



3 November 2022

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
BRISBANE QLD 4000

By email: lasc@parliament.qld.gov.au

Dear Committee

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

Thank you for the opportunity to provide feedback on the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022 (the **Bill**). Aged and Disability Advocacy Australia (**ADA**) appreciates being consulted on the important issues associated with the proposed amendments to the framework, and to build a more appropriate legislative response to domestic and family violence.

About ADA Australia

ADA is a not for profit, independent, community-based advocacy and education service with more than 30 years' experience in informing, supporting, representing and advocating in the interests of older people, and persons with disability in Queensland.

ADA also provides legal advocacy through ADA Law, a community legal centre and a division of ADA. ADA Law provides specialized legal advice to older people and people with disability, including those living with cognitive impairments or questioned capacity, on issues associated with human rights, elder abuse, and health and disability legal issues related to decision-making.

ADA advocates and legal practitioners work with identified First Peoples advocates through the Aboriginal and Torres Strait Islander Disability Network Queensland (**ATSIDNQ**), a network established to support mob with disability and provide individual advocacy services for Aboriginal and Torres Strait Islander people with disability.

Review of the Bill

We have reviewed the Bill and provides feedback only in relation to the issues and amendments described below.

ADA supports the introduction of legislation to give effect to some of the recommendations of the Women's Safety and Justice Taskforce Report: *Hear her voice: Report one* (the **Hear Her Voice report**).

121 Copperfield Street Geebung Qld 4034 www.adaaustralia.com.au

FREECALL: 1800 818 338 p: (07) 3637 6000
f: (07) 3637 6001 e: info@adaaustralia.com.au

ADA Australia acknowledges the Traditional Custodians of this land and pays respect to Elders, past and present.

Aged and Disability Advocacy Australia trading as ADA Australia | ACN: 610 892 398 | ABN: 19 488 136 200



Amendments to the Domestic and Family Violence Protection Act 2012

ADA is broadly supportive of the proposed amendments to the Domestic and Family Violence Protection Act 2012 (the **DFV Act**), as set out in part 4 of the Bill.

We note with support the proposed amendment to section 4(2)(e) and the insertion of the new section 22A, which seeks to provide guidance and clarity to intervening authorities (including police) about which party in an abusive relationship is in need of protection from the other. We also note that the appropriate use of these sections, as well as any unintended consequences, will hinge upon acceptance and significantly improved understanding of domestic and family violence, underpinning necessary systemic cultural transition and supported by education and training for responding institutions – including police, health, legal and judicial systems, child protection and government-led social services.

The program of education must be developed in consultation with persons from the cohorts described in the examples set out in section 22A(3) of the Bill, and should have the depth and flexibility to educate and acknowledge the diversity of persons who may exhibit one or more of the identified characteristics. Without acknowledgement of this diversity, the application of section 22A has the risk of further marginalising some persons who should be protected by it. In particular, a general application of the section, without sufficient consideration for the cultural circumstances of an individual, may result in adverse or unwanted outcomes for Aboriginal or Torres Strait Islander persons.

Amendments to the Evidence Act 1977 (the Evidence Act)

ADA supports the introduction of a new part 6A to the Evidence Act, noting that the definition in clause 62 of **family member** includes an informal care relationship.

Further consideration should be given to the category of care relationships which involve a family member or friend that is compensated for care provided (for example, National Disability Insurance Scheme (**NDIS**) care or support services provided by a family or friend, who may or may not be a registered service provider under the NDIS. It is not clear how this type of carer relationship will be interpreted in practice.

Other matters

We note that recommendation 57 of the Hear Her Voice Report regarding the proposed amendments to section 157 of the DFV Act is included in the Bill at clause 49. Whilst amendments to the DFV Act to this effect are supported, we note that the Bill does not provide similar recourse for persons who are subjected to frivolous legal processes associated with guardianship and administration applications made to the Queensland Civil and Administrative Tribunal (**QCAT**).

In ADA's experience, a significant number of older persons and persons with disability or questioned capacity find themselves the subject of a QCAT application that has been initiated by a family member or domestic partner in an effort to obtain decision-making authority and exert control over the person. Under scrutiny, many of these applications may be demonstrably '*malicious, deliberately false, frivolous or vexatious*', as the applications under clause 49 are described.

We submit that similar provisions should be considered in an effort to address this form of domestic and family violence. In doing so, further changes to the *Queensland Civil and Administrative Tribunal*

2009 may be required, to ensure that the QCAT Registry has the ability to scrutinise guardianship applications, with a process to reject applications that do not meet the criteria prior to proceeding to a hearing.

Thank you again for the opportunity to comment. ADA would be pleased to further assist the Committee with its inquiry. Should you wish to discuss this submission, please do not hesitate to contact Vanessa Krulin, Solicitor and Senior Policy and Research Officer on [REDACTED] or via [REDACTED]

Yours faithfully

[REDACTED]

Geoff Rowe
Chief Executive Officer