LEGAL AFFAIRS AND SAFETY COMMITTEE

Members present:
Mr PS Russo MP—Chair
Mrs LJ Gerber MP
Ms SL Bolton MP
Ms JM Bush MP
Mr JE Hunt MP
Mr JM Krause MP

Staff present:
Ms K O'Sullivan—Committee Secretary
Ms K Longworth—Assistant Committee Secretary
Ms M Telford—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE DOMESTIC AND FAMILY VIOLENCE PROTECTION (COMBATING COERCIVE CONTROL) AND OTHER LEGISLATION AMENDMENT BILL 2022

TRANSCRIPT OF PROCEEDINGS

MONDAY, 24 OCTOBER 2022

Brisbane

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The committee met at 11.35 am.

CHAIR: Good morning. I declare open the public briefing for the committee's inquiry into the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill. My name is Peter Russo. I am the member for Toohey and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all share. With me here today are Sandy Bolton, the member for Noosa; Jonty Bush, the member for Cooper; Jason Hunt, the member for Caloundra; Jon Krause, the member for Scenic Rim; and Laura Gerber, the member for Currumbin and deputy chair.

The purpose of today's briefing is to assist the committee with its examination of the bill, which was introduced into the Queensland parliament on 14 October 2022 and referred to the committee for consideration. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence.

These proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. In this regard, I remind members of the public that under the standing orders the public may be admitted to or excluded from the briefing at the discretion of the committee. I also remind committee members that the departmental officers are here to provide factual and technical information. Any questions seeking an opinion about policy should be directed to the Attorney-General or left to debate on the floor of the House.

These proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during proceedings and images may also appear on the parliament's website or social media pages. I ask everyone to turn their mobile phones off or to silent mode. I ask witnesses to turn microphones on before they speak and off after they conclude speaking.

BANDARANAIKE, Ms Sakitha, Director, Strategic Policy and Legal Services, Department of Justice and Attorney-General

BOGARD, Ms Adele, Acting Director, Strategic Policy and Legal Services, Department of Justice and Attorney-General

HUGHES, Ms Jo, Acting Director, Strategic Policy and Legal Services, Department of Justice and Attorney-General

McMAHON, Ms Kate, Principal Legal Officer, Strategic Policy and Legal Services, Department of Justice and Attorney-General

ROBERSTON, Mrs Leanne, Assistant Director-General, Strategic Policy and Legal Services, Department of Justice and Attorney-General

CHAIR: Welcome. I invite you to brief the committee, after which committee members will have some questions for you.

Mrs Robertson: On behalf of myself and my colleagues from DJAG, I thank you for the opportunity to brief the committee on the bill this morning. I note that the department has already provided some briefing material to the committee on the amendments contained in the bill. I want to keep this opening statement fairly short for obvious reasons.

In order to give effect to recommendations 52 to 60 and 63 to 66 in chapter 3.8 of the Women's Safety and Justice Taskforce's first report, *Hear her voice—Report one—Addressing coercive control and domestic and family violence in Queensland*, the bill amends a number of pieces of legislation; namely, the Criminal Code, the Domestic and Family Violence Protection Act 2012, the Evidence

Act 1977, the Penalties and Sentences Act 1992 and the Youth Justice Act 1992. The bill also makes amendments unrelated to the task force recommendations, and those amendments are to the Criminal Code, the Evidence Act, the Coroners Act, the Oaths Act and the Telecommunications Interception Act.

I turn firstly to the amendments made in response to task force recommendations and start with the Criminal Code amendments. The bill amends chapter 33A of the Criminal Code, which contains the offence of unlawful stalking and related provisions. The bill renames the offence and modernises it so that it better reflects the way an offender might use technology to facilitate unlawful stalking, intimidation, harassment or abuse. The bill adds a new circumstance of aggravation if a domestic relationship exists or has existed between the offender and the victim. It also amends a number of aspects of the current restraining order regime to strengthen the protection it provides to victims.

I turn now to the task force related recommendations contained in amendments to the Domestic and Family Violence Protection Act. The bill amends the definitions of 'domestic violence', 'emotional or psychological abuse' and 'economic abuse' in the Domestic and Family Violence Protection Act to include a reference to a pattern of behaviour. The amendments also make it clear that domestic violence includes behaviour that may occur over a period and individual acts that, when considered cumulatively, are abusive, threatening, coercive or cause fear and must be considered in the context of the relationship as a whole.

Existing provisions have also been revised and strengthened to ensure applications and cross-applications for a protection order are considered together and the court only makes one order to protect the person most in need of protection, unless there are exceptional circumstances. To help the court assess the risk to the aggrieved and decide whether to make a protection order, amendments are also made to require the police to provide the court with the respondent's domestic violence and criminal history in all private and police initiated applications. Amendments are also made to allow the court to make a substituted service order in limited circumstances. The bill also makes amendments to the Domestic and Family Violence Protection Act to allow the court to award costs where a party has intentionally used proceedings as a means of further perpetrating domestic violence.

I turn now to task force related amendments to the Evidence Act. The bill makes a number of amendments to the Evidence Act to bring domestic violence complainants and certain other witnesses within the protected witness scheme under that act, increase the scope of domestic violence evidence which is admissible under the act, facilitate the admission of expert evidence and provide for jury directions to be given in relation to domestic violence.

On the task force amendments to the Penalties and Sentences Act and the Youth Justice Act, the bill amends both of those acts to provide a mitigating sentencing factor for victims of domestic violence and child offenders who are victims or have been exposed to domestic violence. The bill also amends the Penalties and Sentences Act to provide that the sentencing court can consider an offender's domestic violence history because it is relevant to their character.

As noted earlier, the bill makes a number of amendments unrelated to task force recommendations. These include amending the title of section 229B of the Criminal Code to omit references to concepts of 'maintaining' and 'relationship', which have been criticised by some survivor advocates as wrongly implying a consensual relationship between the offender and child, and so the offence is retitled 'repeated sexual conduct with a child'; replacing the term 'carnal knowledge' in the Criminal Code with 'penile intercourse', responding to criticism that the term 'carnal knowledge' is antiquated; amending the Evidence Act to provide that a victim or alleged victim of a sexual offence has standing to appear at all stages of sexual assault counselling privilege proceedings; amending the Coroners Act to remove the limitation upon the number of terms of reappointment of the Coroner and Deputy State Coroner; amending the Oaths Act to address issues that have arisen in the implementation of the Justice and Other Legislation Amendment Act 2021; and amending the Telecommunications Interception Act to support the role of the Public Interest Monitor under the international protection order scheme, which is established under the Commonwealth's Telecommunications (Interception and Access) Act 1979.

Thank you for the opportunity to provide the opening statement. I am happy to take questions.

Mrs GERBER: Thank you for your opening statement. I want to touch on some of the amendments that did not come out of the recommendations. Before I do that, I have a question around the supervisor who was to be implemented under recommendation 88. I may have missed it but has the implementation supervisor been appointed? If so, can you let the committee know who it is, please? Recommendation 88 talked about an implementation supervisor being appointed in order to facilitate the rollout of the recommendations.

Mrs Robertson: The government response, as you know, sort of said it would appoint the independent supervisor to provide oversight. At this stage I am not able to answer in relation to whether that appointment has occurred or is imminent. If the committee would bear with me, I am happy to seek some information if I can give you any additional detail. I do not know whether I will be in a position to or not, but we can come back to you on that either during this hearing or at a later date, if that is okay.

Mrs GERBER: I just conferred with the chair. That would be great if you can do it at the end of the session. Otherwise you are welcome to take it on notice.

Mrs Robertson: If we can do it at the end we will. Otherwise we will take it on notice.

Mrs GERBER: I want to talk about clause 50. I understand that amendment did not come out of the recommendations. Clause 50 amends part 5 to include a new division which outlines limited circumstances in which a proceeding may be reopened. It was not a specific recommendation of the task force, but it arose out of consultation on the bill. I am interested in understanding the circumstances in which that clause may be activated in terms of reopening a proceeding—and it would be helpful if you had specific examples—and when it would be applied.

Ms Bandaranaike: As you pointed out, clause 50 of the bill came about through the consultation draft bill because of feedback from some legal stakeholders in relation to the substituted service order provision. Basically, it was raised because of the need to provide the respondent with procedural fairness in circumstances where the respondent genuinely has not been able to access the application for the protection order and an order has been subsequently made in their absence, despite the fact that the documents have been served in accordance with the substituted service order. An example is the documents have been served under that order through an incorrect email.

Essentially, what those provisions allow the court to do in very limited circumstances—either on their own initiative or on application by the respondent—is to reopen the proceedings if a court makes or varies a protection order and: firstly, they are satisfied that the application for the order was first served on the respondent in accordance with the substituted service order; secondly, the application was not and could not reasonably have been brought to the attention of the respondent, despite it being served in accordance with the order; and, thirdly, the respondent was not present when the application was heard and decided in court.

Mrs GERBER: I have one point of clarification. Does there need to be an error in service? In terms of the email being the wrong email address, does there need to be an error in the actual service of the documents to enliven the provision, or could it simply be that the respondent did not open the email? Could it be a correct email address but it fell through?

Ms Bandaranaike: I think there has to be an actual error in the service.

Ms BOLTON: Can you give some further information about the strengthening of the offences that are captured under unlawful stalking, intimidation, harassment et cetera, especially in relation to cyberbullying? Could you give a couple of examples?

Ms Bogard: One of the main purposes of the amendments is to implement the task force's recommendations and encourage greater use of the unlawful stalking provisions with respect to domestic violence offending. The amendments will also have application to stalking, intimidation, harassment and abuse which does not involve domestic violence. Modernising the offence to capture technology facilitated abuse will encourage police and prosecutors to take a wider view of stalking and greater use of the offence more generally.

For example, additional conduct that will be captured by the offence will include: contacting a person in any way using any technology and over any distance; monitoring, surveiling or tracking the person's movements, activities or interpersonal associations without consent, including through the use of technology; publishing offensive material on a website, social media platform or online social network in a way that would be found or brought to the attention of a person—obviously, that can be quite broad and apply quite broadly in relation to any social media platform or social network without the domestic relationship; giving offensive material either directly or indirectly to a person, including by using a website, social media platform or online social network; and a humiliating or abusive act—that is a broad application—against a person whether or not involving violence or the threat of violence. None of this additional conduct is specifically tied to a domestic violence relationship, so it can apply broadly to cyberbullying.

Ms BOLTON: In your opening statement you mentioned awarding costs. There have been situations where the court processes have been used in a way that is actually detrimental. Could you give an example of how the new provisions are tightening that so that does not happen?

Ms Bandaranaike: I presume you are referring to the new power in the Domestic and Family Violence Protection Act to award costs where there is effectively systems or legal abuse.

Ms BOLTON: Yes.

Ms Bandaranaike: There are already grounds in the act for the court to hear and dismiss applications and then award costs against malicious, frivolous or vexatious applications. The bill inserts a new ground on which the court can make a costs order. Effectively, they can award costs against an applicant if the court hears and decides to dismiss an application and in dismissing an application they make a finding essentially that the party has intentionally engaged in behaviour or a continued pattern of behaviour towards the respondent—that is domestic violence. Using the application for a protection order as a means of further perpetuating domestic violence is an example.

Ms BUSH: Have you done any modelling around how many people that might pick up in that awarding of costs?

Ms Bandaranaike: No, we have not. I guess it is dependent on, first of all, the courts hearing and deciding the matter but also actually hearing and deciding that the applicant has intentionally used the application to exert control or influence. We have not done any modelling, no.

Ms BUSH: Obviously it would be the magistrate who makes that determination around intentionality?

Ms Bandaranaike: Yes, that is right.

Ms BUSH: That is going to be interesting. I am interested in the broader changes to the definition of domestic and family violence and how that might strengthen the systems responses to people experiencing violence. Could someone share the hopes and ambitions behind that?

Ms Bandaranaike: Broadly speaking, what the amendments to the definition of 'domestic violence' and related definitions are trying to do, as the task force has outlined, is shift the systems responses from focusing on individual incidents of domestic violence to more looking at a pattern of behaviour that can occur over time in the context of the relationship as a whole. The term 'domestic violence', as you know, is used across the statute book as well. The intention is to better recognise and identify coercive control as a key component of domestic violence and shift that thinking from looking at single incidents to this pattern of behaviour over time in the context of the relationship as a whole.

Ms BUSH: I cannot find which clause it is, but I want to go to the amendments around cross-orders and how that is used, particularly when we think about some of our First Nations victims. It would be great if you could expand on what those amendments are seeking to do.

Ms Bandaranaike: I will go back one step just to explain the intention of the amendments. As you know, there are already provisions in the act about dealing with cross-applications and conflicting allegations of domestic and family violence. What the amendments do, as recommended by the task force, is strengthen the court's response to cross-applications and revise and strengthen those provisions. That is clauses 37 to 39. The three main ways it does that is by: requiring cross-applications to be heard together; requiring the court to consider, if they are being heard together, whether to make any arrangements for the safety, protection or wellbeing of a person—for example, one of the aggrieved may have to give evidence outside the courtroom through an audiovisual link; and requiring the person to identify who the person is in most need of protection in the context of the relationship as a whole.

One of the significant changes it is making is allowing the court to only make one order to protect the person who is most in need of protection, unless there are exceptional circumstances where there is clear evidence that each of the parties in the relationship is in need of protection. The critical changes that are being made are: hearing the applications together; allowing the court to make appropriate safety arrangements; and allowing the court to make one order unless there are exceptional circumstances.

The other one I should mention—and this followed from consultation on the draft bill, particularly from domestic violence stakeholders—is that in the legislation now there is legislative guidance given to the courts to assist the courts in helping to identify the person most in need of protection. That has been informed by recommendations and commentaries in the most recent Domestic and Family Violence Death Review and Advisory Board report and through consultation with domestic violence stakeholders.

Mrs GERBER: You said that the cross-applications be heard together—and I appreciate the reason for that—but I want to go to the procedural and practical bit of implementing that. A cross-application is not always made at the same time as the other application. Does that mean that matters might be delayed in order for them to be heard together? Procedurally, how is it going to work so it is also expeditious, because time is of the greatest importance sometimes for these matters?

Mrs Robertson: The courts are very much aware of the amendments, obviously. They are not designed to delay proceedings. They are designed to make sure the court has all the information before it and makes the order in favour of the person who is most in need of that protection, as per the task force's considerations and deliberations. I think in implementation the court will have regard to the issues that you have raised, but we will have to monitor it.

Mr KRAUSE: I have a question about changes to the Evidence Act in relation to protected witnesses in domestic and family violence applications. There are changes being made to enable another category of protected witnesses in respect of those offences. Could you explain to the committee how that will work as anticipated in the bill?

Ms Bogard: The existing protected witness scheme provides protection for a witness so that they are not directly cross-examined by a defendant who is unrepresented in a proceeding. The amendments under the bill will expand the operation of that scheme to cover complainants in relation to domestic violence offences as well as other witnesses in relation to a domestic violence order related offence. That would be someone who is named as the aggrieved in a domestic violence order or a relative or associate of the aggrieved if the court considers that person would likely be disadvantaged as a witness or suffer severe emotional trauma unless they are protected.

That additional qualification only applies to someone who is not the complainant in relation to the offence for which the defendant is appearing before the court and those other witnesses. If it is the complainant, that additional qualifier does not apply and they are automatically a protected witness so the defendant will not be allowed to directly cross-examine them. That does not mean that the defendant loses their right of cross-examination. The defendant can still cross-examine the witness but through a lawyer. If they do not have their own legal representation then provision is made for legal assistance to be provided by Legal Aid to conduct that cross-examination on their behalf.

Mr KRAUSE: In relation to another change to the Evidence Act about the admission of evidence of domestic violence, there are amendments being proposed in section 132B of the Evidence Act: the bill will make evidence of domestic violence admissible where that evidence relates to the defendant, the person against whom the offence was committed or another person connected with the proceedings, and there is a non-exhaustive list of what may constitute evidence of domestic violence in the bill. Can you please provide some further information about these amendments, particularly about what will be considered to be evidence of domestic violence? Is it convictions, complaints—what would it be? Is there some sort of standard anticipated for that? What would constitute that evidence?

Ms McMahon: Section 132B is the existing provision within the Evidence Act. The bill actually removes section 132B and replaces it with a new provision. As recommended by the task force, there was a limitation on section 132B which is essentially that it only applies to certain offences in the Criminal Code. Those are offences which are found in chapters 28 to 30 of the Criminal Code. The task force recommended that that restriction should be removed from 132B because there is not really any rationale for why that evidence would be admissible for some offences and not for other offences. The new provision—the replacement 132B, for want of a better turn of phrase—does not contain that restriction. It allows for the admissibility of that evidence for any offence across the statute book.

The other difference between the new 132B and the old 132B is that it does not just have to be evidence in relation to the complainant or the defendant; it can also be evidence related to another person connected with the proceeding. That change was necessary in order to make those provisions sit properly with the expert evidence provisions in the bill. The expert evidence provisions were recommended by the task force to be modelled on the West Australian provisions. Because of the scope of those provisions, it was necessary to make the new section 132B also a little broader so that those would sit consistently with each other.

Section 103CA, clause 64, in the bill provides what may constitute evidence of domestic violence. Essentially, the way we saw that operating was that 103CA lays down a non-exhaustive list of things that could constitute evidence of domestic violence. I hasten to add that it is non-exhaustive, so there could be further things outside of that. It lays down essentially the scope of what could constitute evidence of domestic violence, and that can then be picked up in the new 132B provision. It also lays the foundation for the expert evidence provisions.

Ms Bogard: To clarify, my colleague was talking about the old 132B and the new 132B. The bill actually repeals existing section 132B and replaces it with new section 103CB. That ties up the previous 132B with the new amendments, as well as the new sections which outline what constitutes evidence of domestic violence. They are all together in the same section. For clarity, 132B will no longer exist.

Ms BOLTON: Can we get some information about how the department is going to advise Queenslanders of these amendments and changes, especially those under existing orders—those which have come into the legal realm and those which are heading into court as well? We have often heard in other inquiries that the translating of an order or what they can or cannot do is misunderstood. Do we have any information on how the information on the changes will be dispersed?

Mrs Robertson: Chair, can I clarify the question? Are you talking about particular people coming before the courts and making sure they understand the orders being made against them?

Ms BOLTON: It is a two-sided question: is there going to be some kind of education campaign around the changes being made and, in addition, will there be extra assistance in translating those to those which are coming before the courts?

Ms Bogard: The task force recommended education and awareness campaigns as part of the entirety of implementation of their recommendations. Some of the provisions will commence on assent of the bill, but in large part the amendments we are discussing in relation to the task force will commence by way of proclamation. There are a number of implementation activities that the Department of Justice and Attorney-General is currently working through including training for police, lawyers and court staff, professional development and updating policies, procedures and so on. Our aim is for those implementation activities to occur progressively throughout the first half of 2023. Coupled with the education and awareness campaign of the task force, the intention is that the information will get out there and people will be informed of the operation well before it commences.

Mr HUNT: Briefly, how does someone establish that pattern of behaviour? Is it up to law enforcement? Is it up to the victim? If it is up to the victim, how are they best placed and what are their best methods of establishing the pattern of behaviour?

Ms Bogard: It would be different depending on whether you are talking about domestic violence proceedings or a prosecution for a criminal offence. In a prosecution for a criminal offence, it would be up to the police to provide the evidence to the prosecution and the prosecution to present that evidence to the court in relation to the pattern of behaviour. In a domestic violence order application, it may not be the police who are applying for the order, so it may then be on the applicant to present that information. Sakitha may wish to jump in with a little more detail there.

Ms Bandaranaike: With respect to a civil application for protection order, the evidence for domestic violence would be either in the police initiated application or, if it is a private application, in a private application. It would depend on the circumstances of the case, but, broadly speaking, there is no agreed definition of 'coercive control' because they are behaviours and tactics that are subtle and often difficult to identify and different in class and culture in each relationship. It is generally understood that it is a course of conduct aimed at dominating and controlling another. It is likely to be a list of behaviours or a range of behaviours that take very different forms over a period of time. For example, it could be a number of behaviours that would be appearing on the application like emotional manipulation, humiliation and threats, for example, surveillance and monitoring often carried out online, isolation from friends and family, rules around where the person can eat and sleep, or placing limits on their economic autonomy. It would be based on the individual circumstances but a range of behaviours that might be presented as part of an application.

Mr HUNT: How is that mapped out? Who maps that out? Is the onus entirely on the victim?

Ms Bandaranaike: It would have to be, in the application. Obviously the court would then use the information to make the assessment. I should say that we are also making amendments to the act to require police, in every police and private application, to give to the court, if they have one, the respondent's domestic violence history and criminal history so that the court has a full picture of the history to assess risk to the aggrieved. Other people could give evidence around domestic violence as well.

Mr HUNT: So diarising emails, texting, keeping folders—that sort of thing?

Ms Bandaranaike: Sorry, I missed the first bit of the question?

Mr HUNT: It is a case of quite literally diarising texting and emailing and keeping your own records?

Ms Bandaranaike: In terms of civil proceedings, the test is on balance of probabilities as well and the court is not bound by rules of evidence. They can take evidence in any way they see fit, really.

CHAIR: To pick up on part of your answer to that question, under these new amendments it would be the case that perhaps an aggrieved may not be the best person to give evidence about that, but the best person may be a relative who has witnessed it. It is my understanding that there will be provisions—those type of provisions probably already exist—for that person to give evidence of what they have observed; is that right?

Ms Bandaranaike: Yes, that is right. Already, as I said, the court can hear evidence and run the court proceedings as they see fit. Also, there are provisions currently in the act to allow, if the aggrieved wants to give evidence, for alternative ways of giving evidence, including audiovisual, separate from the respondent, but also bringing in a support person. That is ordered by the court.

Mr KRAUSE: There are two things to clarify. We spoke previously about the new clause 49 and the bringing of costs orders. Can I confirm on that point that for all applications there is still a presumption against costs being awarded generally?

Ms Bandaranaike: There is not a presumption against cost—

Mr KRAUSE: Sorry, perhaps that is the wrong terminology.

Ms Bandaranaike:—but, yes, there has to be some deliberate finding by the court. The court has to hear and dismiss an application and then make a particular finding; otherwise, the parties bear their own costs.

Mr KRAUSE: That is what I should have said. In relation to the questions around the Evidence Act, can you confirm there is nothing in the bill that would remove the rule against hearsay evidence being admitted in these proceedings, in terms of evidence of domestic violence?

Ms McMahon: I can confirm that there is nothing that removes the rule against hearsay. There is an abrogation of two common law rules, but that is in respect of the expert evidence provisions, and those are the rules against common knowledge and swearing the ultimate issue. Those are common law rules that need to be modified in order to achieve the policy intent of making admissible that expert evidence in Queensland. No, there is nothing that affects the law as to hearsay.

Mr KRAUSE: Finally—I am not sure if this is in the scope or not; hopefully you will be able to confirm—one of the issues that has been raised in my community a number of times is the inability sometimes of police to take action in situations of domestic and family violence in the absence of the willingness of a victim to make a complaint or give statements. In light of the amendments being made, especially in relation to the stalking offences and also responses to coercive control, are there any amendments being made that would allow action to be taken by police in terms of either bringing applications or bringing charges without statements being taken from the victims?

Ms McMahon: I will answer in the context of a criminal charge and then maybe throw to my colleague in terms of civil proceedings because the situation is pretty distinct. With criminal offences, of course, it is at the police's discretion as whether they bring a charge. It is not necessary that they have any particular type of evidence in order to do that. If they have objective, independent evidence of an offence in the absence of a statement or evidence from a complainant, they could still exercise that discretion to charge. The situation is probably a bit more complex and nuanced than that, though, because there are a number of things they need to take into account about whether to exercise that discretion—like the public interest, like whether they have sufficient evidence to prove the charge. It is difficult to hypothesise about particular cases, I suppose. In the context of criminal proceedings, they are not brought by the complainant; they are brought by the state. The complainant is a witness in those proceedings so it is not, as a matter of law, necessary to have a statement from a complainant to bring a charge, although as a matter of practice that may be a bit of a different thing.

Ms Bandaranaike: I would just add to that that, generally speaking, in a civil context the reform is really about giving victims more confidence to come forward to report incidences of coercive control. As part of the government's commitment in terms of new money to implement these reforms, I understand that $16.3 million has been allocated for a communication strategy to raise awareness about the nature of coercive control.

Mr KRAUSE: Thank you for that information. I did not ask about that, but it is useful to know in any case. What Ms McMahon said has clarified that, which was the main element of my question, and I think in relation to domestic and family violence orders anyway police can bring them on their own initiative now, as I understand it. Thank you for that.

CHAIR: The amount of money you have just given evidence about was in answer to the member for Noosa's question?

Ms Bandaranaike: It was not in direct answer; it was just a general answer in a civil context. I apologise, it was not in direct answer to your question.

CHAIR: There is no need to apologise. Does the question on notice still stand?

Ms BOLTON: Yes.

Mrs Robertson: I can address the question on notice that we had in relation to the implementation supervisor. As part of the $363 million package announced by government, $3.28 million over four years and $0.936 million recurrent has been committed for an independent

implementation supervisor and supporting secretariat. To answer specifically the question, the Queensland government is conscious of the need to establish the position as soon as possible to provide independent oversight of the government's implementation of the reform program and is currently working through the necessary steps to appoint an appropriate person to the role. I cannot take it much further than that.

Mrs GERBER: I wanted to touch on an aspect of funding. It occurs to me that perhaps the workload of Legal Aid might be increased, in particular in relation to the expanded class of protected witnesses. You may or may not be able to answer this question, but I was interested to understand whether or not Legal Aid might be receiving more funding in order to handle the workload that might be increased as a result of these amendments.

Mrs Robertson: I really cannot give any detail except to say that normal budgetary processes will apply in relation to funding.

Mrs GERBER: Can you give any indication as to whether or not you think the workload is going to increase as a result of these amendments? I understand that you cannot give an opinion, but in terms of the application of these amendments and the broadening—

Mrs Robertson: I think that is a more appropriate matter for Legal Aid to make a comment on.

Mr KRAUSE: In relation to the amendments regarding expert evidence on the effects of domestic and family violence—you mentioned it before, Ms McMahon, and the displacement of a couple of rules to enable that to happen—is there any indication in the bill about where those expert evidence providers will come from? Will they be nominated by the parties to the proceedings or court appointed? How will that work?

Ms McMahon: The provisions of the bill are drafted quite broadly in that respect. It is section 103CC(3), but it says that 'an expert on the subject of domestic violence includes a person who can demonstrate specialised knowledge, gained by training, study or experience, of a matter that may constitute evidence of domestic violence', so there is no restriction to a particular category of expert or the need for a particular type of qualification. It will, however, ultimately be a matter for the judge in a proceeding to decide whether an expert has the necessary qualifications to give the evidence—whether they fit within that definition of having that specialised knowledge gained by training, study or experience to give the evidence.

Mr KRAUSE: Who would nominate the expert?

Ms McMahon: It depends on which party is relying upon them, I would think. Either the prosecution or the defence can rely upon this type of expert evidence. Because it is an adversarial system, it would be for the party who is seeking to rely upon the witness to call that witness and then it would be for the other party to challenge that if they thought the expertise of that person was not sufficient.

Mr KRAUSE: Is it possible there could be more than one expert brought into the proceedings?

Ms McMahon: Definitely.

Mrs GERBER: Thank you very much for providing me with the answer to my earlier question around recommendation 88. I have a follow-up question in relation to that. You may not be able to answer because in your answer just then you might have given all the information you can, but I want to ask the question regardless. I understand that implementation is key to making sure that these provisions work and that the objectives of this bill are achieved. We are talking about an implementation supervisor here. Can you give an indication of when that position might be filled?

Mrs Robertson: I cannot take it any further than my earlier answer, I am sorry.

CHAIR: I am conscious of time. We have six minutes left. I will open it up to the committee, if anyone has a burning question they would like to ask.

Mrs GERBER: I might just follow on from the member for Noosa's question in relation to ensuring that these provisions are understood, but I want to talk specifically in relation to the organisations that might be dealing at the front door of people coming to them with domestic and family violence issues, whether that be the complainant or a defendant. What training and education is going to happen in relation to those service providers to ensure they get the support they need to implement these amendments?

Mrs Robertson: It is probably best if we take that question on notice so that we can give you a more comprehensive answer, because we have been focusing on the bill.

Mrs GERBER: Okay.

Mr KRAUSE: I wonder if the representatives of the department here today could give us some more detail about the bill's provisions to increase the maximum penalty for the offence of contravening a restraining order in respect of a charge of stalking.

Ms McMahon: The bill obviously makes a number of amendments to stalking. That amendment sits amongst a number of other amendments the goal of which is to strengthen and broaden the offence. Starting from first principles, there is already a restraining order regime in the Criminal Code. The court can make a restraining order where there is a charge of unlawful stalking before it and it can do that whether you are convicted of that offence or not. The current maximum penalty for contravening a restraining order is a year's imprisonment and a number of penalty units. The bill increases that. It increases it to three years. If there is a further circumstance of aggravation which applies, which is where you have committed a domestic violence offence within the previous five years, the maximum penalty goes up to five years. Currently it is a year's imprisonment. The bill will increase it to three years imprisonment where there is no circumstance of aggravation and to five years imprisonment where there is a circumstance of aggravation of that previous domestic violence offence within five years. Those tiered penalties—those three- and five-year penalties—are in keeping with the maximum penalties for contravening a domestic violence order under the Domestic and Family Violence Protection Act. Essentially, the reasoning there with the task force was that the penalty for breaching a restraining order should be the same as the penalty for breaching a domestic violence order because the need for the protection of the victim or the complainant is the same.

CHAIR: Some of these offences will no longer be dealt with in the Magistrates Court? They will have to go to the District Court? The Magistrates jurisdiction is, from memory, four.

Ms McMahon: There is a specific provision about that which allows for those charges to be dealt with under section 552B of the Criminal Code, which, as I am sure the Chair is aware, is by a defendant's election. It is clause 24 of the bill. It will necessarily change the disposition where there is that circumstance of aggravation because then there will be a five-year penalty. That can be dealt with on indictment, but it is at the defence's election.

CHAIR: There was one question taken on notice. Is it possible to have the answer to the secretariat by 4 pm on Monday, 31 October 2022?

Mrs Robertson: That is fine, Chair, thank you.

CHAIR: If there is any issue with the time line, communicate with the secretariat. I would like to thank the Hansard reporters. I would like to thank everybody from the department who has taken time out to come here and brief the committee. Thank you and I hope the rest of your day goes well. I declare the public briefing closed.

The committee adjourned at 12.28 pm.