees in cases where such a legal duty exists separate and apart from the statute itself.

The Maryland Association for Justice requests that the immunity language in SB 846 & HB 126 (page 4, lines 30-32) be amended to clarify that SB 846 & HB 126 does not impose a duty upon any employer to file a petition on behalf of an employee.

MAJ_FWA_SB 846

Uploaded by: MacAlister, James

Position: FWA



Maryland Association for Justice, Inc.

2020 Position Paper

SB 846 & HB 126 – Peace Orders – Workplace Violence FAVORABLE WITH AMENDMENT

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SB 846 & HB 126 should be amended to clarify that the statutory authority granted to employers to file a petition for a peace order on behalf of employees is not intended, in and of itself, to impose a legal duty to act upon employers. Such language would protect employers from the creation of a new legal duty, while protecting employees in cases where such a legal duty exists separate and apart from the statute itself.

The Maryland Association for Justice requests that the immunity language in SB 846 & HB 126 (page 4, lines 30-32) be amended to clarify that SB 846 & HB 126 does not impose a duty upon any employer to file a petition on behalf of an employee.

WomensLawCenterofMD_FWA_SB846

Uploaded by: Siri, Michelle

Position: FWA

BILL NO: Senate Bill 846
TITLE: Peace Orders – Workplace Violence
COMMITTEE: Judicial Proceedings
HEARING DATE: March 11, 2020
POSITION: **SUPPORT WITH AMENDMENTS**

Senate Bill 846 establishes a mechanism in which employers may seek the civil protections of peace orders on behalf of their employees. As operators of the statewide Employment Law Hotline, and understanding that workplace violence can affect all workers – regardless of their gender or socio-economic background - the Women’s Law Center (WLC) believes the ability to obtain peace orders on behalf of employees, in certain circumstances, can be an effective tool for management in preventing workplace violence.

In 2009, approximately 572,000 nonfatal violent crimes occurred against people while they were at work or on duty, accounting for about 24% of nonfatal violence against employed persons age 16 or older¹. According to OSHA, one of the best protections employers can offer their workers is to establish a zero-tolerance policy toward workplace violence. This policy should cover all workers, patients, clients, visitors, contractors, and anyone else who may come in contact with company personnel. Frequently, the perpetrators are disgruntled current or former employees². In those situations, coworkers are often fearful of taking steps against the individual directly; nor is it necessarily their responsibility to do so. Certain occupations, such as health care providers and social service workers, are at heightened risk of workplace violence³, but may also be reluctant to take action against clients they are trying to serve.

Employers have a duty to provide their employees with a place of employment “free from recognized hazards that are causing or are likely to cause death or serious harm to . . . employees.” 29 U.S.C. § 654(a)(1). This includes workplace violence. By amending the current peace order statute to include employees in the definition of who is eligible for relief, employers will be able to take active steps to protect their staff, while preventing a respondent from retaliating against an individual employee who may have otherwise sought the protections.

Also, it is clear that domestic violence is not confined to the home. Nearly 98% of employed domestic violence victims experienced problems at work related to the violence, with 67% saying the perpetrator came to the workplace⁴. Employers cannot dismiss these issues by characterizing them as “family matters” or “issues best left to law enforcement”; rather, employers should develop comprehensive policies to address and accommodate the needs of victims, as well as how to maintain a safe workplace for all employees. It is imperative that victims retain autonomy in determining whether and when to obtain a protective order against their abuser. This bill does not, and should not, concern those situations.

¹ U.S. Dept. of Justice, Bureau of Justice Statistics, Special Report: Workplace Violence, 1993-2009, <https://bjs.gov/content/pub/pdf/wv09.pdf>

² U.S. Dept. of Labor, Workplace Violence Programs, <https://www.dol.gov/oasam/hrc/policies/dol-workplace-violence-program.htm>

³ U.S. Dept. of Labor, Occupational Safety and Health Administration, Workplace Violence Fact Sheet, https://www.osha.gov/OshDoc/data_General_Facts/factsheet-workplace-violence.pdf

⁴ Ending Gender Based Violence in the World of Work in the United States, Robin Runge, The George Washington University Law School, [https://aflcio.org/sites/default/files/2017-04/Ending%20Gender%20Based%20Violence%20in%20the%20World%20of%20Work%20USA%20Report%20\(002\).pdf](https://aflcio.org/sites/default/files/2017-04/Ending%20Gender%20Based%20Violence%20in%20the%20World%20of%20Work%20USA%20Report%20(002).pdf)

Rather, it could be an effective tool for employers dealing with the collateral effects of domestic violence on the rest of the workforce.

However, the WLC has some concerns that under the current language as drafted a judge may order, as a condition of the final peace order, a petitioner's employee to counseling. This language would provide the court with broad discretion to require *any* employee to attend counseling, regardless of a lack of a nexus to the underlying incident. Furthermore, even if there is a connection to the basis for the peace order, the court should not be permitted to order counseling for an employee who has not voluntarily subjected themselves to the court's jurisdiction and who may not even be present at the hearing. The WLC would urge the adoption of an amendment similar to that adopted in the House to remove the employee from the counseling provision.

SB846 provides a valuable tool for employers who wish to protect their staff and customers from workplace violence. As an organization that proudly employs more than a dozen individuals, whose safety and security are a top priority, this legislation would enable the WLC to take proactive steps to maintain that security within the workplace. Therefore, the Women's Law Center of Maryland, Inc. SUPPORTS, WITH AMENDMENTS, Senate Bill 846.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

MCASA_FWA SB846

Uploaded by: Young, Ashley

Position: FWA



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 846 with Friendly Amendment
Lisae C. Jordan, Executive Director & Counsel
Ashley N. Young, Managing Attorney
March 11, 2020

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 846 with Amendment.

Senate Bill 846 – Senate Bill 846 establishes a mechanism in which employers may seek the civil protections of peace orders on behalf of their employees. The ability to obtain peace orders on behalf of employees, in certain circumstances, can be an effective tool for management in preventing workplace harassment, including sexual harassment.

Employers have a duty to provide their employees with a place of employment “free from recognized hazards that are causing or are likely to cause death or serious harm to . . . employees.” 29 U.S.C. § 654(a)(1). This includes workplace violence. By amending the current peace order statute to include employees in the definition of who is eligible for relief, employers will be able to take active steps to protect their staff, while preventing a respondent from retaliating against an individual employee who may have otherwise sought the protections.

SB846 can also be used to help survivors of intimate partner violence. Nearly 98% of employed domestic violence victims experienced problems at work related to the violence, with 67% saying the perpetrator came to the workplace¹. Employers cannot dismiss these issues by characterizing them as “family matters” or “issues best left to law enforcement”; rather, employers should develop comprehensive policies to address and accommodate the needs of victims, as well as how to maintain a safe workplace for all employees. Again, this bill could provide an effective tool for employers. MCASA also appreciates that employers are prohibited from retaliating against an employee who chooses not to cooperate with this type proceeding.

We respectfully suggest an amendment so courts may not order an employee-victim into counseling. This decision should be left to the employee in order to respect her or his autonomy and was adopted in the House Bill.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to
report favorably on Senate Bill 846 with Friendly Amendment**

¹ Ending Gender Based Violence in the World of Work in the United States, Robin Runge, The George Washington University Law School, [https://aflcio.org/sites/default/files/2017-04/Ending%20Gender%20Based%20Violence%20in%20the%20World%20of%20Work%20USA%20Report%20\(002\).pdf](https://aflcio.org/sites/default/files/2017-04/Ending%20Gender%20Based%20Violence%20in%20the%20World%20of%20Work%20USA%20Report%20(002).pdf)