

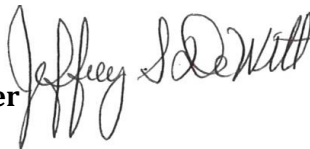
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: November 23, 2020

SUBJECT: Fiscal Impact Statement – Intrafamily Offenses and Anti-Stalking
Orders Amendment Act of 2020

REFERENCE: Bill 23-181, Draft Committee Print as circulated on November 20, 2020

Conclusion

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill.

Background

The bill amends and enhances several provisions around civil protection orders and temporary protection orders for victims of intrafamily offenses, sexual assault, labor or commercial sex trafficking, and sex trafficking of children or threatened acts in these categories. The bill also establishes a new protection order for victims of stalking.

The bill establishes a comprehensive definition of ‘intrafamily offense’ as a criminal offense committed or threatened to be committed by an intimate partner,¹ a family member,² or a household member³ or an act committed by one of those categories against an animal. The bill clarifies that a

¹ Intimate partner includes a person to or with whom the victim is or was married, is or was in a domestic partnership, has a child in common, or is seeking to be in a romantic, sexual, or dating relationship.

² Family member includes a relationship by blood, adoption, legal custody, marriage, or domestic partnership or the child of an intimate partner.

³ Household member includes sharing or having shared a mutual residence or maintaining a close relationship.

petitioner is a person for whom a civil protection order is sought. The bill amends who can file a petition. An individual 13 years of age or older can petition on their own behalf, except that a minor who is at least 13 years of age, but less than 16 cannot petition for a civil protection order for a sexual assault if a significant relationship⁴ exists between the petitioner and the respondent. A minor under the age of 13 cannot file a petition on their own behalf. The bill authorizes a parent, legal guardian, legal custodian, a family member who is 18 years of age or older, and a sexual assault youth victim advocate to file a petition on behalf of any minor. The bill also defines how the timeframe in any order should be computed and applied.

The bill authorizes the Attorney General to intervene and represent the interests of the District in a civil protection order petition case, when the petitioner is unable to petition on their own behalf, at the request of a petitioner, their representatives, or a government agency. The Attorney General's intervention in the case should end when the court denies the petition or the Attorney General withdraws from the case. The bill also allows the court to appoint an attorney for a minor or an unrepresented petitioner as long as the appointment would not unreasonably delay a determination on the petition.

The bill amends the procedures around temporary protection orders. The bill allows a petitioner to petition the court for a temporary protection order, where current law leaves this determination up to the courts. The bill establishes the process and timing for the court to rule on a temporary protection order. Currently, a temporary protection order can be issued for 14 days or a longer time period if both parties consent. The bill gives the court the option to issue one for 28 days. The bill allows the court to provide any relief in a temporary protection order that it can under a civil protection order. The bill also authorizes the court to modify or terminate a temporary protection order.

The bill establishes whether the petitioner needs to appear at a hearing for a civil protection order based on the petitioner's status as a minor, the petitioner's age, or the type of representation, including when the Attorney General has intervened. The bill allows the court to issue a civil protection order if both parties agree to its issuance, in addition to the current determination that the respondent has committed or is likely to commit a relevant offense. The bill enhances the firearms prohibition relief that can be included in a civil protection order to include the possession, control, purchase, or receipt of any firearm or ammunition. The bill lengthens the initial term of a civil protection order from one year to two years and establishes the conditions under which the court can extend an order beyond the currently allowed one-time, two-year extension. The bill requires that a respondent must be aware that they are the subject of a temporary, civil, or foreign protection order in order to be found in violation of the order.

The bill establishes the procedures for issuing notice of a hearing, an order to appear, a copy of the petition, and a copy of a temporary protective order. The bill allows the petitioner, their representative, or the court to request that the Metropolitan Police Department (MPD) serve the required notice and related documents and requires that MPD set up a special unit of six officers to

⁴ Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(10)).

serve civil protection order-related notices and other similar duties, including related to extreme risk protection orders and anti-stalking orders.

The bill also establishes a new anti-stalking order, which is specific to stalking offenses, but shares many characteristics of a civil protection order. The bill allows a person 16 years of age or older to file a petition for an anti-stalking order on their own behalf, but a person under 16 years of age must have a parent, legal guardian, legal custodian, or family member 18 years of age or older⁵ petition on their behalf. The bill sets a standard of a preponderance of the evidence that stalking has occurred, and requires one episode of stalking to have occurred in the 90 days prior to the petition, for the court to issue an anti-stalking order. The bill establishes the relief options that can be contained in an anti-stalking order.

Similar to a civil protection order, the bill authorizes the Attorney General to intervene and represent the interests of the District in an anti-stalking order petition case, when the petitioner is unable to petition on their own behalf, at the request of a petitioner, their representatives, or a government agency. The Attorney General's intervention in the case should end when the court denies the petition or the Attorney General withdraws from the case. The bill also allows the court to appoint an attorney for a minor or an unrepresented petitioner as long as the appointment would not unreasonably delay a determination on the petition. The bill also establishes temporary anti-stalking orders and notice requirements for both temporary and full anti-stalking orders in the same way they are available and established for civil and temporary protection orders.

Financial Plan Impact

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill amends several of the requirements around civil and temporary protection orders and establishes a new anti-stalking order. In establishing the notice requirements for protection orders and anti-stalking orders, the bill requires MPD to set up a special unit of six uniformed officers to effectuate the notice requirements. The bill gives MPD flexibility to use the dedicated unit to perform similar functions. MPD would reassign existing officers to staff this unit and not hire new officers. MPD does not require any additional budgeted resources to do this, but implementing the provision takes these officers away from their other assigned duties.

The Office of the Attorney General can absorb any costs associated with its interventions in any civil protection order or anti-stalking order petition cases within its existing budgeted resources.

⁵ This only applies to a minor 13 years of age or older.