

Testimony of the Human Trafficking Prevention Project

BILL NO: House Bill 1069
TITLE: Protective Orders – Coercive Control
COMMITTEE: Judiciary
HEARING DATE: March 2, 2023
POSITION: SUPPORT

House Bill 1069 would add coercive control to the list of acts constituting abuse in peace and protective orders.¹ While it is undeniable that coercive control is a common form of intimate partner violence experienced by victims, the Human Trafficking Prevention Project at the University of Baltimore School of Law opposes this bill due to significant concerns about the impact this change will have on the most marginalized victims of violence.

While this bill appears helpful in theory, there are real concerns about what its effects will be in practice, particularly with regard to the potential for unintended consequences that would further harm victims. For instance, codifying coercive control may provide additional avenues for an abuser to weaponize the legal system against their victims. Given that some abusers already choose to seek a protective order against their victims to exert additional control over them,² codifying coercion in the context of a protective order statute would provide another, far more subjective avenue for domestic abusers to do so.³ What's worse, many behaviors used by survivors to resist their abuse, protect themselves and their children, and/or in reaction to chronic trauma may be easily misunderstood as coercive controlling behavior by the courts.⁴ For example, a survivor with children who is trying to escape an abusive relationship may withhold parental visitation due to safety concerns, but courts can, and often do, construe this as emotional abuse and manipulation. The success of an abuser in seeking and obtaining a protective order on the basis of this behavior may lead the survivor to lose custody of their children because of the misguided belief that the victim is actually the abuser.⁵

We must be exceedingly cautious of any legislative effort that may result in penalizing victims of domestic violence for their own victimization, further exposing them to harm and deterring them from reporting their abuse. While on paper, coercive control laws might appear to fix some of the issues in our current system, in effect they will likely only widen them, harming survivors in the process. Without broader reform of the legal system and judicial recognition of the power and control dynamics of domestic violence, the codification of coercive control will cause more harm than good. For these reasons, the Human Trafficking Prevention Project opposes House Bill 1069 and respectfully urges an unfavorable report.

¹ MD CODE ANN., FAM. LAW § 4-501.

² Battered Women's Justice Project, *Coercive Control Codification: A Brief Guide for Advocates and Coalitions* (2021) <https://www.bwjp.org/assets/documents/pdfs/cc-codificationbrief.pdf>.

³ See Julie R. Tolmie, *Coercive Control: To Criminalize or Not to Criminalize?* (2018), [https://journals.sagepub.com/doi/pdf/10.1177/1748895817746712?casa_token=JrPJ4IPj-](https://journals.sagepub.com/doi/pdf/10.1177/1748895817746712?casa_token=JrPJ4IPj-0wAAAA:VVfGyyiCDGSbqb3Hig72ii39KAWBa1Ifcwp3zIBPdFUlw7Jt-mxr5JASaugQRXWdyaTT2YnYxLXg)

[0wAAAA:VVfGyyiCDGSbqb3Hig72ii39KAWBa1Ifcwp3zIBPdFUlw7Jt-mxr5JASaugQRXWdyaTT2YnYxLXg](https://journals.sagepub.com/doi/pdf/10.1177/1748895817746712?casa_token=JrPJ4IPj-0wAAAA:VVfGyyiCDGSbqb3Hig72ii39KAWBa1Ifcwp3zIBPdFUlw7Jt-mxr5JASaugQRXWdyaTT2YnYxLXg) (explaining that a 'one size fits all' approach to understanding coercive control is destined to fail, as coercive behavior "may be subtle and readily understood only by the victim and perpetrator as, for example, when they are designed to exploit fears that are personal to the individual victim or consist of 'gestures, phrases and looks that have meaning only to those within the relationship.'").

⁴ See generally Tolmie, *supra* note 2; see also Julian D. Ford, et. al., *Complex Trauma and Aggression in Secure Juvenile Justice Settings* (June 2012), <https://journals.sagepub.com/doi/pdf/10.1177/0093854812436957> (explaining that "[c]omplex trauma is associated with an extremely problematic combination of persistently diminished adaptive arousal reactions, episodic maladaptive hyperarousal, impaired information processing and impulse control, self-critical and aggression-endorsing cognitive schemas, and peer relationships that model and reinforce disinhibited reactions, maladaptive ways of thinking, and aggressive, antisocial, and delinquent behaviors.").

⁵ Megan O'Matz, *She Said Her Husband Was Abusive. A Judge Took Her Kids and Ordered Her Arrest* (Feb. 2022), <https://www.propublica.org/article/she-said-her-husband-was-abusive-a-judge-took-away-her-kids-and-ordered-her-arrest>