



Newsletter of the NOW Foundation Family Law Advisory Committee Coercive Control

A WORD FROM THE COMMITTEE

We hope people are remaining safe and staying healthy in this unprecedented time.

At this time domestic violence has risen and victims still suffer the effects of the pandemic.

Now is the time that we should watch our courts and our state legislatures for family-policy related actions.

The National DV Hotline is 800-799-7233. You can call them from anywhere in the United States. Their website is <https://www.thehotline.org/>

What is Coercive Control?

By Cathy Bullock

Sociologist Dr. Evan Stark introduced the concept of coercive control in 2007, and the topic has recently become a more popular area of research in the domestic abuse literature. Coercive control refers to a deliberate and persistent pattern of domineering behavior used by domestic partners (usually men) to control their partner's thoughts, feelings, and actions via punishment and/or control (Jeffries, 2016). There is a direct relationship between coercive control and domestic violence that is associated with emotional abuse, post-separation physical abuse, sexual abuse, and child abuse (Jeffries, 2016; Stark & Herster, 2019). Coercive control can occur in same sex couples as well as heterosexual couples (Stark & Hester, 2019). According to Jeffries (2016), of strong concern is the fact that court appointed custody evaluators often do not recognize the symptoms of coercive control, or consider it irrelevant in custody proceedings,

and as a result the abuser (usually the man) will gain custody of the children who continue to be victims of coercive control.

References

Jefferies, S. (2017). In the best interests of the abuser: Coercive control, child custody proceedings and “expert” assessments that guide judicial determinations. *Laws*. 5, 1 - 16.

Stark, E. and Hester, M. (2019). Coercive control: Update and review. *Violence Against Women* (2019). 25, 81-104.

Dr. Evan Stark YouTube Video “Coercive Control & Children”

According to Professor Evan Stark (Welsh Women's Aide, 2017), men who engage in domestic violence frequently use coercive control both against the mother and the children. Stark describes the qualitative impact of coercive control of children as mirroring that of the mother. Like the mother, children experience the male batterer's imposition of rigid gender roles, low levels of sexual abuse and physical abuse (e.g. touching), and isolation that fly under the radar of social services, doctors, and other professionals. There is a negative impact on children's school performance due to trauma and a resulting inability to engage in socially complex behaviors because of rigidly controlled gender roles. A major tactic used by abusers engaging in coercive control is to “weaponize” the children by having them spy on their mother or taking custody from the mother in court. Mothers are frequently put in the position of choosing between their own safety and the safety of their child. Stark urges interventions to target helping both the mother and the child as a single unit (Welsh Women's Aide, 2017).

Reference

Welsh Women's Aide (2017, April 10). Professor Evan Stark: Coercive control and children {Video}. You Tube. <https://www.youtube.com/watch?v=kvHbVzTzpX0>.

Coercive Control & How It’s Used in Family Court

By Adele Guadalupe

In family court both parents and children are often victims of coercive control. In this country anyone can file a motion in court or open a case against anyone for

any reason or for no good reason. It then goes before a judge to determine the validity of the charges.

In family court filing frivolous and non-evidential motions is a common occurrence. When a contested child custody case is adjudicated it can go on for years. One parent, usually the "coercive controlling" parent keeps bringing the other parent to court for a variety of reasons, sometimes based on blatantly false or trivial accusations. It is usually the parent who has the most money. Many courts allow this to go on for an interminable amount of time, with ever increasing controlling behavior. Prolonged family court cases may change judges many times over the years. Many of the parents cannot afford attorneys, court reporters or transcripts. Therefore, what happened in another courtroom may not be recorded, and therefore cannot be used as evidence. The following is a list of what happens to a parent with a coercive controlling partner:

1. Isolation of the parent from their support system. This prevents the abused parent from having a meaningful relationship with others who can be called upon as witnesses to the abuse. The abusive parent may further coerce the other parent in the courts by demanding mediation, which can be very harmful to the victim because of the parties' unequal bargaining power. The controlling parent has been known to record phone calls, videotape the other parent and get access to their private records. In many cases that same parent refuses to submit their own records to the courts. To the extent that that parent can afford a highly litigious attorney, this goes on and on.
2. Many parents come to court only to find that their activities and way of life are being monitored by the other parent. Some parents have found that they've had cameras and recording devices secretly installed which monitor their every move. Some have even reported private detectives following them everywhere. It is a controlling action that attempts to make the controlling parent seem omnipresent. Of course, the information garnered can paint a bad picture in the courtroom of the opposing parent. Sometimes the court ignores these privacy boundaries.
3. Coercive controllers even will cause job loss, by making accusations and harassing the other parent at their workplace. They have also been known to compromise the other parent's computer and phone and changed the passwords of the other parent. This is done in an effort to maintain control and gain full custody of the child, which would be their final victory. Often, when that happens, the parent who loses is forced to pay child support to a parent who earns much more than they do.

4. Many parents have found that they no longer have access to their funds. The other parent has removed them from all accounts and assets. Hiding assets is another way to fool the courts.
5. Turning the children against the other parent is another means of coercive controlling. It is done by belittling the parent and consistently telling the children what a bad parent they are.
6. The control also extends to aspects of their health and that of the children. Medications and doctor visits are used as a weapon in court.
7. Threatening the other parent is also in the toolkit. They sometimes make calls to social services and say that the protective parent is either neglecting or abusing the children. They also accuse the other parent of making important decisions without consulting them. This information is then used as ammunition in the court.
8. The controlling parent can also try to make it impossible to pick up the child from child sharing. They also pick up or drop the children off at an inappropriate time or place than was court ordered.

These controlling methods, plus many more, can do irreparable harm to both the victim parent and the children. It is not an unknown fact that abusers end up with joint custody and even full custody. It needs to be acknowledged that coercive control is a form of abuse and should be dealt with as such in the courts. Allowing custody of any sort must be decided with this in mind.

California and Hawaii Approve New Coercive Control Laws to Increase Protections for Victims of Domestic Abuse

By Michael Smalz

All 50 states and many countries have implemented laws to protect victims of domestic violence. State domestic violence laws typically define domestic violence as causing or attempting to cause bodily injury, or threatening to cause bodily injury, to a family or household member. Therefore, hitting, punching, kicking, pushing, or choking a family or household member generally falls within the legal definition of domestic violence under state criminal, protection order, and child custody statutes. There may be bruising, a black eye, or other visible manifestations of physical injury. However, there are other subtler forms of domestic abuse – psychologically damaging and abusive behavior – that are referred to as “coercive control.” Until recently, these forms of domestic abuse have fallen outside the scope of state domestic violence laws. Moreover, in some states courts may not even allow victims to testify regarding such abusive behavior in criminal and family court proceedings.

However, California and Hawaii have recently adopted landmark coercive control legislation that expands the definition of domestic violence to include coercive control. On September 15, 2020, Hawaii became the first state to adopt legislation against coercive control when Governor David Ige signed into law a historic amendment expanding the definition of domestic abuse to include “coercive control between family or household members for the purpose of insurance and protective orders.” Shortly thereafter, on September 29, 2020, Governor Gavin Newsom of California signed Senate Bill 1141 which added “coercive control” to the California protective order statute.

Under these new laws “coercive control” includes isolating the victim, relatives, or other support; depriving the victim of basic necessities; and controlling for monitoring the victim’s movements, communications, daily behavior, finances, economic resources, or access to services. The California statute also includes within the definition of coercive control behavior any actions “compelling the other party by force, threat of force, or intimidation, including threats based on actual or suspected immigration status, to engage in conduct from which the other party has a right to abstain or to abstain from conduct in which the other party has a right to engage.” Meanwhile, the Hawaii statute further defines coercive control to include such abusive behavior as “name-calling, degradation, and demeaning the individual frequently; threatening to publish information or make reports to the police or the authorities; damaging property or household goods; and forcing the individual to take part in criminal activity or child abuse.”

The supporters and legislative sponsors of the California and Hawaii legislation drew inspiration from a similar law that had been previously enacted by Scotland. Scotland was the first jurisdiction to incorporate coercive control in their gender domestic violence statute, and the Scottish experience demonstrated that the new law was very effective over time at reducing the number of domestic abuse cases that escalated to physical violence. Advocates in other states may now draw inspiration from the recent California and Hawaii legislation. Advocates who want to learn more about the California and Hawaii laws and the successful campaigns to secure passage of those bills should check out the links below.

https://duckduckgo.com/?q=california+coersive+control+legislation&t=chromentp&atb=v242-5_&ia=web

<https://goldrushcam.com/sierrasuntimes/index.php/news/local-news/25708-california-governor-gavin-newsom-signs-legislation-to-support-survivors-of-sexual-assault-domestic-violence-and-other-crime-and-abuse>

https://duckduckgo.com/?q=hawaii+coersive+control+legislation&t=chromentp&atb=v242-5_&ia=web

<https://news.stv.tv/scotland/hawaiis-new-domestic-abuse-law-influenced-by-scotland?top>



General Information on Family Courts

A clearinghouse of materials the committee has compiled can be found at the NOW Foundation website at this link, <http://now.org/now-foundation/crisis-in-family-courts/>. There are additional materials at the Chapters-only website on the NOW website.

Family Law Advisory Committee Brochure is available at this link: <http://now.org/wp-content/uploads/2015/02/familylawbrochure7-08final.pdf>

A Call to Action

Link with others in your community working on the issue of Coercive Control, if you can find them. Check with your state legislature to see if there are any pending bills concerning Coercive Control. If not, see the laws referenced in this newsletter and approach your legislators about sponsoring legislation for your state. You can contact this Committee by emailing us here: family@now.org