



Domestic and Family Violence  
Protection (Combating Coercive  
Control) and Other Legislation  
Amendment Bill 2022

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## Executive Summary

The Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022 was introduced into the State Parliament on 14<sup>th</sup> of October 2022 by the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence.

The objects of the bill are to give legislative reform to the recommendations 52 to 60 and 63 to 66 of the Women's Safety and Justice Taskforce in chapter 3.8 of its first report, *Hear her voice – Report one – Addressing coercive control and domestic and family violence in Queensland*. The Queensland Government's response to the report noted that the Queensland Government supported, or supported in principle, all of the 89 recommendations.

It also set out to modernise and update sexual offence terminology in the Criminal Code in response to advocacy that the language appropriately reflects criminal conduct. It also seeks to address stakeholder concerns regarding the operation of the sexual assault counselling privilege (SACP) framework in the relation to the standing of counsellors and victims and alleged victims of sexual assault victims.

Further, it also seeks to amend other overlapping legislation to ensure consistency and application across legislation including amendments to the *Youth Justice Act 1992*, the *Coroners Act 2003*, the *Oaths Act 1867*, the *Justice and Other Legislation Amendment Act 2021* and the *Telecommunications Interception Act 2009*.

## Introduction

The Queensland Council of Unions (the 'QCU') is the peak union body in Queensland representing twenty-six affiliated unions and around 360,000 Queensland union members. We welcome the opportunity to provide a submission to the Legal Affairs and Safety Committee in relation to the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022. The QCU has represented and advocated for the industrial, political and social rights of Queenslanders since 1885. The QCU has a significant history in campaigning for paid Family and Domestic Violence leave in the state industrial sector, and has joined our

affiliates and peak body, the Australian Council of Trade Unions (ACTU) in the “We Won’t Wait” campaign for paid leave which has been sustained through the last decade.

Through supporting and advocating for workers impacted by gendered violence and domestic and family violence we have seen directly how the lack of understanding of DFV impacts workers, mostly women, in their workplace. Support in the workplace is crucial in not only providing long-term economic security, but also recognising that many users of violence are aware of where their victim works. DFV impacts people in the workplace in a myriad of ways including their psychological health, work performance, safety and at times exposure to the user of violence when they may work for the same employer.<sup>1</sup>

## Coercive Control and Stalking Offences

The Queensland Council of Unions (QCU) welcomes the updated definition of coercive control and that The Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022 clarifies that it is an intrinsic and to date, misunderstood element of DFV.

The capacity to use electronic surveillance of intimate partners, and their children, has been emboldened with advances in technology. The Taskforce observed that that too often the offence is underused by the police and the prosecutors in the context of controlling behaviours and coercive control. This can be partly attributed to the offences outdated language and the misconceptions that stalking is a behaviour that only occurs once a relationship has ended.

That the association between stalking and DFV is clarified in the Bill is welcomed by the QCU. This will assist women being safer in their workplaces. The QCU also welcomes the strategies to combat “traditional” attitudes and ignorance to ensure that this offence can and will be utilised, where appropriate, to hold perpetrators to account.

That the Bill amends the definition of domestic violence, emotional or psychological abuse and economic abuse in the DFVP Act to include a pattern of behaviour is welcomed. The QCU welcomes and supports the capacity for the system’s responses

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<sup>1</sup> [Evaluation framework for the Domestic and Family Violence Prevention Strategy 2016-2026 \(publications.qld.gov.au\)](https://publications.qld.gov.au)

to be able to respond to coercive control and allow responders the clarity they need to respond to allegations and undertake their work with purpose.

## Cross Applications

As detailed in the Taskforce's report the DFVP Act is being misused by some perpetrators to continue to harass and intimidate their victims. We welcome the clarity this Bill brings in outlining the process for *determining the person who is most in need of protection in the relationship*.

The strategy of abusers seeking protection orders against a victim in retribution has presented itself as a challenge for employers, even in large agencies within government, and makes it challenging to support both parties and ensure safety plans<sup>2</sup> can be supported.

The QCU supports the Bill's intention to strengthen the court's capacity to respond to cross applications through requiring cross application be heard together and determining who is most in need of protection and allowing only one order be made, noting that only in exceptional circumstances where there is clear evidence that both parties are indeed of protection from one another.

## Costs

The QCU supports the recommendation by the Taskforce that where a party intentionally uses proceeding as a mean of further perpetuation of DFV and coercive control that that court will have the capacity to award costs. This will serve as a deterrent not only to the perpetrator of violence but also to the lawyers and systems abusers. The QCU welcomes that the Bill contains a clause that provides new ground on which the court can make a costs order and that the note in section 157 clarifies that this behaviour now be known as systems abuse or legal abuse.

The misuse of the court and legal protections for DFV serves as a deterrent to people seeking legal support and safety measures. This measure is needed to restore faith in the legal system to serve the victim and their family.

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<sup>2</sup> [Directive 03/20 - Support for employees affected by domestic and family violence \(forgov.qld.gov.au\)](https://www.forgov.qld.gov.au/directive/03/20-support-for-employees-affected-by-domestic-and-family-violence)

## Criminal History and Domestic Violence history in civil proceedings

The QCU welcomes that the DFVP Act be amended in the Bill to ensure that a full picture of a respondent's domestic violence histories and criminal history be provided to ensure that in determining the risk to the victim and weighing up the need for protection orders that the full risk is made known.

The QCU notes that the Bill before the Committee is substantial and represents a significant change in the evidentiary and policing requirements around domestic and family violence. The QCU supports the intention of this legislation but echoes the concerns of the Queensland Police Union around the resourcing for the changes before the committee.

Legal Aid, the courts, lawyers and police will have significantly more evidence and investigation that will need to occur.

The QCU shares the concerns of the QPU and is concerned that this legislation has not appropriately quantified what the additional cost and human resourcing requirements will be under this legislation and that this needs to be taken into account in introducing these changes.

Unions are concerned that the proposed legislation further adds to an already heavy workload of police and we note that recent Inquiries have identified the need for police to decompress from their workload to enable them to do the job properly. The need for additional resourcing to effect this necessary change is paramount in the eyes of the QPU and this is supported by the QCU.

Consequently any additional role the QPS has in providing documents and history to the court must be supported with additional resources to ensure there is not a further workload imposition on the QPS.

## Sexual offence terminology

That the Bill updates outdated, inappropriate and somewhat offensive language is a welcomed inclusion. The QCU supports the term 'carnal knowledge' with 'penile intercourse' and that the terms are both ascribed with the same definition.

The additional change contained within the Bill that removes the term 'maintaining a sexual relationship with a child' to 'repeated sexual conduct with a child' is nation leading and welcomed by the QCU and the progressive unions that we represent. This aligns with a shift from victim blaming when it comes to abusive behaviour and how the courts respond and reflects a contemporary society that seeks to support gender equity. It is hoped that this shift will help provide assurances of justice and safety through the legal systems and encourage victims to access the law.

## Conclusion

The Bill provides a clear and systemic response to the recommendations of the Taskforce and provides clarity to those impacted by DFV and provides greater recourse and access to the judicial system. Language matters and this Bill and the updated terminology sends a powerful message to users of violence, the courts, the wider community most importantly, the victims of violence.

## Recommendations

The QCU recommends that the Bill be passed by the Queensland Parliament.