

Criminal Code (Defence of Dwellings and Other Premises - Castle Law) Amendment Bill 2024

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DVCONNECT

Be heard. Be safe.



SUBMISSION

**Inquiry into the Criminal Code
(Defence of Dwelling and Other Premises - Castle Law) Amendment Bill 2024**
Submission Due 2 July 2024



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Chief Executive Officer
DVConnect
PO Box 10575 Adelaide Street
Brisbane QLD 4000

Email: [REDACTED]
Phone: 07 3156 2323
Website: www.dvconnect.org

DVConnect receives funding from the Queensland Government

DVConnect respectfully acknowledges and celebrates the Traditional Owners/Custodians throughout Australia and pays its respects to Elders, children and young people of past, current and future generations. We are committed to helping anyone experiencing domestic, family and/or sexual violence. This includes the LGBTIQ+ community, people of all ethnicities, religions, ages, abilities and pets.

For information about this Submission, please contact:
Michelle Royes, Director Social Impact and Advocacy. michelle@dvconnect.org



About DVConnect

DVConnect provides several national and state responses to people who have experienced violence and offer support and pathways to safety and healing.

Queensland wide:

Domestic, family and sexual violence response services:

- DVConnect Womensline
- DVConnect Mensline
- Sexual Assault Helpline
- Forensic Support Line
- Pets in Crisis
- Bella's Sanctuary

Victims of crime service:

- Victim Connect
- Victims of Crime Community Response Pilot

Nationally:

- National Sexual Assault, Domestic & Family Violence Counselling Service, 1800RESPECT.

DVConnect's driving ethos is respect and safety, the right of people to live without violence, in the home or in the community. We are a not-for-profit organisation, with primary funding streams from Department of Justice and Attorney General, Office for Women and Violence Prevention (Queensland); Department of Justice and Attorney General, Victim Assist Queensland (Queensland) and Department of Social Services (Australia).

DVConnect was established in 1980 and is Queensland's state-wide crisis response service for domestic, family and sexual violence. DVConnect helps Queenslanders find pathways to safety 24 hours a day, 7 days per week. Annually, DVConnect takes in excess of 100,000 calls across all lines and provides crisis intervention across a number of key services. Womensline receives one call for help every five minutes (across a 24 hour period). Crisis support is provided in the form of emergency telephone support, emergency crisis accommodation placement and transport for families affected by abusive relationship, counselling for men, women and victims of sexual assault, education and support for men, community education, and care for pets of families experiencing domestic and family violence. DVConnect also operates Bella's Sanctuary a 5-unit medium-term accommodation residence that exists to provide women and children with a safe housing option after leaving a shelter/refuge.

DVConnect provides Australia's national sexual assault, domestic and family violence support service, 1800RESPECT. This service provides information, referral and counselling 24 hours a day, 7 days per week. DVConnect are subcontracted by Telstra Health to provide specialist counselling across the country.



Victim Connect is the state-wide response for victims of crime that fall under the Victim Of Crime Assistance Act 2019 (Queensland). VictimConnect provides a state-wide 24/7 helpline and multi-session counselling and case management support service. Delivering this service expands DVConnect's experience with those who experience domestic, family and sexual violence to now include those who experience violent and personal crime across Queensland.

DVConnect operates from an intersectional feminist framework, acknowledging that domestic, family and sexual violence is gender-based violence. This gendered analysis is supported by research, evidence and data, and indicates that domestic, family and sexual violence is most often perpetrated by men against women, and that perpetrators of this violence are fully responsible for their actions. This framework acknowledges and responds to the intersectional experience of domestic, family and sexual violence.

While the experience of those impacted by violent and personal crime is more broad reaching than domestic, family and sexual violence, we build upon our intersectional, trauma-informed expertise to offer recovery-based counselling and case management.

The clinical services provided by DVConnect are inclusive and trauma-informed. We are guided by the diverse voices of survivors and recognise our clients as the expert in their own lives. The abilities, strengths, goals and needs of people living with disability are respected, as are individuals from culturally and linguistically diverse backgrounds. DVConnect acknowledge that Aboriginal and Torres Strait Islander people know best what their communities need and want. Importantly, the intersectional approach of DVConnect considers and responds to how overlapping forms of discrimination may impact a client's experience of domestic, family and sexual violence and other violent and personal crime.

Through operating multiple state-wide services DVConnect has unique insight into the experience of both violence and relevant services systems across Queensland. This combines with our national program which furthers our appreciation and practice-based evidence about geographic diversity and its impact on how domestic, family and sexual violence and ability to access safer and supports.



Opening Statement

DVConnect does not support this Amendment Bill.

From our work with both victim/survivors of domestic, family and sexual violence and victims of violent crime across Queensland, we know that people are not seeking the ability to defend their homes. They instead want a community that is safe. Where they can feel safe at home without needing to consider if they will need to defend themselves and their property.

Further people who experience domestic and family violence, express concern at how this law may be obfuscated with acts of interpersonal violence in the home and used as both a community authorisation of the use of violence in the home, and as a form of defence if serious harm or death does occur in the home.

Practitioner feedback

DVConnect consulted a number of practitioners to help inform this Submission. Their feedback conveys the concerns we hear directly from victim/survivors about their experiences. **What we do hear from victim/survivors of interpersonal crime are that they want to feel safe without the need to use force themselves.**

“None (clients) have ever raised wishing to be able to protect their home”

“Most (clients) were not expecting to need to protect their home”

“Many clients would not have been able to take action anyway”

“One was concerned about how aggressive she got to protect her children...she was slightly worried about being charged as she did assault the intruder. She was reassured that reasonable force was allowable. She wanted access to counselling to support her with understanding how she reacted ”

“Most (clients) wanted faster police response, faster judicial systems, and access to counselling and financial supports quicker and for longer”

“Concern that violence begets violence”

Whilst a review of available literature did not reveal commentary or evidence on how the Amendment Bill may negatively impact victim/survivors of DFV as well as non-DFV violence. We are cognisant of the practical impacts this amendment may have for increasing risk of harm and expectations for victim/survivors. **The underlying message DVConnect hears from clients is the need to feel safe.** However, the need to feel safe should not be linked with the expectation to protect oneself.



For example:

DFV settings

- A person that used violence in a relationship could argue that the murder of a partner in a premises was due to mistaken identity if they both reside there, or that the murder was to protect the home if the partner did not live there.

Non DFV settings

- A person feels an obligation to protect their home, having heightened expectation of being ready to defend the home, and therefore somehow at fault if they were not prepared or did not act in a way to protect their home. Therefore, somehow being at fault for any damage or harms that occurred.

Legal context

From DVConnect's understanding the law currently provides for reasonable force in specific and appropriate circumstances. From our understanding and experience with people who are victim/survivors of violent crime and home invasions that has been found to offer enough protections, in any situation where a person has used violence in defence of an attack or invasion.

From our understandings castle doctrine like provisions are not found in other jurisdictions across Australia.

The provision that this Amendment Bill suggests that protections also extend instances where death or grievous bodily harm to the intruder occur is also of serious concern and one, from our understanding, not replicated elsewhere in Australia.

A review of case law and literature across Australia and internationally, does find that defences similar to the castle doctrine have not been successful in matters of serious injury or death in domestic and family violence situations. The framing of the Bill also suggests that a person living in the home could not be seen as an intruder under the Amendment Bill, though may give space for matters where the abuse is perpetrated in a relationship where people are not residing together.

While the legal framework may allay the concerns tabled above about this law being used as a defence, we still find issue how this may both embolden and facilitate further violence in the home, through condoning the use of violence as a form of safety and the purchasing of weapons for "protection" making these more accessible to those that use domestic and family violence.

Conclusion

DVConnect, through its provision of Womensline, working with women and children escaping violence, Mensline, working with men who use and are victim/survivors of domestic and family violence and VictimConnect where we provide counselling and immediate phone support to victims of all crime in Queensland, including those who have experienced home invasion, see that this Amendment Bill **does not improve safety**.



Instead, we see this as constraining safety for the community promoting this idea that you must defend yourself. That is, the sense that the community, including policing and justice systems, are part of the important fabric of creating safety in our communities is not our collective approach.

Instead of the approach of this Amendment Bill we support work that support those that exhibit criminal behaviours, and use violence, to change those behaviours. We support improved policing and justice responses and greater support options including financial and counselling options after a crime has been experienced.