



SUBMISSION

TO | YourSAy, Attorney-General's Department

TOPIC | Criminal Law Consolidation (Coercive Control) Amendment Bill 2023

DATE | Tuesday 10 October 2023

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Submission to the Criminal Law Consolidation (Coercive Control) Amendment Bill 2023

Key recommendations

Uniting Communities welcomes the opportunity to comment on the *Criminal Law Consolidation (Coercive Control) Amendment Bill 2023* and we acknowledge the many enhancements made to this Bill since the introduction of the *Criminal Law Consolidation (Abusive Behaviour) Amendment Bill 2021*.

We recommend that:

1. The Bill is passed in its current form and call on support from all political parties to ensure the passage of this Bill.
2. Once the legislation is passed a detailed and comprehensive plan is developed, in collaboration with all impacted and relevant stakeholders, to address how this legislation will be successfully implemented and operationalised.
3. If the legislation is proved to successfully address the impact of coercive control in intimate relationships, then either the existing legislation is amended or new legislation is introduced and passed to address the use of coercive control in all types of relationships.

We seek to highlight amendments that we are particularly supportive of and provide additional comments for consideration.

About Uniting Communities

We are an inclusive not-for-profit organisation working alongside more than 80,000 South Australians each year and have been creating positive change for South Australian communities for more than 120 years.

We advocate for systems change across diverse social justice issues to shape public and social policy that delivers better outcomes for marginalised communities. We are committed to promoting a gendered understanding of violence, a zero-tolerance approach and in reducing the prevalence of domestic and family violence (DFV) in our community. We understand that increased gender equality will lead to decreased violence against women and the prevention of DFV. We recognise that equity across the spectrum of gender is fundamental to achieving gender equality.

Our input is based on deep experience in the provision of related social and legal services to those impacted by domestic and family violence (DFV). Uniting Communities provides a number of [services](#) to women and children who are experiencing DFV and [services](#) for men who would like to address their use of violence. Further, we also provide a range of community legal [services](#) including expert, independent and confidential legal advice and representation for people who seek assistance with family law and child support matters and support for those experiencing elder abuse.

Additional comments

Uniting Communities understands and respects that the purpose of this Bill is to create and establish the criminal charge of coercive control when it is perpetrated within an intimate relationship. This Bill is not intended to outline the finer details of how this criminal charge will be enforced, what resources will be provided to support the implementation of the legislation or what processes the government will take to ensure that community or sector education occurs. Uniting Communities is supportive of the passage of this legislation if a detailed and comprehensive plan is developed, in collaboration with

all impacted and relevant stakeholders, to address how this legislation will be successfully implemented and operationalised.

We recognise that this Bill only applies to people that are or have been in an intimate relationship and that this Bill does not apply to people experiencing any other forms of family violence (for example, violence perpetrated by a parent against their child, by a child against their parent or by a sibling against their sibling or other relative).

We appreciate that introducing and operationalising complex legislation is a lengthy and challenging endeavor and we thank the South Australian government for taking steps to address coercive control that occurs in intimate relationships. We understand that the Government has intentionally chosen to restrict the scope of this Bill to intimate partner relationships only, due to this cohort being identified as the highest risk and most likely to experience coercive control.

We do not want the passage and implementation of this Bill to diminish or invalidate the devastating impact that coercive control has when perpetrated in other forms of relationships. We strongly recommend that if this Bill is passed and the review report of the operation of this division (that is to be submitted to Minister) demonstrates that the legislation has been effective in addressing coercive control in intimate partner relationships, that:

1. This particular Act is amended to include anyone that has been a victim of coercive control (regardless of relationship type) and/or
2. additional legislation is introduced and passed to address the use of coercive control in all other types of relationships (e.g. Elder Abuse).

We are particularly supportive of the below inclusions within the *Criminal Law Consolidation (Coercive Control) Amendment Bill 2023* including;

- Section 20C (3) that places the burden of proof on the defendant to provide evidence that their actions were reasonable.
- Section 20C (4) that allows for the inclusion of conduct that occurred before the commencement of this section. Coercive control is fundamentally a pattern of behavior and consideration must be made of the totality of the behaviours committed including in the past.
- Section 20C (5) (c) as the prosecution should not have to prove the defendant **intended** to have a controlling impact on or cause serious apprehension or fear in the other person.
- The recommendation of a delayed commencement date. It is important that the commencement date of the Act allows for sufficient time for education, training, and resourcing. This will support the successful implementation of the Act.
- The current timeframe for the review of the operation of this division of at least three years and no longer than four years will allow for improvements to be made to the legislation and any unintended consequences of the Act to be addressed.

Implementation

We expect the concerns and issues highlighted in this section to be addressed throughout the implementation consultation following passage of the *Criminal Law Consolidation (Coercive Control) Amendment Bill 2023*. Effective implementation will require a whole of system approach whereby the systems and the people within them change behaviour, attitudes and actions over time. This will take commitment, effort, focus and investment over many years.

Other legislation

Greater clarity is needed regarding any overlap and correlation with other legislation that may be in place including the *Intervention Orders (Prevention of Abuse) Act*.

We are concerned about the possibility that some coercive control charges and/or penalties may be dropped and/or reduced during court proceedings in favour of other charges against the defendant. For example, when the defendant is facing charges of both common assault and coercive control charges there is the possibility of the prosecution dropping the coercive control charges in negotiations due to the maximum penalty being higher for coercive control.

Risk assessments

We wish to see wider review and reform that leads to a common set of risk identification, assessment and management practices as well as ensuring coercive control is embedded in all domestic violence relevant risk policies and practices state-wide.

We recommend the common risk assessment framework is updated to clearly outline the presence of coercive control behaviours in the relationship including in Family Safety Framework proceedings. We acknowledge the work of [ANROWS on improving risk assessment frameworks](#) in 2018.

Awareness

Victims-survivors may not recognise or identify their experience with coercive control as family and domestic violence. Thorough and extensive community awareness raising will be required for victims-survivors and the general public to better understand what coercive control is, the detrimental impacts of it and how to seek support.

Training including understanding of the legislation

It is important to not only have greater community wide and sector wide understanding of coercive control but also an understanding of the new legislation. It is vital that everyone in all parts of the system, including frontline workers, develop a consistent understanding and interpretation of the legislation to ensure effective accessibility and implementation.

Education and awareness of coercive control and the legislation will need to be given to all parts of the system including frontline workers from the SAPOL, Magistrates Court, prosecution, child protection, mental health services, alcohol and other drug services, hospitals and emergency departments, child and family health nurses, domestic and family violence services and the general public.

Resourcing for SAPOL and community services

Community services will likely see an increase in clients experiencing coercive control following the introduction of the Act. It is important that these services are given the necessary support and resources to meet the anticipated increase in demand.

There will be more victim-survivors reporting coercive control presenting to police officers or police stations. Many police stations are currently not equipped to provide a safe private space for victims to give a statement as stations are often limited by the layout of their current buildings. Greater funding and support could be given to SAPOL to address this issue to make stations more appropriate and accessible for victim-survivors.

In addition, we recommend an increase in funding for more specialised family violence officers within SAPOL. Family violence officers provide expertise and assistance to frontline SAPOL officers as well as

victims-survivors of domestic and family violence. During a time of increased demand this support will be vital for victim-survivors.

Victim impact statements

Victim impact statements in cases of coercive control will be lengthy due to the nature of the evidence required to proceed with the criminal charge. It will take additional resources to collate the evidence as it is a pattern of abuse over time rather than an isolated incident.

Coercive control conduct can happen behind closed doors, without a witness present or accompanied by physical evidence of assault. Therefore, evidence can be challenging to obtain. Specialised training will be required for the numerous agencies that are likely to assist victims-survivors obtain the necessary evidence.

Conclusion

Uniting Communities commends the state government on its introduction of the *Criminal Law Consolidation (Coercive Control) Amendment Bill 2023*. The Bill incorporates a comprehensive understanding of coercive control and the introduction of this Bill recognises the detrimental impact that coercive control has on victim-survivors. We recognise that legislation is only as effective as its implementation and the effective application of this Bill will take time and resourcing. We look forward to working with the state government as they proceed to operationalise the *Criminal Law Consolidation (Coercive Control) Amendment Bill 2023*.