



**Maryland Network**  
**Against Domestic Violence**  
**WORKING TOGETHER FOR A SAFER FUTURE**

## **2017 DOMESTIC VIOLENCE LEGISLATIVE AGENDA**

### **NEW LAWS – EFFECTIVE OCTOBER 1, 2017**

The following laws, included in the 2017 MNADV Domestic Violence Legislative Agenda, were passed by the Maryland General Assembly this year and take effect October 1, 2017. These new laws will have a significant impact on domestic violence victims/survivors and their families.

For additional information, contact Cynthia Lifson, MNADV Legislative Counsel, or Michael Cohen, MNADV Executive Director. We also recommend that you check the Maryland General Assembly website (information below). You can easily access a new law by inserting the bill number in the appropriate prompt and review the text of the new law along with the Fiscal and Policy Note, which contain a basic explanation of the new legislation in plain language.

#### **HB 498/SB 562 ■ Health Care Decisions Act – Advance Directives and Surrogate Decision Making – Disqualified Individuals**

This new law prevents an abuser (spouse, intimate partner, family member, or guardian) from making health care decisions for someone they have abused and who may have caused the patient's injuries.

This new law prohibits certain individuals from serving as a surrogate decision maker or health care agent for the purpose of making health care decisions for a patient if they are the subject of an interim, temporary or final protective order for that patient or if the individual is the spouse of a patient with a separation agreement or who has filed for divorce. In this situation, the patients are persons eligible for relief in a protective order proceeding.

While this new law will certainly be a help to those who have not created an advance health care directive, it may be extremely helpful to clients served in our programs to consider drafting a new advance health care directive and appointing a health care agent to avoid this issue altogether. Further information on this issue will be available from the MNADV.

## **HB 294/SB 224** ▪ **Public Safety – Regulated Firearms – Definition of Convicted of a Disqualifying Crime**

This law ensures that people who have received a Probation Before Judgment (PBJ) in a criminal court case for second degree assault for a domestically-related crime cannot retain their firearms.

This change would correct an inconsistency in the current law. This new change may be particularly helpful for those clients with cases in the criminal justice system. Criminal defendants convicted of second degree assault in a domestically-related crime (i.e. the victim of the crime is typically an intimate partner) will no longer be allowed to retain firearms, even if the conviction resulted in a Probation Before Judgment. A criminal defendant who receives this sentence is not legally allowed to retain firearms.

NOTE: If the criminal defendant in a domestically-related crime gets an expungement for the PBJ for a second degree assault, then that criminal defendant *may* be entitled to legally possess firearms.

## **HB 293/SB 274** ▪ **Family Law – Divorce – Domestic Violence Order**

The new law allows the admission of a protective order as evidence in a divorce case.

This law repeals a provision that made an order or a decision in a domestic violence proceeding inadmissible as evidence in a divorce proceeding. The new law also repeals a provision prohibiting a court from considering compliance with a domestic violence order as grounds for granting a decree of limited or absolute divorce. It would allow the court to consider compliance with a domestic violence order as evidence. While technical in nature, the new law eases the path for those persons seeking a final divorce. Instead of reiterating all of the abuse that has occurred during the marriage during a divorce trial, the new law permits the admission of a protective order, which can be considered by the court as the court determines proof of the ground for divorce.

## **HB 429/SB 217** ▪ **Criminal Law – Sex Offenses – Physical Resistance**

This new law clearly establishes that evidence of physical resistance by a victim is not required to prove that a sexual crime was committed.

It will no longer be necessary for a victim of rape to “fight back” in order to prove that rape occurred.

## **HB 1163/SB 976 ■ Criminal Procedure – Conditional Release – Electronic Monitoring (Amber’s Law)**

This new law requires a court to provide an individual filing an application for a statement of charges an opportunity to request certain reasonable protections for the safety of a victim or a victim’s family.

An individual can also request electronic monitoring to notify a victim if a defendant is at or near a location from which the defendant has been ordered by the court to stay away.

As domestic violence workers assist clients, it is very important that clients who are asking for protection from domestic violence in a court proceeding specifically request safety measures that can be ordered by the Commissioner or Court. This includes, among other things, electronic monitoring of the offender.

While it is expected that information about this new procedure will be disseminated in the near future, in times of crisis, victims often forget to make these important requests. A basic rule to remember in working with victims is this: If you don’t ask, you don’t get!

### **For further information about the 2017 Legislative Agenda, contact:**

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### **For information on bills, legislators, synopses, budget, etc.:**

Website: <http://mgaleg.maryland.gov> or call Legislative Services at 301-970-5200 or 410-946-5200

→ **NOTE:** *Committee votes* are now available online on the Maryland General Assembly website.

*Look under the Documents section at the bottom of the bill information page.*

*When a committee vote is available a link is provided to the vote record in pdf format.*

*Committee hearings and general sessions* may be accessed online through audio and/or video.

*Check the Maryland General Assembly website for the headphone or video camera icon.*

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. The Network accomplishes this goal by providing education, training, resources, and advocacy to advance victim safety and