
BILL NO: House Bill 248
TITLE: Protective Orders – Relief Eligibility – Rape and Sexual Offenses
COMMITTEE: Judiciary
HEARING DATE: January 30, 2020
POSITION: **SUPPORT**

House Bill 248 would change the definition of a “person eligible for relief” in the protective order statute to include any individual who alleges rape or sexual assault by the respondent. The Women’s Law Center supports House Bill 248 because by updating the definition of persons eligible for relief to include sexual assault victims, it appropriately offers them the array of protections that protective orders provide.

Under current Maryland law, a person qualifies to seek a protective order if they are one of the “persons eligible for relief” (PEFR) as defined in the statute. If they do not meet the definition of PEFR, they may seek a peace order. The two types of orders are mutually exclusive. Protective Orders allow a court to offer more protections and last longer than peace orders. Importantly, the law enforcement response to protective orders is also stronger, as they recognize that victims of abuse as defined in a protective order need a more serious reaction. HB 248 would add people who are victims of rape or sexual assault to being eligible for the protective order and remove them from the peace order. This way, they will get the increased protections and more holistic community response that protective orders engender.

Several years ago, the legislature added a person in a “sexual relationship” to the protective order statute. The intent was to move dating relationships to the protective order statute so that people who are similarly situated in terms of power and control and other domestic violence dynamics would be able to get the same protections. It took several years, and the language of “sexual relationship” was a product of compromise by the legislature. This has caused some confusion in the courts, with some judges forcing sexual assault victims to seek a peace order rather than a protective order and vice-versa. The word “relationship” is confusing for judges and petitioners. HB 248 would clarify that victims of sexual assault, as defined in the statute, should seek a protection order, not a peace order. This clarity would reduce the sometimes insurmountable inconvenience of a petitioner having their initial Peace or Protection Order dismissed and being forced to re-file. Sometimes this is enough for a petitioner to just give up. They have lost more time at work, they have other issues to address, they feel alienated by the process, and do they not continue or get the help they need.

Any attempt to leave part of these types of cases in the Peace Order and move part to the Protective Order would not solve the problems of uneven applicability and confusion. Nor would having a check box for the court to check off as between the two types of Orders.

We hope the clarity that HB 248 offers will help with like-situated parties to be treated in a like manner in the courts.

Therefore, the Women’s Law Center of Maryland, Inc. urges a favorable report on House Bill 248.

The Women’s Law Center of Maryland is a private, non-profit, membership 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. The Women’s Law Center operates two hotlines, Protection Order Advocacy and Representation Projects in Baltimore City, Baltimore County and Carroll County and the Multi-Ethnic Domestic Violence Project.