



Maryland
Hospital Association

Senate Bill 846 – Peace Orders- Workplace

Position: Support

March 11, 2020

Senate Judicial Proceedings Committee

MHA Position

Maryland's 61 nonprofit hospitals and health systems care for more than 5 million people each year, treating 2.3 million in emergency departments and delivering more than 67,000 babies. The 108,000 people they employ are [caring for Maryland](#) around-the-clock every day.

Incidences of workplace violence occur every day in health care settings. The Occupational Safety and Health Administration estimates that 25,000 incidences are reported annually, 75% of which occur in the health care or social service settingⁱ. According to a 2018 survey conducted by the American College of Emergency Physicians, 47% of emergency physicians reported having been physically assaulted at work and 71% had witnessed an assaultⁱⁱ. When violence extends into the workplace, the effects can be seen in increased staff turnover, lost productivity, absenteeism, deterioration of employee morale and burnoutⁱⁱⁱ.

Maryland's hospitals have been incorporating innovative practices to prevent and address workplace violence. These include physical changes, such as unit modifications to improve lines of sight, investments in technology to improve security and hospital policy changes. Additionally, when an incident does occur, hospitals support their employees by providing transportation and accompaniment to court and offering peer to peer support programs. Every effort is made to ensure employees feel protected. However, despite these measures, when an incident of workplace violence does occur, hospitals are limited in how they can protect their employees legally.

SB 846 offers an additional tool to protect employees and the workplace from violent individuals who threaten to return to the hospital to cause harm. Health care workers are often reluctant to report, and even more reluctant to pursue legal actions, such as petitioning for a peace order. By allowing the employer to step in to petition on an employee's behalf, hospitals can further protect their employees. It is important to note that often incidences of violence in hospitals impact multiple employees. As an employer, our goal is to protect all employees who may have suffered from a violent incident. We are committed to protecting our employees and preserving a safe workplace for staff, patients and the community.

For these reasons, we urge a *favorable* report.

For more information, please contact:

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ⁱ The Joint Commission. (April 17, 2018). Sentinel Event Alert: Physical and Verbal Violence Against Health Care Workers. https://www.jointcommission.org/-/media/tjc/idev-imports/topics-assets/workplace-violence-prevention-implementing-strategies-for-safer-healthcare-organizations/sea_59_workplace_violence_4_13_18_finalpdf.pdf

ⁱⁱ American College of Emergency Physicians. (September, 2018). 2018 ACEP Emergency Department Violence Poll Results. <http://www.acep.org/administration/violence-in-the-emergency-department-resources-for-a-safer-workplace/>

ⁱⁱⁱ Milliman Research Report. (July 26, 2017). Cost of Community Violence to Hospitals and Health Systems: Report for the American Hospital Association. <https://www.aha.org/system/files/2018-01/community-violence-report.pdf>

Comparison of 2020 Legislation & Current Peace Order Statute

Current Law: An individual who does not meet specific relationship requirements under the domestic violence protective order statute, may file a petition for a peace order that alleges a specific act was committed against the petitioner by the respondent if the act occurred within 30 days of filing the petition. The acts include serious bodily harm, an act that places the petitioner in fear of imminent serious bodily harm, harassment, stalking, trespass, revenge porn, surveillance and malicious destruction of property. There are associated penalties for lack of compliance.

Why This New Approach?: SB 846/HB 126 allows an employer to file a petition for a peace order on behalf of its employee if a specific act is committed against the employee at the workplace. Most of the bill’s requirements parallel the current peace order statute. There are at least 10 states that make restraining orders available to employers.

| Elements | Current Peace Order Statute | Peace Order Bill (SB 846/HB 126) |
|--|---|--|
| Allows employer to petition on employees’ behalf? | No | Yes |
| Defines acts that entitle a person or employer to petition for relief? | Yes | Yes |
| Does not limit employee or employer from pursuing other available legal remedies? | N/A | Yes |
| Limited to health care or hospital setting? | No | No |
| Who can file for these orders? | An individual who is not eligible for relief under section 4-501 under the Family Law Article | An individual who is not eligible for relief under section 4-501 the Family Law article, including an employer |
| Who can these orders be filed against? | An individual alleged in a petition to have committed specified acts against a petitioner | An individual alleged in a petition to have committed specified acts, including against an employee at the workplace |
| Length of time of order | Six months with the option to seek an extension up to an additional six months | Six months with the option to seek an extension up to an additional six months |

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|--|--|---|
| If granted, what relief can be provided? | <ul style="list-style-type: none"> - Refrain from committing or threatening to commit certain acts against the petitioner - Refrain from contacting, attempting to contact or harassing the petitioner - Refrain from entering the home, school, place of employment or temporary residence of the petitioner | <ul style="list-style-type: none"> - Refrain from committing or threatening to commit certain acts against the petitioner or petitioner’s employee - Refrain from contacting, attempting to contact or harassing the petitioner or the petitioner’s employee - Refrain from entering the home, school, place of employment or temporary residence of the petitioner or petitioner’s employee |
| Allows employer to obtain interim, temporary and final order? | N/A | Yes |
| Are employers provided immunity from liability that may result from failure to file a petition? | N/A | Yes- “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...”. |
| Are employees provided with protection from retaliation from the employer for not participating in the process? | N/A | Yes- “An employer may not retaliate against an employee who does not provide information for or testify at a proceeding...”. |
| Is employee required to provide an address? | N/A | Yes, but would shield the employee’s address if disclosure would risk further harm |
| Does the employer have to obtain the consent of the employee to file a petition? | N/A | No, but an employer must provide notification to the employee before filing for a peace order |

ISSUE BRIEF

Workplace Violence Prevention

When the Caregiver Becomes the Victim: Hospital Action to Prevent Workplace Violence

THE ISSUE:

Hospitals are places of healing and safety for patients, caregivers and visitors, but are not immune to violence from our communities. That is why Maryland's hospital leaders elevated workplace violence prevention in their strategic plan for the field.

Maryland's violent crime rate has been above the national average for 30 years.¹ The effects of violence take a toll on individuals and communities. When that violence extends into the workplace, the effects can be increased staff turnover, lost productivity, absenteeism, poor employee morale and burnout.^{2,3}

The U.S. Department of Labor defines workplace violence as "an action, whether verbal, written or physical, that is intended to control, cause or is capable of causing death or serious injury to the aggressor, others or property."⁴ 75% of workplace violence incidents reported to the Occupational Safety and Health Administration occur in health care or social services settings.⁵ One security officer at a Maryland community hospital reported recovering three to four weapons per week—mostly knives or other cutting objects.

*The rate of serious workplace violence incidents is **4x** greater in the health care field than in private industry.*

Violence in the Hospital: By the Numbers

The American College of Emergency Physicians 2018 Survey⁶

- 47%** Emergency physicians that have been physically assaulted at work
- 97%** Of assaults were committed by patients; 28% also involved a patient's family member/friend
- 83%** Emergency physicians that said the patient threatened to return and harm them or other staff
- 71%** Emergency physicians that have witnessed an assault at work

There are four types of workplace violence. The type is defined based on the relationship between the perpetrator and the victim:⁷

Type I: No legitimate relationship exists (criminal intent)

Type II: Customer, client or patient on worker violence

Type III: Worker on worker violence

Type IV: A personal relationship exists

88% of all hospital assaults were Type II— by patients against workers⁸

THE IMPACT:

Violence harms the physical and emotional well-being of staff, patients, visitors and the community. To ensure a safe and healing environment, Maryland's hospitals have changed policies, implemented multidisciplinary response teams, increased staff training and raised spending on security, including staffing, infrastructure, and technology.

Protecting and preserving the hospital's healing environment comes at a cost. A 2017 Milliman Research Report on the Cost of Community Violence to Hospitals and Health Systems estimated that U.S. hospitals and health systems spent **\$1.1 billion preserving the safety of patients, visitors and employees on hospital premises through security and training costs.** The same report estimated approximately \$2.7 billion hospitals spent addressing violence, both within the hospital and the community.⁹ In a 2019 MHA survey, **92% of hospitals reported increased spending on security over the past five years.** That included hiring additional security officers for evening and weekend shifts, installing security cameras in key locations, and issuing personal panic alarms to staff.

ISSUE BRIEF

Workplace Violence Prevention

THE RESPONSE:

Hospitals offer a safe and healing environment for patients, visitors and staff.

Many of Maryland's hospitals have protocols and resources to identify violent patients. Some use identifiers in the electronic medical record that ensure patients get specialized help and alert staff to take extra safety precautions.

Some hospitals take novel approaches, like symbolic signage within or outside of a patient's room to alert staff so they engage appropriately and prevent escalation to the best of their ability. Hospitals are also changing policies and procedures to encourage staff to report all incidents and promote a culture of zero tolerance.

When an incident requires legal action, hospitals often offer support because there is no formal, statewide response to assist victims of workplace violence.

At many hospitals, security personnel assist the employee, involving law enforcement as needed. Some also accompany victims to court and pay for transportation to court proceedings. Many hospitals offer peer support programs and other services.

SOLUTIONS:

Tackling workplace violence is a multi-stakeholder process. We need our partners—front-line staff, nurses, physicians, law enforcement, members of the legal system, elected officials and others—to raise awareness and help us prevent and respond to incidents of workplace violence.

To ensure violence is not a part of the job for our state's caregivers, we need:

- A legal remedy to keep hospital workers safe from those threatening to return and cause harm on our premises
- A single point of contact within each jurisdiction to help hospital staff navigate the legal process after an incident of workplace violence

Impact of violence in one Maryland community hospital

2019 MHA Survey

181 Incidents of violence against hospital employees by patients over two years

40% Incidents occurred in the emergency department

Maryland's Hospitals: Keeping Employees Safe

- Identifying high-risk individuals and establishing a preventive plan of action
- Increasing security coverage, especially at night and on the weekends
- Reducing entry points and requiring visitor identification bands
- Modifying unit layouts to better protect staff, provide clear lines of sight
- Building multi-disciplinary team responses to emergency codes
- Reviewing each incidence of violence to determine contributing factors
- Establishing and evaluating evidence-based quality improvement initiatives
- Training all staff in de-escalation, self-defense and active shooter
- Hosting community townhalls
- Creating peer-to-peer support programs

For footnotes and sourcing, go to mhaonline.org/workplace-violence-issue-brief