
BILL NO: House Bill 1178
TITLE: Peace Orders and Protective Orders – Coercive Control
COMMITTEE: Judiciary
HEARING DATE: March 10, 2022
POSITION: **OPPOSE**

House Bill 1178 would add “coercive control” to the definition of abuse in both the peace and protective order statutes. While in the past the Women’s Law Center has supported this bill, we now oppose based on further national thought development of this issue, as well as other concerns. Intimate partner violence is usually defined as a pattern of behavior where one person tries to control another through a variety of tactics. It does not always include physical violence and is often much more subtle and nuanced. Coercive control is often part of the dynamic of intimate partner violence, and can be very difficult for a victim, but it is not physical violence.

House Bill 1178 would expand the definition of abuse, adding coercive control to the definitions of abuse in both the peace and protective order statutes (Md. Code Ann. Family Law Section 4-501 et seq. and CJP Section 3-1501 et seq.)¹. In HB 1178, coercive control is defined as repeated or continuous behavior *toward an adult*² individual that (1) is controlling or coercive; (2) has a “serious effect” on the other individual; and (3) the individual who engages in the behavior knows or reasonably should know will have a “serious effect” (also defined) on the other individual. This definition is circular at best, and not sufficiently defined in amended language the sponsor shared with us. In fact, some of the amended language is already incorporated in the definition of abuse currently used (e.g. threats of violence). We also question how proving some of this would be possible.

Our primary concern arises based on a report by the Battered Women’s Justice Project on disagreement in the (anti) intimate partner violence community with placing coercive control in protective order definitions of abuse³. Many think adding “coercive control” to the definition of abuse in FL Section 4-1501 et seq. will create situations where it will be used by abusers against the true victim. There is also concern that if coercive control is in the definition of abuse it will lead to increased perception by the bench that people are only seeking protective orders as a means to “get a leg up” in other family law issues, primarily custody. We do not want to increase that perception, which right now we believe is largely or almost always untrue, in our experience.

In addition, the Maryland Rules Committee is in the process this month of drafting a definition of coercive control to suggest adding to Maryland Rule 9.205.3, which dictates how cases with allegations of domestic violence should or should not be referred for court mediation. This body

¹ It is nonsensical to us that the definition is in the peace order statute fully fleshed out and only referenced in the Family Law Code protection order statute. With changes to our laws over the past few years, the people who qualify for a peace order will normally not have coercive control as part of the dynamic – peace orders are not between people in intimate partner relationships, except perhaps in a rare nonsexual dating relationship.

² We really have no idea why the “adult” language is here. Protective orders are allowed to people who qualify as a “person eligible for relief” in the statute regardless of age.

³ <https://www.bwjp.org/resource-center/resource-results/coercive-control-condification-brief.html>

should not create a different definition of coercive control than the Rules Committee and the Court of Appeals. It is also our understanding that the definition being considered and finalized there makes it clear that there is a distinction between coercive control and physical abuse.

Finally, the use of protection orders to achieve immediate safety is provided through an unusual and uncommon system that we do not want to dilute. Protective orders are used in extreme circumstances to allow a petitioner who is a victim of violence or threat of violence to get help from the court on an emergent basis to achieve safety. Because of the extraordinary and dangerous issues involved, the relief that can be granted is also extraordinary – vacate the home, stay away, custody, emergency family maintenance, etc. Protective orders based on coercive control in the absence of facts that create abuse under the current definition used is not the intended use of the protective order statute. The policy question here is whether the significant relief that can be granted via a protective order should be allowed if only coercive control is proven. HB 1178 would allow it. We understand the compelling issue here, but are not ready to agree it should be added to the definition of abuse in the protective order statute at this time, enabling the issuance of an order solely on proof of coercive control.

Therefore, the Women's Law Center of Maryland, Inc. urges an unfavorable report on House Bill 1178.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change. The Women's Law Center operates hotlines, Protection Order Advocacy and Representation Projects in Baltimore City, Baltimore County and Carroll County and the Multi-Ethnic Domestic Violence Project.