

SENATE BILL 105
PEACE ORDERS – WORKPLACE VIOLENCE

PROPOSED AMENDMENT

1. Strike page 4, lines 30-32, and replace with the following language:
 - (2) NOTHING IN THIS SUBTITLE CREATES OR IMPOSES A DUTY REQUIRING AN EMPLOYER TO FILE A PETITION ON BEHALF OF AN EMPLOYEE UNDER THE PROVISIONS OF THIS SUBTITLE.

RATIONALE FOR THE AMENDMENT

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 simply 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 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 for failing to file a petition for a peace order on behalf of an employee because they have no legal duty or authority to file such a petition.

SB 105 authorizes employers to file petitions for peace orders on behalf of their employees, *but does not impose a legal duty upon employers to do so*. The proposed amendment eliminates an overbroad immunity provision with language that does nothing more or less than what the bill is intended to do.

Legal duties 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 would forever preclude the possibility of civil liability arising from duties created by contract or otherwise. Accordingly, the immunity language in SB 105 is overbroad, and should be clarified.