

**CRIMINAL LAW (COERCIVE CONTROL AND AFFIRMATIVE CONSENT) AND OTHER LEGISLATION  
AMENDMENT BILL 2023**

**Submission No:** 37  
**Submitted by:** Queensland Police Union of Employees  
**Publication:** making the submission and your name public  
**Attachments:** See attachment  
**Submitter Comments:**

# Queensland Police Union of Employees

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27 October 2023

Committee Secretary  
Legal Affairs and Safety Committee  
Queensland Parliament  
George Street  
Brisbane Q 4000

Via email to - [lasc@parliament.qld.gov.au](mailto:lasc@parliament.qld.gov.au)

## **Re: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Bill 2023**

Dear Committee Secretary,

I am writing on behalf of the Queensland Police Union (QPU) to provide a comprehensive parliamentary submission concerning the *Criminal Law (coercive Control and Affirmative Consent) and Other Legislation Amendment Bill 2023* (the Bill) currently under consideration by this esteemed committee.

The QPU represents over 12,500 police officers, watchhouse officers, liaison officers, and band members throughout Queensland. We appreciate the opportunity to comment on the Bill, which is a critical step in addressing coercive control and sexual offences in our state. Our submission highlights key concerns and recommendations for the improvement of this legislation.

### **Resourcing re Coercive Control**

One of our primary concerns is the lack of additional funding and resources to support the implementation of the legislation. The Bill expands the responsibilities of the Queensland Police Service (QPS) without offering additional resources. This issue is particularly significant given the expected increase in demand for police services, courts, and legal professionals.

The Explanatory Memorandum to the Bill acknowledges that it is likely to increase the workload for courts, police, and the legal profession due to an increase in the number of matters coming before the courts and the increased complexity of these matters.

The QPU stresses the importance of quantifying the additional cost and human resource requirements accurately. For instance, we estimate that investigating coercive control and the amended offenses will demand a significant amount of police hours. A thorough investigation into these matters will likely require at least two officers, each working approximately three days. To provide a comprehensive investigation, police forensic experts may also be involved, taking an additional two days for the investigation. All three personnel involved will be required to attend court, resulting in an additional three days of work. In summary, it will take 11 police officer days to conduct a single investigation, which must encompass the entire relationship in question. We anticipate an average of 10,000 such cases per year, generating an additional 880,000 police hours. This calculation leads us to believe that in order to effectively service these new laws, an additional 500 trained and experienced police officers are required. We

emphasize that these officers cannot be fresh from the academy; they must be well-trained investigators.

In fact the QPU believes, given the serious nature of the coercive control offence as a 14 year imprisonment crime, the investigation of this type of offending will really be the province of qualified detectives.

Furthermore, the QPU is concerned that the proposed legislation further adds to the already heavy workload of police officers. Recent inquiries have identified the need for police to decompress from their workload to be able to perform their duties effectively. The need for additional resourcing to facilitate this necessary change is paramount in the eyes of the QPU.

### **Bail Act and Youth Justice Act Amendments**

The Bill will require police and courts to take into account the impact a refusal of bail will have on the individuals for whom the defendant is the primary care giver, and in the case of pregnancy, the yet to be born child.

The QPU supports this position, as a matter which should be considered when determining the question of bail. It is noted the presumption for the refusal of bail in circumstances where a person is charged with a relevant domestic violence type offence will remain, and not be overridden by the amendment.

### **Failure to Report Offence**

The extension of reasonable excuse to certain relevant professionals is supported on the basis there remains an overriding consideration where the professional reasonably believes non reporting will pose no real risk of serious harm to the child (or any other child). This appropriately balances the need for professionals providing medical services to be capable of maintaining confidentiality (and thus mandatory reporting not acting as a block to seeking medical assistance), against ensuring the safety of children generally.

### **Affirmative Consent**

The QPU supports the concept of affirmative consent. However, holds concerns in relation to clause 348AA(1)(l) and (m).

The QPU is concerned the inclusion of a sex worker not being compensated for a sexual act as a circumstance of non-consent will unintentionally reduce the seriousness of all sexual offences. A failure to pay or otherwise provide an agreed reward should be an offence of dishonesty and treated accordingly. The QPU also holds concerns about how this provision would operate in the event the "customer" is unable to make payment due to circumstances otherwise outside of that person's control. Examples include where a credit card is declined or unable to be processed.

In terms of subsection (m), the current circumstances requires transmission of the serious disease. The QPU believes this subsection should be amended to remove a requirement of transmission of the serious disease. It should be sufficient that a person is induced to participate in a sexual act because of a fraud or fraudulent representation about whether the other person has a serious disease and the other person does not take agreed to precautions to prevent the possible transmission. The lack of affirmative consent should not turn on whether the victim becomes infected.

## **Mass Media Reporting on Domestic and Family Violence Applications**

The QPU generally supports these amendments on the basis victims and children would not be identified. Clearly, particular care would need to be given to authorising reporting in small and rural locations, where victims and their children may be more readily identifiable.

## **Perpetrator Diversion**

The QPU fully supports the concept of perpetrator diversion schemes, and in fact suggested it in submissions to Government over ten years ago. Diversionary schemes have the potential to break the violence cycle from the perspective of the offender. All too often police see victims escape from a particular perpetrator, only for that perpetrator to go on and enter a new relationship and create a new victim.

However the QPU has concerns about how these particular provisions would operate. This is especially so in circumstances where court proceedings would be subject to lengthy delay while the scheme operated. This in turn would likely result in a reduction in the likelihood of convictions due to the lapse of time, and witnesses becoming unavailable or having lapses of memory in terms of their evidence.

The QPU believes a better model would involve an initial conviction, with the scheme operating to expunge that conviction in all respects where the perpetrator successfully completes diversion.

Such a change means offenders who are convicted in courts which do not offer the diversionary program could also enrol in and complete the program in other localities of their own volition. Accordingly it is likely more perpetrators would engage in the scheme on the basis it would remove a conviction from their criminal history. The existence of the entry on the history would also be a motivating factor for such persons to successfully engage in diversion.

## **Conclusions**

While we support the intentions behind the legislation, we urge the committee to address the concerns raised in this submission. Increased funding and police resources are essential to implement these reforms effectively. A multi-disciplined approach, involving various agencies and NGOs, is necessary to create a robust system to protect Queensland's citizens effectively. We further emphasize the need for comprehensive training for all stakeholders involved in the implementation of this legislation, as it is essential to ensure its success.

The QPU is dedicated to assisting in this process and working collaboratively to achieve the desired outcomes in addressing domestic and family violence. We are fully aware that we cannot arrest our way out of the issues this legislation seeks to address. We need a multi-disciplined response that leans on agencies and NGOs across the whole ecosystem to make this system work for Queensland and keep people safe.

Thank you for considering our detailed submission. We look forward to further engagement and cooperation to ensure the success of these important reforms.

Yours faithfully



**IAN LEAVERS APM**  
**GENERAL PRESIDENT & CEO**