

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1352
Peace Orders and Protective Orders – Coercive Control
DATE: February 7, 2020
(2/27)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 1352. This legislation authorizes a person to file a petition for a peace order or protective order against another person for the act of coercive control, a term which is so broadly defined as to make it difficult to apply.

The Judiciary believes this bill is vague. The bill defines “coercive control” as behavior that is “controlling and coercive.” The defined term is, thus, defined by a reference back to the defined term. That circular definition is both confusing and difficult to apply. In addition, the definition of “serious effect” includes fear that violence will be used against the individual or alarm or distress that has a substantial adverse effect on day-to-day activities. These are broad terms without clarity or specificity, encompassing a wide variety of activities and interpretations. It is hard to apply such broadly defined terms with consistency.

The bill also includes conduct that a respondent knew or “reasonably should have known” would result in fear or alarm. This standard deviates from the other statutory prongs, which generally require an intentional act. The bill would, thereby, allow for an order in certain circumstances even if a respondent induced alarm unintentionally and unknowingly. Moreover, the bill is unclear as to whether the “fear” induced must itself be reasonable or whether the standard is entirely subjective.

Finally, as written, this bill seems to encompass the elements of “harassment” and “stalking” which are already addressed in the statute.

cc. Hon. Susan McComas
Judicial Council
Legislative Committee
Kelley O’Connor