



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

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the House Judiciary Committee to issue an unfavorable report on HB 1178.**

It is undeniable that coercive control is a form of domestic violence commonly experienced by survivors. While this bill appears helpful in theory, there are real concerns about what it will do in practice. The codification of coercive control introduces concerns about implementation, potential unintended consequences, and harm to survivors. In addition, advocates generally agree that including coercive control in protective order statutes would not meaningfully improve the courts' ability to recognize and respond to survivors' experiences of abuse.¹

Further, cases such as these are not intended to be included in the protective order system. Protective orders are an extreme measure intended for dangerous situations where there is a serious risk of physical violence. Coercive control is not as significant of an immediate safety risk. The vague language in HB 1178 is also far too over-inclusive in identifying the pool of people eligible for a protective order. This bill could be interpreted to encompass some conflicts between couples that otherwise do not rise to the level of domestic violence.

Codifying coercive control would also provide more opportunities for the legal system to penalize victims. There is an increasing number of abusers who manipulate the legal system by seeking protective orders against survivors, claiming that the abuser is actually the victim.² This further controls, isolates, and victimizes survivors. By including coercive control in the grounds for a protective order, HB 1178 would make it even easier for the protective order system to be weaponized against survivors.

Unfortunately, courts frequently believe abusers' frivolous claims of victimization, relying on inaccurate stereotypes about women's capacity to be emotionally manipulative and deceitful.³ Many behaviors used

¹ Washington State Coalition Against Domestic Violence, Coercive Control Legislation Membership Input Report, (2021).

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>; WSCADV Membership Input Report

³ Michelle Burman, Oona Brooks-Hay (2018). Aligning Policy and Law? The Creation of a Domestic Abuse Offence Incorporating Coercive Control, *Criminology & Criminal Justice* 18(1):67-83.

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by survivors to resist the abuse or protect themselves and their children are frequently misunderstood as coercive controlling behavior.⁴ A survivor who has been subject to coercive control might appear to be the instigator of a conflict if the context of the situation is not considered. Sometimes survivors' resistance is loud, angry, or looks like aggression. Instances such as these could make survivors subject to a protective order under HB 1178.

What this view fails to recognize, however, is that survivors are acting this way in reaction to, or in an attempt to stop or escape from the abuse.⁵ 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. In many of those instances, the survivor ends up losing custody of their children because of the misguided belief that they are fraudulently claiming domestic violence as a tactic to gain an advantage in the custody case.⁶

For decades, the legal system has failed to adequately understand the dynamics of power and control in domestic violence, even when physical and sexual violence are also present. The broad language in HB 1178 makes a finding of coercive control extremely context dependent. Such a subjective decision has a high potential to be tainted by the biases of judges who consistently struggle to recognize the complexities of domestic violence.⁷ Coercive control can be very difficult to prove and articulate, often requiring a breadth of evidence and complexity of analysis that the criminal justice system is not currently well equipped to provide. This means protective orders will only be granted in the most extreme cases, which has the effect of normalizing lower levels of abuse, minimizing survivors' experiences of coercive control.⁸

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 the above stated reasons, the **Maryland Network Against Domestic Violence urges an unfavorable report on HB 1178.**

⁴ WSCADV [Membership Input Report](#)

⁵ Tolmie, [Coercive control: To criminalize or not to criminalize?](#)

⁶ <https://www.propublica.org/article/she-said-her-husband-was-abusive-a-judge-took-away-her-kids-and-ordered-her-arrest>

⁷ Id.

⁸ Julia Tolmie (2018). [Coercive control: To criminalize or not to criminalize?](#) *Criminology & Criminal Justice* 18(1):50-66.

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