

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
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 1178
Peace Orders and Protective Orders – Coercive Control
DATE: March 2, 2022
(3/10)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 1178, as drafted. 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, this definition is different from a definition of “coercive control” that is currently being considered by the Rules Committee as part of proposed changes to Rule 9-205. The proposed Rule changes would make allegations of “coercive control” a consideration when courts decide whether mediation is appropriate in a custody or visitation dispute and would add a definition of “coercive control” to the Rule. The legislature may wish to review the definition in the proposed Rule change and consider keeping the definition consistent across Maryland law.

Further, 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. Moreover, such a broad category of conduct may have serious unintended consequences. For example, if a victim of domestic violence threatens to call the police if the violence does not stop – such conduct could be considered coercive and may have a substantial effect on the other abuser’s day-to-day activities. That is clearly not the intention of the legislation but the broad language could encompass same.

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