




Speech By
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MEMBER FOR CONDAMINE

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DOMESTIC AND FAMILY VIOLENCE PROTECTION (COMBATING COERCIVE CONTROL) AND OTHER LEGISLATION AMENDMENT BILL

 **Mr WEIR** (Condamine—LNP) (11.34 am): I rise to make my contribution to the debate on the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022. I state at the outset that the issue of domestic violence is a blight on our society and there is nowhere in this state that is immune. This is not something new. I think most of us would have childhood memories of families we were close to that suffered from domestic violence. In saying that, it is obvious that the problem has only increased over the years and more victims are realising that they do not need to suffer in silence as they have done so in the past. It is also a sad fact that it is common for children who have grown up in an environment of domestic violence to end up being either the victims or the perpetrators of further domestic violence, continuing that vicious cycle.

This is now one of the biggest issues that our police officers have to deal with on a day-to-day basis. Anything that we as elected representatives can do to rid society of this menace will be a benefit for society as a whole. This bill proposes to amend the Criminal Code to rename, modernise and strengthen the offence of unlawful stalking; provide that for a relevant proceeding, as defined in section 590AD of the Criminal Code, or a summary proceeding under the Justice Act 1886 for an accused person who is charged with a domestic violence offence, the prosecution must give the accused person a copy of the person's domestic violence history; and replace sexual offence terminology.

The bill proposes to rename the offence of unlawful stalking throughout chapter 33A of the Criminal Code and in other legislation to 'unlawful stalking intimidation, harassment or abuse' and modernise the offence by broadening the type of offending captured by the offence to better reflect the way an offender might use modern technology in this regard, including capturing unlawful electronic surveillance and creating a non-exhaustive list of ways a person can be contacted via electronic and remote means.

To strengthen the offence the bill proposes to introduce a new circumstance of aggravation with a maximum penalty of seven years imprisonment for the offence of unlawful stalking, intimidation, harassment or abuse; increase the maximum penalty for the offence of contravening a restraining order to 120 penalty units or three years imprisonment; provide for a circumstance of aggravation if the person has been convicted of a domestic violence offence in the five years before contravening the restraining order; and provide that when a court makes a restraining order the default period is five years unless the court is satisfied that the safety of a person in relation to whom the restraining order is made is not compromised by a shorter period.

The bill replaces the term 'carnal knowledge', which is utilised in sexual offences across the Criminal Code, with 'penile intercourse'. The term 'penile intercourse' is ascribed the same definition as 'carnal knowledge' and is therefore not intended to alter the concept of carnal knowledge as it has been applied to date in Queensland. Submitters supported the language used to describe sexual violence be updated. QSAN submitted that using the graphic words of 'penile intercourse with a person' may adversely impact the person as they would be continually subjected to the phrase in police and court

proceedings and interactions. The Queensland Legal Service stated that using this term suggested certain offences can only be perpetrated by male offenders and it had the potential to leave female offenders open to more serious charges such as rape. Legal Aid and QPU supported the inclusion of 'mouth' in the definition of penile.

Additionally, the bill changes the title of section 229B of the Criminal Code from 'maintaining a sexual relationship with a child' to 'repeated sexual conduct with a child'. The terminology within the body of section 229B is not altered in any way. Several submitters were concerned about the proposed amended title of section 229B of the Criminal Code from 'maintaining a sexual relationship with a child' to 'repeated sexual conduct with a child'. In this regard a number of submitters recommended the terminology be amended to 'persistent sexual abuse of a child' which would reflect the seriousness of the crime and be consistent with other jurisdictions, such as New South Wales, ACT, Victoria and Tasmania. I am sure that everyone in this House finds this form of sexual abuse particularly abhorrent.

As the task force found, the current definition of domestic violence in the Domestic and Family Violence Protection Act is not clear about the nature of coercive control and may contribute to misidentification of domestic and family violence. The bill amends the definitions of 'domestic violence', 'emotional or physical abuse' and 'economic abuse' in the Domestic and Family Violence Protection Act to include a reference to a pattern of behaviour. Amendments to section 8 of the DFVP Act aim to clarify that domestic violence includes behaviour that may occur over a period and includes individual acts that, when considered accumulatively, are abusive, threatening, coercive or cause fear and must be considered in the context of the relationship as a whole. Unfortunately, that is one of the silent forms of domestic abuse and it is also one of the most cruel. Many simply suffer in silence, to the detriment of their mental health and self-esteem.

The bill amends the principles for administering the DFVP Act to clarify that the person who is most in need of protection in the relationship must be identified and that only one DV order should be in force unless there are exceptional circumstances and clear evidence that each person in the relationship is in need of protection from the other. The QPU noted, however, that it is not always easy to identify the perpetrator in an incident, especially in situations where the person in need of the most attention is not always readily available and that requires investigation, which is a process that can be time-consuming for police. The QPU contended that the amendment, while supported, would increase the burden on police if additional resources are not provided. That is a very valid point and, as I stated earlier in my contribution, there is already a significant drain on resources. For this legislation to be successful, we will need a properly funded police force and support services.

The task force recommended that the court be provided with the respondent's criminal and domestic violence histories to help determine the risk to the aggrieved and whether to make a protection order and to assist in best tailoring the conditions of the order to keep the victim safe. Clause 56 of the bill defines 'criminal history' to include all convictions of and charges made against the person for an offence in Queensland or interstate. If the court does make an order under new section 160A and the person does not comply with the court order, they may be found in contempt of court under section 50 of the Magistrates Court Act 1921 unless the person has a lawful excuse.

As I have stated, domestic violence is a stain on our society and all sectors of our community suffer from it. All members of this House and their staff would have been confronted, at the front desk or on the phone, by someone fleeing domestic violence who is desperate for assistance. That situation is very upsetting and distressing for the staff involved as they deal with someone who has had their whole world turned upside down and has nowhere left to turn. This is one step towards addressing that problem and we will not be opposing the bill.