

Police Powers and Responsibilities and Other Legislation Amendment Bill 2024

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DVCONNECT

Be heard. Be safe.



SUBMISSION

**Police Powers and Responsibilities and Other Legislation
Amendment Bill 2024**

Submission due 12 April 2024



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

Email: ceo@dvconnect.org
Phone: [REDACTED]
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 Clinical Governance. [REDACTED]



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 (DFSV) to now include those who experience violent and personal crime across Queensland.

DVConnect operates from an intersectional feminist framework, acknowledging that DFSV is gender-based violence. This gendered analysis is supported by research, evidence and data, and indicates that DFSV 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 DFSV.

While the experience of those impacted by violent and personal crime is more broad reaching than DFSV, 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 DFSV 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 DFSV and ability to access safer and supports.



Opening Statement

DVConnect proudly stands alongside the LGBTIQ+ community. DVConnect has a long history of listening to people of trans and gender diverse communities and acknowledge them as the experts in their own lives.

DVConnect is funded as a mainstream organisation. Our expertise is working with all people who have experienced domestic, family and sexual violence (DFSV) as well as other violent crimes in Queensland. We recognise that we do not specialise in advocating for people of diverse genders and/or trans people.

In saying this, and true to our intersectional feminist ethos, we have consulted with key partners to explore how this Bill impacts on the trans and gender diverse community with a lens on DFSV.

Our experience tells us that gender matters. The way crimes are perpetrated and the way the system responds is impacted by the way society sees gender and gender-roles.

Domestic, Family, Sexual Violence Considerations

DFSV does not discriminate and can impact anyone. At the core of DFSV is power and control. DVConnect has several concerns for how some elements of the Bill, could inadvertently impact individuals with a lived experience of DFSV:

- **Triggers** from trauma experienced from DFSV.
- **Consent** and allowing the person to prepare.
- **Dignity** being maintained. Dignity is a factor often absent for gender diverse individuals which offers empowerment. Maintaining dignity helps with any relationship especially in conducting searches.

Overall, we are **in support of the many measures and the intent of this Bill**. To align to what is being recognised by the community of the role and importance of gender identity and the rights of trans and gender diverse people to be seen and upheld. These actions must be taken to enable to the progression of the Births Deaths and Marriages Act 2023.

DVConnect must stress, that the simple act of de-gendering legislation does not promote inclusion. Inclusion is gained by careful and considered actions that reviews the role of gender, for individuals, in our systems and in our community.

We have three key concerns with the Bill as it stands.

1. The rolling back of *requirement* for same-sex/same-gender and replacing with *preference* with no specificity about choice and/or redress if a person feels their preference has been disregarded.
2. The change of photographing of breasts as being regarded as non-intimate forensic procedure.



3. The change of hand-held scanners being regarded as non-intimate procedure.

Aside from these concerns, DVConnect can see how the simple use of technology such as body scanners can be implemented to negate many of the requirements for searches and inspections in facilities. This would have dramatic, immediate, positive impact on the safety and wellbeing of individuals needing to be searched and the improved safety of the community through an effective and quick mechanism for required searches.

Finally, DVConnect wishes to highlight how these changes can and will have impact the community including victim/survivors of DFSV and women and girls in the criminal justice system. Extensive reviews of these experiences as documented in the Women's Safety and Justice Taskforce Reports, and the A Call For Change Commission of Inquiry into Queensland Police Service Responses to Domestic And Family Violence Report articulate how systems do have detrimental and enduring outcomes for highly vulnerable populations. **Accordingly, we have concerns at the speed and brevity of consultation on this Bill.** As for many of the submission and consultation opportunities that have been provided to the community and the sector in the last period, we are finding a real and tangible lack of time and resources to effectively respond to ensure legislative changes are as powerful and positive as possible.

Same-Sex/ Same-Gender Requirements

DVConnect is in support of the change from 'same-sex' to 'same-gender' as proposed across the Bill.

DVConnect is **not** in support of the change from 'required' to 'preferred' with the ability of the relevant person enacting the relevant legislation to decide if this preference can be accommodated or not. The term 'reasonable' is applied extensively through the Bill, such as reasonable opportunity, reasonable grounds, reasonably practical. **We have seen through many recent inquiries and reports how the system engages with this kind of legislative scope to the humiliation, disregard and indifference of the community member being subject to the relevant legislation.**

While we see the need for this flexibility to enable trans and gender diverse people to be appropriately accommodated by these legislations, too often the needs of the system are outlined as reasons why a preference may not be accommodated. For example the term '*If it is not reasonably practicable to accommodate*' is listed eight times in the Bill.

To enable this flexibility, DVConnect would like to see greater accountability for these decisions within these specific legislations. For example, the requirement for each circumstance where a person's preference is not able to be accommodated, there is a review by a higher officer/role/appropriate person. Similarly, there could



be annual reporting on matters where preferences were unable to be accommodated and the underpinning rationale.

Handheld scanners

DVConnect is not in support of the use of wandling/ handheld scanners that are being used without warrant to identify if a person is carrying a knife or similar. DVConnect made submissions to the Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022, that proposed the legislation that allows this to occur. Our submission outlined how relevant evaluations showed that scanning for hidden weapons did not improve community safety.

To now recognise this as a non-intimate procedure further **exposes over-policed populations to indifferent policing approaches that do not regard how intimidating and harmful such procedures can be.**

Part 7 34. Amendment of s39 (Safeguards for exercise of powers). Handheld scanners need to where possible still hold the same gender for the person being scanned as a choice. Consider the power and control imbalance that is present when police are conducting a search. The handheld scanner can be seen as a threat even though it is not touching the body. The handheld scanner being used in this way dismisses the choice of the individual and minimises their concerns.

This must be considered an intimate procedure with same-gender requirements. At a minimum this should be given the same responses of seeking a person's gender preference of the relevant officer with appropriate, embedded oversight protocols outlined above.

Photographing of Breasts

DVConnect is **not** in support of the photographing of breast being considered non-intimate forensic procedures.

Part 7 – 37. Insertion of new s 519a regarding Gender safeguard for photographing breasts. Part 7 Amendment of schedule 6 The effect of subclauses (4) and (6). Forensic Procedures acknowledgement that same gender provides a safeguard gives the respect to the gender diverse person who may be undergoing the forensic examination. A further point within this section speaks about re-categorising breasts from intimate to non-intimate when a photograph is being taken therefore not requiring forensic procedure consent. These responses are somewhat incongruent.

Nonetheless, breasts are an intimate part of the body for any gender and should be seen as such. This aligns with respect shown for the person being searched and maintains dignity. Breasts are intimate and choice needs to remain with each individual that they can maintain the choice and be respected.

This must be considered an intimate procedure with same-gender requirements. At a minimum this should be given the same responses of seeking a



person's gender preference of the relevant officer with appropriate, embedded oversight protocols outlined above.

Use of technology

As technology improves there is greater opportunity to remove the need for physical searches. Throughout a number of areas in this Bill the requirement to search could be greatly reduced through the use of technology such as full body scanners. If inclusivity underpins the driver for this Bill, then investment in technology comprehensively across the various areas where this legislation is enacted could save time, resources, improve identification of search items and most importantly ensure the dignity of the person being subjected to a search.

Conclusion

To help direct and give provision to the amendments within the Bill, an understanding of how the proposed amendments will impact individuals regardless of their identified gender is needed. We find this consideration lacking in several vital areas, specifically with regards to same sex/same gender requirements; handheld scanners; and photographing of breasts. The Bill explores them through a Police powers lens that fails to acknowledge or address the considerable implications of these three key proposed changes for people who will be subjected to them.