

Department of Legislative Services  
 Maryland General Assembly  
 2019 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

House Bill 253  
 Judiciary

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

Judicial Proceedings

Final Protective Orders – Relief – Transfer of Wireless Telephone Service

This bill authorizes the court, in a final protective order, and on request of the person eligible for relief, to order a wireless telephone service provider to transfer to the person eligible for relief the billing responsibility for and the right to continue use of any telephone number used by the person eligible for relief or a minor child in the person’s custody if the person eligible for relief is not the account holder. A wireless telephone service provider must comply with the order unless it notifies the court that it cannot operationally or technically effectuate the order.

Fiscal Summary

**State Effect:** General fund expenditures for the Judiciary increase by \$53,700 in FY 2020 only for programming changes. Revenues are not affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	53,700	0	0	0	0
Net Effect	(\$53,700)	\$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 affect the workload of the circuit courts.

**Small Business Effect:** None. Although the bill may have a minimal impact on wireless telephone service providers, it is assumed that these providers are not small businesses.

Analysis

**Bill Summary:** An order issued pursuant to the bill terminates the respondent’s financial responsibility for and use of the transferred telephone number. A provider may not charge

the person eligible for relief a fee for transferring a telephone number and the provider's standard requirements for establishing and transferring a telephone number apply to a transfer under the bill, as specified. A provider is immune from civil liability for complying with an order. The court must ensure that the contact information of the person eligible for relief is not disclosed to the account holder in any protective order proceeding.

### **Current Law:**

#### *Protective Orders*

Only a "person eligible for relief" may file a petition for a protective order under the Family Law Article. A "person eligible for relief" includes:

- 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.

If, after a hearing on a petition, whether *ex parte* or otherwise, a judge finds that there are reasonable grounds to believe a person eligible for relief has been abused, the judge may issue a temporary protective order. A temporary protective order is generally in effect for no more than seven days. At a final protective order hearing, if a judge finds by a preponderance of the evidence that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

Among other relief, a temporary or final protective order may order the respondent to (1) refrain from abusing or threatening to abuse any person eligible for relief; (2) refrain from contacting, attempting to contact, or harassing any person eligible for relief; (3) refrain from entering the residence of any person eligible for relief; (4) remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members; or (5) remain away from a child care provider of a person eligible for relief while the child is in the provider's care. A temporary protective order may also address issues relating to custody, temporary possession of a pet, use and possession of a home, and the surrender of firearms. In addition to the relief available in a

temporary protective order, a final protective order may also address issues relating to visitation, use and possession of a vehicle, emergency family maintenance, counseling, and payment of costs. A final protective order must require the respondent to surrender to law enforcement authorities any firearm in the respondent's possession and to refrain from possession of any firearm for the duration of the protective order.

All relief granted in a final protective order is effective for the period stated in the order, generally up to a maximum of 12 months. A final protective order may be issued for up to two years in specified circumstances set forth in statute. In limited circumstances specified by statute, the court may issue a permanent protective order that requires the respondent to refrain from abusing or threatening to abuse the person eligible for relief or refrain from contacting, attempting to contact, or harassing the person eligible for relief. A subsequent circuit court order pertaining to any of the provisions in the final protective order supersedes those provisions in the final protective order. Statutory provisions set forth circumstances under which a final protective order may be modified, rescinded, or extended.

**Background:** Other states, including Illinois, Indiana, and Oklahoma have enacted similar legislation.

According to the *2016 Uniform Crime Report*, (the latest information readily available) 31,175 domestic violence crimes were reported in Maryland. In fiscal 2017 (the latest information readily available), the circuit courts granted 3,142 temporary protective orders and 1,656 final protective orders. In fiscal 2018, the District Court granted 14,091 interim protective orders, 18,584 temporary protective orders, and 8,251 final protective orders.

**State and Local Fiscal Effect:** General fund expenditures increase by \$53,696 in fiscal 2020 only for the Judiciary to make necessary programming changes. Otherwise, the bill does not materially affect the finances of the Judiciary or the workloads of the District Court or circuit courts. This estimate assumes that service will be effected by mailing the order to the resident agent of the wireless telephone service provider. It also assumes that the court is not responsible for tracking compliance of the court order, but that a petitioner may file a petition for contempt in the event of noncompliance.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Public Service Commission; Judiciary (Administrative Office of the Courts); Indiana Code; Illinois Compiled Statutes; Oklahoma Statutes; Department of Legislative Services

**Fiscal Note History:** First Reader - February 6, 2019  
sb/kdm Third Reader - March 18, 2019  
Revised - Amendment(s) - March 18, 2019  
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