

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

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 1069
Peace Orders and Protective Orders – Coercive Control
DATE: February 22, 2022
(3/2)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 1069, as drafted. This legislation authorizes a person to file a petition for a protective order against another person for the act of coercive control.

The Judiciary appreciates the intent of the bill but has concerns about its implementation, as currently drafted. The Judiciary recognizes that the definition of “coercive control” in the bill mirrors the definition in Maryland Rule 9-205. However, the definition of “coercive control” in Maryland Rule 9-205 is meant to be very broad. Per the Rule, if a party asserts in good faith that there is an issue of coercive control of one party, the court may not order mediation. This is to ensure that parties can engage in mediation fairly and even-handedly, without concern for inappropriate coercion from any one side. In other words, the broad definition is intentional. It is designed to remove categories of cases from mediation.

The use of the same very broad definition as a basis to enter a protective order presents other concerns. A protective order hearing requires evidentiary proof – not just a good faith basis of a party -- and it is unclear how a court would find that there is coercive control as grounds for a protective order without expert testimony. It would also be hard to apply such broadly defined terms fairly and consistently across the State. Inequitable application may result, leading to significant actions against individuals with very little evidence of defined acts of abuse.

Moreover, the language of the bill is sweepingly broad. For instance, the use of the word “maltreatment” can have many different subjective meanings. The Judiciary is unclear what the term means in the context of this bill. Is maltreatment being offensive or rude? Should the maltreatment be judged through an objective lens or is it entirely in the eyes of the person who feels aggrieved? The bill is unclear. Given the significant consequences concomitant with the entry of a protective order – including removing the

other party from their home for one year – it is important to be specific in definition and application. It is not clear that such a broad definition of conduct is meant to be captured and, yet, the language of the bill seems to suggest as much.

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