

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1297
 Judiciary

(Delegate Valentino-Smith, *et al.*)

Judicial Proceedings

Domestic Violence - Petitioner - Attorney for Child

This bill expands the list of “petitioners” who may file for a domestic violence protective order that seeks relief from abuse on behalf of a minor child to include attorneys appointed by the court in specified family law actions.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$23,000 in FY 2018 only for programming changes. Otherwise, the bill does not materially impact the workload of the Judiciary. Revenues are not affected.

| (in dollars) | FY 2018 | FY 2019 | FY 2020 | FY 2021 | FY 2022 |
|----------------|------------|---------|---------|---------|---------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 23,000 | 0 | 0 | 0 | 0 |
| Net Effect | (\$23,000) | \$0 | \$0 | \$0 | \$0 |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially impact the workload of the circuit courts.

Small Business Effect: None.

Analysis

Current Law: A petitioner is an individual who files a petition for a domestic violence protective order. A petitioner may be a “person eligible for relief,” which is:

- a current or former spouse of the respondent;
- a cohabitant of the respondent;
- a person related to the respondent by blood, marriage, or adoption;
- a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition;
- a vulnerable adult;
- an individual who has a child in common with the respondent; or
- an individual who has had a sexual relationship with the respondent within one year before the filing of the petition.

A petitioner also includes the following persons who may seek relief from abuse on behalf of a minor or vulnerable adult: (1) the State’s Attorney for the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place; (2) the department of social services that has jurisdiction in the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place; (3) a person related to the child or vulnerable adult by blood, marriage, or adoption; or (4) an adult who resides in the home.

In an action in which custody, visitation rights, or the amount of child support is contested, a court may appoint a child advocate attorney or a best interest attorney to represent the minor child. An attorney appointed pursuant to these provisions may not represent any party to the action and must exercise ordinary care and diligence in the representation of the minor child.

Background: A best interest attorney is a court-appointed attorney who provides independent legal services for the purpose of protecting a child’s best interests, without being bound by the child’s directives or objectives. A child advocate attorney is a court-appointed attorney who provides independent legal counsel for a child and who owes the same duties of undivided loyalty, confidentiality, and competent representation as are due an adult client.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2017
fn/kdm Third Reader - March 21, 2017

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510