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## A BILL FOR AN ACT

RELATING TO COERCIVE CONTROL.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that when child custody  
2 is under consideration, courts should also be aware that  
3 coercive control is a tactic that has been used by perpetrators  
4 to harm and exploit their partner and children's wellbeing.  
5 When courts are evaluating the best and safest way to issue  
6 custody orders, acts of coercive control should be included in  
7 the analysis.

8           The purpose of this Act is to add coercive control to the  
9 list of factors to be considered by the court in determining  
10 what constitutes the best interest of the child.

11           SECTION 2. Section 571-46, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13           "(b) In determining what constitutes the best interest of  
14 the child under this section, the court shall consider, but not  
15 be limited to, the following:

16           (1) Any history of sexual or physical abuse of a child by  
17           a parent;



- 1           (2) Any history of neglect or emotional abuse of a child
- 2                   by a parent;
- 3           (3) The overall quality of the parent-child relationship;
- 4           (4) The history of caregiving or parenting by each parent
- 5                   prior and subsequent to a marital or other type of
- 6                   separation;
- 7           (5) Each parent's cooperation in developing and
- 8                   implementing a plan to meet the child's ongoing needs,
- 9                   interests, and schedule; provided that this factor
- 10                   shall not be considered in any case where the court
- 11                   has determined that family violence has been committed
- 12                   by a parent;
- 13           (6) The physical health needs of the child;
- 14           (7) The emotional needs of the child;
- 15           (8) The safety needs of the child;
- 16           (9) The educational needs of the child;
- 17           (10) The child's need for relationships with siblings;
- 18           (11) Each parent's actions demonstrating that they allow
- 19                   the child to maintain family connections through
- 20                   family events and activities; provided that this
- 21                   factor shall not be considered in any case where the



1 court has determined that family violence has been  
2 committed by a parent;

3 (12) Each parent's actions demonstrating that they separate  
4 the child's needs from the parent's needs;

5 (13) Any evidence of past or current drug or alcohol abuse  
6 by a parent;

7 (14) The mental health of each parent;

8 (15) The areas and levels of conflict present within the  
9 family; [~~and~~]

10 (16) A parent's prior wilful misuse of the protection from  
11 abuse process under chapter 586 to gain a tactical  
12 advantage in any proceeding involving the custody  
13 determination of a minor. Such wilful misuse may be  
14 considered only if it is established by clear and  
15 convincing evidence, and if it is further found by  
16 clear and convincing evidence that in the particular  
17 family circumstance the wilful misuse tends to show  
18 that, in the future, the parent who engaged in the  
19 wilful misuse will not be able to cooperate  
20 successfully with the other parent in their shared  
21 responsibilities for the child. The court shall



1 articulate findings of fact whenever relying upon this  
 2 factor as part of its determination of the best  
 3 interests of the child. For the purposes of this  
 4 section, when taken alone, the voluntary dismissal of  
 5 a petition for protection from abuse shall not be  
 6 treated as prima facie evidence that a wilful misuse  
 7 of the protection from abuse process has occurred[-];  
 8 and

9 (17) Any history of coercive control of the child or a  
 10 parent of the child by the other parent. For the  
 11 purposes of this paragraph "coercive control" shall  
 12 have the same meaning as in section 586-1."

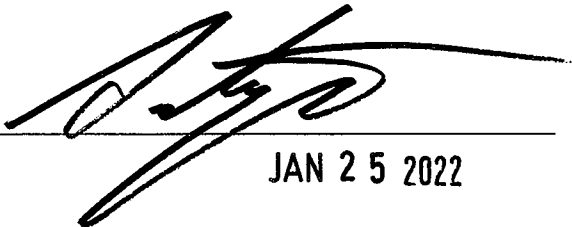
13 SECTION 3. This Act does not affect rights and duties that  
 14 matured, penalties that were incurred, and proceedings that were  
 15 begun before its effective date.

16 SECTION 4. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:




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JAN 25 2022



# H.B. NO. 2192

**Report Title:**

Judiciary; Coercive Control

**Description:**

Adds coercive control to the factors a court may consider in determining the best interest of the child.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

