



Maryland Association for Justice, Inc.

2021 Position Paper

Peace Orders – Workplace Violence SB 105 – FAVORABLE WITH AMENDMENT

The Maryland Association for Justice (MAJ) supports SB 105 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 105 authorizes an employer to seek a peace order on behalf of an employee under the same circumstances.

However, SB 105 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 is too broad.

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.

Authorizing employers to file petitions for peace orders on behalf of their employees, SB 105 empowers employers to act on behalf of their employees, *but it does not impose a legal duty upon employers to do so.*

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 105 *precludes forever* the possibility that such an enforceable legal duty could ever arise, by contract or otherwise.

To allow the law to evolve naturally, SB 105 must be amended, so that employers have *statutory authority* to file a petition for a peace order on behalf of employees, *but no statutory duty* to act.

The Maryland Association for Justice requests that the immunity language in SB 105 (page 4, lines 30-32) be amended to clarify that SB 105 does not impose a duty to file a petition for peace order on behalf of an employee.