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BALTIMORE COUNTY
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HON. RICHARD SANDY
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 433
Family Law – Temporary and Final Protective Orders – Duration
and Relief
DATE: February 4, 2026
(2/10)
POSITION: Oppose, as drafted

The Judiciary has no position on the policy aims of this legislation, nor does it oppose the extension of the effective date of the temporary protective order from 7 to 14 days. However, as drafted, lines 26 on page 2 through 10 on page 3, cause the below-noted concerns.

The bill provides that a protective order may order the respondent to pay a person eligible for relief, by a date fixed by the court, any losses or expenses incurred as a direct result of the abuse, including medical, dental, mental health treatment, repair or replacement costs for damage property, food, temporary shelter, or relocation costs, transportation costs; and reasonable attorney's fees. The Judiciary understands the coercive and controlling nature of domestic violence, as well as the financial control and abuses attendant thereto. Affording an avenue of redress for such harm is understandable. The Judiciary would take no position on the legislative prerogative to create a new civil cause of action for persons to seek redress for the above-listed damages in a separate suit. As drafted, however, this bill provides for that separate damages hearing within the context of a protective order hearing, which is ill-designed for such purposes.

Protective order proceedings are designed to occur quickly, given the emergent need for safety and protection. A person seeking a protective order appears, ex parte, and petitions the court for a temporary protective order based on allegations of abuse. If granted, the final hearing is scheduled within 7 days or, under this legislation, within 14 days. As such, unlike in civil actions, there is insufficient time to engage in discovery and no discovery is afforded to the parties. Parties do not have the opportunity to obtain estimates, repair bills, or treatment provider bills and records. Neither does the opposing party have the opportunity to review same. Without evidence and a meaningful opportunity to produce and review that evidence, the bill's relief may be illusory.

The current statute balances the emergent nature of the proceeding, with the financial concerns of persons eligible for relief, by providing for emergency family maintenance. An award of emergency family maintenance allows a court to order child and/or spousal support to directly benefit the person eligible for relief and their children. This legislation would dilute those emergent awards, including those benefitting the parties' children, with potential awards for court costs, filing fees, and attorney's fees, among others. Such consideration would be better addressed in a different forum. Moreover, emergency family maintenance, like child support and spousal support, allows for consideration of a party's ability to pay. This bill does not afford such consideration. In light of the penalty for violating a protective order, which includes incarceration, such consideration is warranted.

Finally, addressing this issue in the protective order forum could result in continual, heightened conflict. The penultimate purpose of a protective order is to provide safety to a person eligible for relief by court-ordering separation. This legislation contemplates continuing consideration of "subsequent claim[s] for additional losses," which would require bringing the parties back together during what may be the most dangerous period for a domestic violence victim, when that person breaks with their abuser and seeks intervention.

cc. Hon. Sara Love
Judicial Council
Legislative Committee
Kelley O'Connor