

9/06/2021

The Hon Vickie Chapman MP
Deputy Premier
Attorney-General

Sent via email: AttorneyGeneral@sa.gov.au

**CONSULTATION ON DRAFT CRIMINAL LAW CONSOLIDATION (ABUSIVE BEHAVIOUR)
AMENDMENT BILL 2021**

Dear Attorney-General,

Thank you for the opportunity to comment on the proposed draft Criminal Law Consolidation (Abusive Behaviour) Amendment Bill 2021.

Intervention orders are a pressing and contemporary public issue and we commend the government for drafting this Bill to update the criminal law act. Uniting Communities broadly supports the direction of the Bill and seeks to provide some specific comments about its content. We provide commentary on the bill followed by our position and concerns regarding sector wide service development.

Our input is based on deep experience in the provision of related social and legal services to those impacted by domestic and family violence.

Uniting Communities provides domestic violence services to women and children who suffer from intimate partner violence and the men who use violence. We also provide a range of community legal services including legal support for those experiencing elder abuse. In both these settings we experience the use of intervention orders.

Our commentary on the bill is followed by our broader concerns regarding current sector wide service capacity and development.

1. Uniting Communities' Specific Response to the Bill

We provide the following feedback in relation to specific clauses contained in the Bill:

Part 2 – Amendment of Criminal Law Consolidation Act 1935 - 20B (12)

- a) This clause is clear and we commend the inclusion of the term "frightening". We strongly support this addition into the criminal code.
- b) Fully supported
- c) Consider removing the word "deliberately" as we believe this is captured in the preface **20B(1)** with "intentionally engages with"
- d) We commend the bill for including acts of violence against pets. Unfortunately the causing of death or injury to animals is a common intimidation tactic which we see too often.

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- e) Isolating victims is a common experience, so we are heartened to see this in the bill.
- f) We strongly support this whole clause as technology is making this an emerging and complicated issue. We particularly appreciate that "communications" is included in this clause and we hope that this will pick up all social media and new forms for communication, as well as traditional forms of communications.
- g) The wording in this clause appears to be too broad and generic. We ask that the term "financial, social and personal autonomy" be more precisely defined or have examples provided.
- h) Fully supported
- i) Reconsider adding "in home care support services" or similar. We have seen cases where families have stopped the support of services for personal care, getting out of bed, showering and toileting and we suspect that these services have not been replaced by another provider. We appreciate that the term "threatening to withhold" is included in this clause.
- j) We believe that the intent of this clause is worthy. However, we are seriously concerned that this item may be used to prevent victims (women and their children) who are trying to protect themselves by changing the locks on their home and therefore risk being subjected to prosecution themselves. We recommend consideration be given to rewording this clause in a way that addresses the likely unintended consequences of perpetrators utilizing this provision to further victimise their partner.
- k) We support this item and ask that consideration be given to adding 'threatening' to the clause so that it reads
"withholding, or threatening to withhold financial support..."
We also note that this clause has family law implications which we are not in a position to comment on.
- l) We ask that you consider adding the word 'threatening' into this clause so that it reads
"preventing, or threatening to prevent the person from having access..."
This is a common experience for some of our clients. We also note that this item has family law implications

There are two additional items which we would ask to be considered that are not currently included.

- We note that **loitering** is not specifically mentioned. This is a very common experience of women where their abusive partners loiter in front of their work place or place of residence. We strongly commend this for your consideration and refer to the Intervention Orders Prevention Act 8.4 (f) in this regard.

- We also recommend that **coercion of sexual activity** be added as part of this legislation again as it is a common experience of women and we believe the Act should be clearly listed in the criminal code. We refer to the Intervention Orders Prevention Act 8.4 (a) in this regard.

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The Social Context – Funding and Service Provision

We are concerned that further consideration and consultation occur regarding the implementation of the systemic responses required to support the introduction of criminalising these changes in South Australia.

The service system needs to be ready to implement the required responses effectively and consistently. More specifically, in relation to criminalising coercive control potential “unintended consequences” need to be considered. Clause 12 (j) is an example of an item which will have unintended consequences if passed in its current form.

We note from the Domestic Violence Resource Centre Victoria (DVRCV) submission and many others, that victim-survivors may be less willing to engage in the justice system if they have experienced past unhelpful responses when seeking support from the Justice system and other service providers, not to mention the risk of further traumatisation. To this end we commend submissions made to the NSW Government, Joint Select Committee on Coercive Control (October; 2020) on criminalising coercive control.

Uniting Communities is aware from clients that many have expressed experiences of inconsistent and unhelpful responses/practice across the service system. This is underpinned by a lack of coordinated community responses and at times, little focus on keeping the perpetrator in view.

Improving whole of system responses to coercive control will require many systems and the people within them to change behaviour, attitudes and actions over time. This will take commitment, effort, focus and investment over many years. It is crucial to broaden the conversation outside of the current debate about whether to criminalise coercive control as there is a need to also look beyond a legal solution, to a systemic response that involves all parts of the family violence system.

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 practice state-wide.

We recommend there is a shared understanding of a “common risk assessment framework” state-wide to support consistent and collaborative practice. This of course would necessitate South Australian Police and related criminal justice practitioners to develop consistent and mandated training on identifying and responding to coercive and controlling behaviours in domestic violence matters.

We also wish to see a review of the current Information Sharing Guidelines (ISG) legislation, to ensure any barriers that may prevent the sharing of risk relevant information are reviewed across the Nation.



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Chief Executive
Uniting Communities

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Reference materials

NSW Joint Select Committee on Coercive Control. (2020).

<https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=271#tab-submissions>

The Monash Gender and Family Violence Prevention Centre | Submission to Joint Select Committee on Coercive Control (NSW). (2021).

<https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=271#tab-submissions>

No to Violence | Submission to Joint Select Committee on Coercive Control (NSW). (2021).

<https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=271#tab-submissions>

Domestic Violence Resource Centre Victoria. (2021) Responding to Coercive Control in Victoria – Broadening the conversation beyond criminalisation.

<http://dvvic.org.au/impact/publications/>

South Australian Government, Social Development Committee – Domestic Violence and Family Violence, Response from the South Australian Government (December 2016).