
To: Members of The House Judiciary Committee

From: Family & Juvenile Law Section Council (FJLSC)

Date: February 28, 2023

Subject: **House Bill 1069:** Protective Orders – Coercive Control

Position: **UNFAVORABLE**

The Maryland State Bar Association (MHBA) FJLSC urges a favorable with amendments committee report on House Bill 1069 Protective Orders – Coercive Control

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MHBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MHBA, which promotes the objectives of the MHBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MHBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

The FJLSC recognizes that the type of behavior being targeted in HB 1069 as coercive control is an egregious and harmful type of abuse suffered by many Maryland victims who are being mistreated by their partners. Unfortunately, “coercive control” is difficult to define, identify, and prove. Consequently, members of the FJLSC are concerned that HB1069 will result in misuse and/or misapplication of the statute and inconsistent rulings in Protective Order cases wherein the relief granted to the Petitioner can include very serious consequences.

The FJLSC is aware that this bill adopts the new definition of Coercive Control from the revised Maryland Rule regarding exceptions for certain family law parties from the requirement to attend mediation; however, the FJLSC does not believe that change in definition does enough to justify expanding the breadth of the Protective Order statute in the manner envisioned by this bill. Protective Orders are heard on an ex-parte and expedited basis, often in the District Courts with limited docket time. Protective Orders grant extreme relief to victims who are in imminent danger of physical violence. The issues of Coercive Control are not necessarily the type that create imminent danger to the victims or require emergent response from the Court system and extreme relief such as

removing a Respondent from his/her home and/or depriving a parent of his/her decision making authority or custody/parenting time rights to their children.

Coercive Control is a complex dynamic about which legal scholars, mental health professionals and other advocates are still grappling and evolving definitions and terminology. There is legitimate concern that the proof required to prove the Coercive Control dynamic, especially as the sole form of abuse, is often too difficult to be properly presented in a short hearing on a Protective Order case, which may lead to inconsistent and even incorrect results. There is also legitimate concern HB 1069 may actually provide a new avenue for true victims to be further controlled and manipulated by their abusers as it becomes easier for abusers to petition the Courts for relief based on allegations and evidence which is less likely to be supported by objective corroboration and harder for a true victim to refute.

While the FJLSC will continue to welcome discussion about how to properly define, present, prevent and address Coercive Control in the family law context, the members of the FJLSC do not believe that defining Coercive Control as an independent act of abuse upon which Protective Orders can be granted is an appropriate legislative change at this time.

For the above stated reasons, the FJLSC **urges an unfavorable committee report for HB 1069.**

Should you have any questions, please contact Michelle Smith by telephone at 410-280-1700 or by e-mail at msmith@lawannapolis.com.