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**ABN:29616801579**

2<sup>nd</sup> November 2022

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

[LASC@parliament.qld.gov.au](mailto:LASC@parliament.qld.gov.au)

Dear Sir/Madam,

RE: DOMESTIC AND FAMILY VIOLENCE (COMBATting COERCIVE CONTROL) AND OTHER LEGISLATION AMENDMENT BILL 2022

We refer to your correspondence dated 18<sup>th</sup> October 2022 and thank you for providing an opportunity for The Red Rose Foundation to respond to the proposed legislation.

We agree with the proposed amendments and offer some comments for consideration.

- Amendments to clarify the standing provisions in the sexual violence counselling privilege,
- Updating the stalking laws and including unlawful harassment, intimidation, and abuse.
- Changes to the Domestic and Family Violence Protection Act 2012 to consider a pattern of abuse, only making cross orders in exceptional circumstances, provisions to assist the court to accurately identify and respond to the person in most need of protection, especially where there are cross applications;
- Evidence Act allowing for the admission of expert domestic and family violence (DFV) evidence in criminal matters.
- The ability to seek a criminal history and/or DFV history in DFV protection order proceedings.
- Protected witness provisions being extended to DFV.

#### **The Red Rose Foundation**

Red Rose Foundation is a national not for profit charity who works to address the damaging impact of domestic violence across our communities. We are especially concerned at the high

number of domestic violence related deaths that occur each year through homicide and suicide. We also acknowledge that tragically, many of these domestic violence related deaths have many predictive elements and are largely considered preventable.

The work of the Red Rose Foundation has a focus on:

- Providing counselling, groups and advocacy for women who have experienced non-lethal strangulation.
- Providing Education and training
- Community Awareness Activities
- Systems Advocacy

Strangulation is one of the highest risk indicators to domestic violence related homicides and health related premature deaths. Red Rose Foundation identified there was a lack of information, resources and therapeutic support, available to women in Australia who had survived the trauma of non-fatal strangulation. We believe strangulation is a specific high risk form of violence that needs a specialised response.

While the Red Rose Foundation has been training and advocating on non lethal strangulation for several years, we were pleased that in May 2021, Australia's first Strangulation Trauma Centre was officially opened by Queensland Attorney General Hon Shannon Fentiman.

The Red Rose Foundation supports the proposed legislative changes but provides specific feed-back regarding:

1. *Changes to the Domestic and Family Violence Protection Act 2012 to consider a pattern of abuse, only making cross orders in exceptional circumstances, provisions to assist the court to accurately identify and respond to the person in most need of protection, especially where there are cross applications;*

The Red Rose Foundation suggests in addition to the above that an inclusion of 'living in fear' and the damaging impact this has on a victims decision making to be safe be included. This would help distinguish who is most in need of protection. Exceptional circumstances also needs to be defined.

2. *Evidence Act allowing for the admission of expert domestic and family violence (DFV) evidence in criminal matters.*

The Red Rose Foundation regularly supports women as witnesses in the District Court with matters relating to Strangulation and other charges (Rape and GBH). We have seen acquittals mostly based on the lack of expert testimony presented to the court. This has been largely relating to strangulation where the provision of expert testimony would have made a difference. A list of who could give expert testimony, the qualifications they hold and the experience they hold relevant to the matter before the court would be helpful.

3. *The ability to seek a criminal history and/or DFV history in DFV protection order proceedings.*

The Red Rose Foundation supports this recommendation and suggests that DFV protection orders and past DFV be also admissible in Criminal Court Proceedings. Some seriously violent perpetrators are walking from the Criminal Courts because prior DFV records or current Protection Orders are inadmissible.

4. *Protected witness provisions being extended to DFV.*

The Red Rose Foundation also support the recommendation of QSAN on the following:

*QSAN supports in principle jury directions relating to DFV (including sexual violence), however the system needs to ensure these are not misused by perpetrators. This may be possible as under the directions, DFV can be established by one incident (which may be a homicide). It would exacerbate injustice and grief for a family for the perpetrator to argue that they were the victim and for jury directions to be given in such circumstances. We understand that the directions were modelled on Western Australian directions and trust there was enough testing of them to ensure this does not occur. However, we note they were only introduced in WA relatively recently.*

*In principle we also support the introduction and use of general DFV evidence in criminal proceedings. However, the changes to the Evidence Act should be supported by training and expert guidance, to ensure these provisions do not allow for the promotion of harmful myths and stereotypes to be used in cases, especially to inappropriately mitigate and/or excuse perpetrator behaviour.*

*To support decision making, the appropriate use of evidence and the exercise of discretion we would recommend that the entire system (Queensland judicial officers, defence, ODPP and police) be provided accredited, expert training on DFV and sexual violence and coercive control dynamics, including the importance of a gendered analysis, trauma informed approaches and cultural understanding and impacts on Aboriginal and Torres Strait Islander people, CALD, disability and LGBTIQ people.*

The Red Rose Foundation raises particular concern on how the proposed legislative changes relating to coercive control with impact on ATSI victims and urges widespread consultation and with ABTSI communities and people prior to introduction.

Betty Taylor

CEO

Red Rose Foundation

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***Change the Ending: Let's Stop Domestic Violence Deaths***