

2<sup>nd</sup> November 2022

# The Legal Affairs and Safety Committee consideration of the Domestic and Family Violence (Combatting Coercive Control) and Other Legislation Amendment Bill 2022.

Thank you for affording Full Stop Australia an opportunity to provide evidence on the Domestic and Family Violence (Combatting Coercive Control) and Other Legislation Amendment Bill 2022

## About Full Stop Australia

Full Stop Australia (FSA) is an accredited, nationally focused, not-for-profit organisation which has been working in the field of sexual, domestic, and family violence since 1971. We offer expert and confidential telephone, online and face-to-face counselling to people of all genders who have experienced sexual, domestic, or family violence, and specialist help for their supporters and those experiencing vicarious trauma. We also provide best practice training and professional services to support frontline workers, government, corporates and not-for-profits, and advocate with governments, the media, and the community to prevent and put a full stop to sexual, domestic and family violence.

FSA, as a national service, draws upon the experiences of our counsellors supporting people impacted by sexual, domestic and family violence in different jurisdictions, as well as our clients and other survivor advocates who are part of our [National Survivor Advocate Program](#), to advocate for victim focussed laws and consistency of approaches to family, domestic and sexual violence nationally.

## Our response

FSA supports and endorses the submission by the Queensland Sexual Assault Network (QSAN) dated 1<sup>st</sup> November 2022.

We would like however, to emphasise the following matters:

FSA congratulates the Government on many aspects of the legislation but particularly, the amendments to the *Domestic and Family Violence Protection Act 2012* that provide for:

- Consideration as to a “pattern of abuse” when determining domestic and family violence,
- The making of cross orders only in exceptional circumstances,

- Assistance to the court in accurately identifying and responding to the person most in need of protection, especially where there are cross applications. (These amendments are especially welcome given the national conversation and concerns about misidentification of victims as perpetrators by the police and courts)

We believe in time these changes (or similar) will be adopted nationally.

FSA is supportive of the need to modernise the “maintaining a sexual relationship with a child” and “carnal knowledge” offences but shares QSAN’s concerns outlined in their submission.

FSA supports the offence to be named, *persistent sexual abuse of a child*, which is consistent with other states and territories and with the advocacy of former Australian of the Year, Grace Tame.

We also hold significant concerns about renaming the carnal knowledge offence, *penile intercourse with a child/person*. Though these words are reflective of the offence, we are concerned about the impact of these very graphic words on victims. Additionally, we would recommend the Committee consider what impact these words will have on the offenders who are child sexual abusers. The suggested wording is very explicit and may have a perverse impact on these individuals (to the detriment of victims).

In relation to the stalking provisions, we support these amendments but share concerns with QSAN that victims of stalking in Queensland must satisfy the definition of “domestic relationship” contained within the *Domestic and Family Violence Act 2012* to be eligible to obtain a civil protection order. As a result, some victims of stalking in Queensland, such as in boyfriend/girlfriends not co-habiting or other relationships outside of a domestic relationship must get the police to charge criminally to obtain protection, as they are not eligible to access protections under the civil scheme. Criminal charges are invariably difficult because of the need to prove the alleged behaviour occurred and satisfy the elements of the offence ‘beyond reasonable doubt’.

Some victims also do not feel comfortable engaging with the police or with the criminal justice system and many victims prefer to start with a civil protection order as a strategy to try to stop the behaviour before stepping up to a criminal response. We therefore support victims of stalking in Queensland, no matter their relationship, being able to obtain a civil protection order to stop the behaviour.

FSA particularly supports QSAN’s recommendations 9 and 10 about the need for sector-wide training in the criminal justice system and the need to delay the changes to the Evidence Act before allowing the broad introduction of domestic and family violence evidence into criminal justice matters. If this does not occur there is a high risk of unintended consequences, including perpetrators using these provisions as strategies to benefit themselves in mitigation and general avoidance of responsibility.

#### ***(QSAN) Recommendation 9***

***That key players in the Queensland criminal justice system (the judiciary, ODPP, defence and police) are provided accredited, independent training on DFV and sexual violence and coercive control dynamics from a victim’s perspective, including the importance of a***

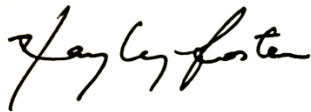
*gendered analysis, trauma informed approaches and cultural understanding and impacts on Aboriginal and Torres Strait Islander people, CALD, disability and LGBTIQ people to prepare the system for the introduction of DFV changes to the Evidence Act.*

*(QSAN) Recommendation 10*

*That the start date for changes to the Evidence Act that allow for the broad introduction of DFV evidence by defence, the victim or other interested parties in criminal proceedings be delayed until the training as outlined above has occurred to ensure the use of the provisions do not promote harmful myths and stereotypes and/or to inappropriately mitigate and/or excuse perpetrator behaviour.*

We thank you again for the opportunity to make this submission. If you have any further questions, please do not hesitate to contact me.

Yours faithfully,



Hayley Foster  
Chief Executive Officer  
Full Stop Australia

## Appendix 1

### Guiding principles – sexual offences (Victoria)

It is the intention of Parliament that in interpreting and applying Subdivisions (8A) to (8G), courts are to have regard to the fact that—

- (a) there is a high incidence of sexual violence within society; and
- (b) [sexual offences](#) are significantly under-reported; and

#### [S. 37B\(c\)](#) amended by No. 47/2016 s. 7.

- (c) a significant number of [sexual offences](#) are committed against women, [children](#) and other vulnerable persons including persons with a cognitive impairment or mental illness; and
- (d) sexual offenders are commonly known to their victims; and
- (e) [sexual offences](#) often occur in circumstances where there is unlikely to be any physical signs of an offence having occurred.

## Appendix 2

### 4 Principles for administering Act (QLD) (Civil protection orders)

- (1) This Act is to be administered under the principle that the safety, protection and wellbeing of people who fear or experience domestic violence, including children, are paramount.
- (2) Subject to subsection (1), this Act is also to be administered under the following principles—
- (a) people who fear or experience domestic violence, including children, should be treated with respect and disruption to their lives should be minimised;
  - (b) to the extent that it is appropriate and practicable, the views and wishes of people who fear or experience domestic violence should be sought before a decision affecting them is made under this Act;
  - (c) perpetrators of domestic violence should be held accountable for their use of violence and its impact on other people and, if possible, provided with an opportunity to change;
  - (d) if people have characteristics that may make them particularly vulnerable to domestic violence, any response to the domestic violence should take account of those characteristics;

*Examples of people who may be particularly vulnerable to domestic violence—*

- women
  - children
  - Aboriginal people and Torres Strait Islanders
  - people from a culturally or linguistically diverse background
  - people with a disability
  - people who are lesbian, gay, bisexual, transgender or intersex
  - elderly people
- (e) in circumstances in which there are conflicting allegations of domestic violence or indications that both persons in a relationship are committing acts of violence, including for their self-protection, the person who is most in need of protection should be identified;
- (f) a civil response under this Act should operate in conjunction with, not instead of, the criminal law.

## Appendix 3

### 22A Who is the person most in need of protection in a relevant relationship (QLD Bill)

(1) A person (the first person), who is in a relevant relationship with another person (the second person), is the person most in need of protection in the relationship if, when the behaviour of each of the persons is considered in the context of their relationship as a whole—

(a) the behaviour of the second person towards the first person is, more likely than not—

(i) abusive, threatening or coercive; or

(ii) controlling or dominating of the first person and causing the first person to fear for the safety or wellbeing of the first person, a child of the first person, another person or an animal (including a pet); or

(b) the first person's behaviour towards the second person is, more likely than not—

(i) for the first person's self-protection or the protection of a child of the first person, another person or an animal (including a pet);

or (ii) in retaliation to the second person's behaviour towards the first person, a child of the first person, another person or an animal (including a pet);

or (iii) attributable to the cumulative effect of the second person's domestic violence towards the first person.

(2) In deciding which person in a relevant relationship is the person most in need of protection, a court must consider— (a) the history of the relevant relationship, and of domestic violence, between the persons; and

(b) the nature and severity of the harm caused to each person by the behaviour of the other person; and

(c) the level of fear experienced by each person because of the behaviour of the other person; and

(d) which person has the capacity—

(i) to seriously harm the other person; or

(ii) to control or dominate the other person and cause the other person to fear for the safety or wellbeing of the first person, a child of the first person, another person or an animal (including a pet); and (e) whether the persons have characteristics that may make them particularly vulnerable to domestic violence.

Examples of people who may be particularly vulnerable to domestic violence— • women • children • Aboriginal peoples and Torres Strait Islander peoples • people from a culturally or linguistically diverse background • people with disability • people who are lesbian, gay, bisexual, transgender or intersex • elderly people