

Coercive Control reforms



/ Courtney Thorne, Rebecca Edwards & Leanne Collingburn



HopgoodGanim
LAWYERS

Acknowledgement of Country

We acknowledge the Traditional Custodians of the lands and waters on which we are speaking from today - the Turrbal and Jagera people. We pay our respects to their Elders, past and present and extend that respect to all First Nations people joining with us.

Image credit: Yaegl visual artist, Frances Belle Parker, 'Wilaarrawa Dugulaarra' (Growing Together).



Agenda

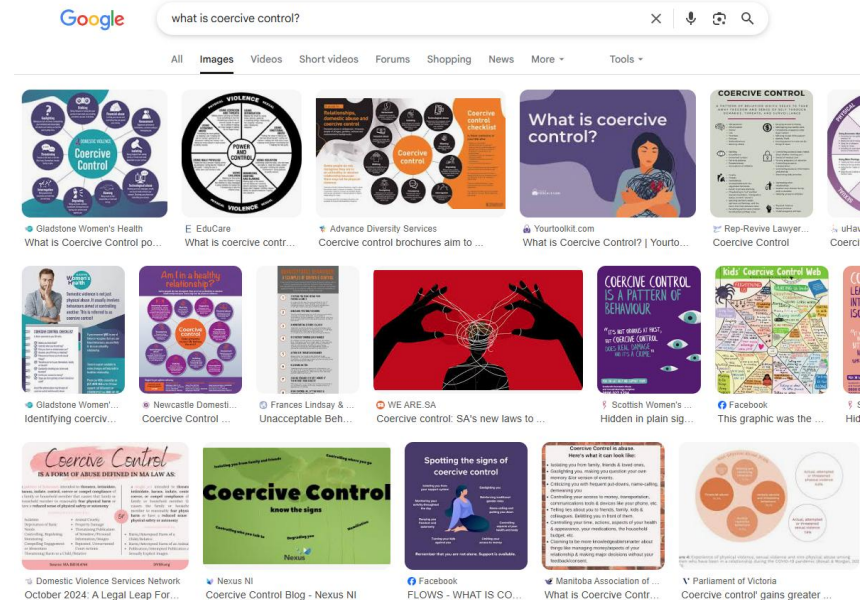
- **What is coercive control?**
- **National Landscape – coercive control reform**
- **Coercive control reform in Queensland**
 - Consultation & policy reform
 - Criminalisation
 - Civil protection
- **Practical application, civil regime:**
 - Proving a ‘Pattern of abuse’
 - Cross-applications & person most in need of protection
 - Costs
- ***New* on the spot PPDs**
- **Elder law & coercive control focus**



Artist: Frances Belle Parker

What is coercive control?

Coercive control is when someone uses patterns of behaviour against another person. Over time, this creates fear and takes away the person's freedom and independence. This dynamic almost always underpins family and domestic violence.

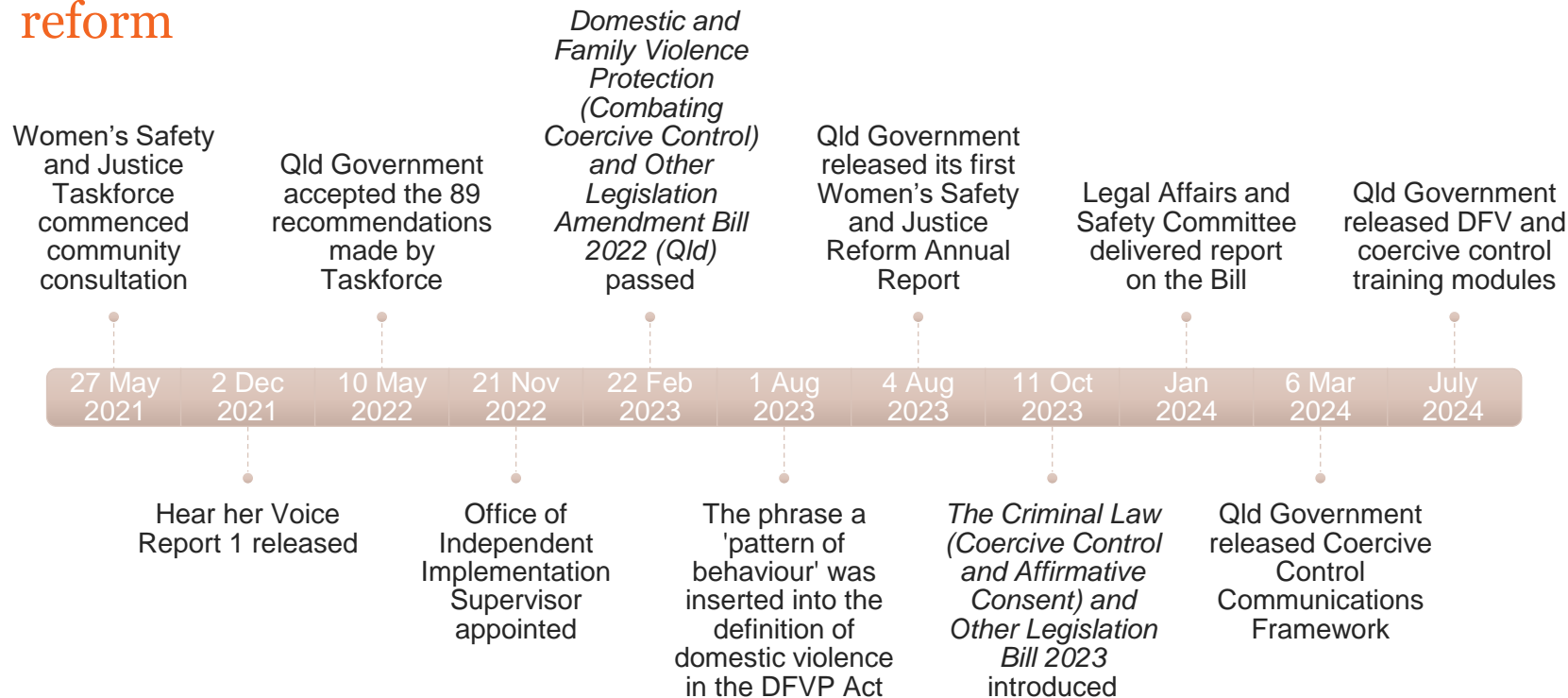


The National landscape since 2020: HG's Coercive Control Reform Tracker

HG's coercive control reform tracker 2025

Jurisdiction	NSW	QLD	SA	WA	NT	TAS	ACT	VIC
Consultation	2020	2021	2022	2022	2022	X	2022	X
Criminalisation	1 July 2024 (intimate partners only)	26 May 2025 (relevant relationships)	29 Aug 2024 bill (intimate partners only)	Not yet (considering broader family relationships)	X	2004* (intimate partners only)	Not yet (further consultation & considering other jurisdictions)	X
Civil Protection	19 Feb 2024	1 Aug 2023	Not CC but PoB since 2009	Not yet	16 Oct 2025	2004* (intimate partners only)	2016 (but rarely used)	2008

Queensland Coercive Control Reform – Consultation & Policy reform



Criminalisation of coercive control in QLD

New Chapter 29A

May 26 commencement: Criminal accountability carrying a maximum penalty of **14 years**.

334C Coercive Control

- (1) A person who is an **adult** commits an offence (a ***coercive control offence***) if --
- (a) the person is in a **domestic relationship** with another person (the ***other person***); and
 - (b) the person engages in **a course of conduct** against the other person that consists of **domestic violence** occurring on **more than 1 occasion**; and
 - (c) the person **intends** the course of conduct to **coerce or control** the other person; and
 - (d) the course of conduct would, in all the circumstances, be **reasonably likely** to **cause** the other person **harm**.
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Criminalisation in QLD – what to expect?

NSW data from Bureau of Crime Statistics and Research

- 157 coercive control incidents from July-December 2024
- 3 charges laid for coercive control
- Next monitoring report to be released on 19 June 2025

Lessons learnt from criminalisation of coercive and controlling behaviour in England and Wales

- Implementation
- Response
- Evidence-gathering

Changes to the Civil Protection Regime

1. **Meaning of DFV to include 'a pattern of behaviour' & in meaning of emotional & psychological abuse and economic abuse**
2. Insert after stalking 'intimidating, harassing or abusing' (s8(2))
3. **s22A Who is the person *most in need of protection* in a relevant relationship**
4. s36A & s90A, s160A & s189A & B - Court must be given/ disclosure of respondent's criminal history and DV history including in relation to another person
5. **Hearing & deciding cross applications**
 - **S41C Hearing of applications – cross applications before the same court**
 - **S41D Hearing of cross applications before different courts**
 - **S41G deciding cross applications**
6. s42 and s43 when a Court/ Children's Court can make or vary an order against an offender
7. s51 & s91 when court can vary DVO (consider crim and DFV history)
8. **s157 Costs**

8 Meaning of domestic violence

- (1) *Domestic violence* means behaviour, or **pattern of behaviour**, by a person (the *first person*) towards another person (the *second person*) with whom the first person is in a relevant relationship that—
- (a) is physically or sexually abusive; or
 - (b) is emotionally or psychologically abusive; or
 - (c) is economically abusive; or
 - (d) is threatening; or
 - (e) is coercive; or
 - (f) in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing or that of someone else
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Practical application: Proving a 'Pattern of Behaviour'

Survivor's
Evidence

Third Party
Evidence

Respondent's
Evidence

Criminal History and
DV History
DFVP Act 2012 (Qld),
s 36A(2)(a)(b)).

Subpoenas
DFVP Act 2012
(Qld), s. 154

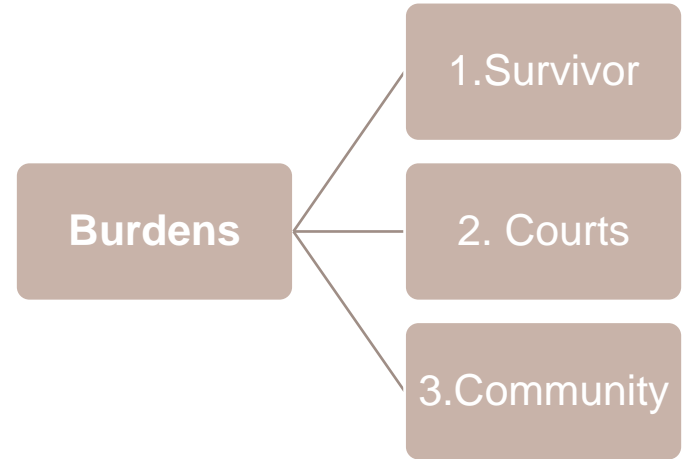
Detailed
Chronology

Evidence in
Chief & Cross
Examination

Collingburn, Leanne, Thorne, Courtney, Delabbio, Isabelle, & Maguire, Rowena (2025) Proving a 'pattern of behaviour': Queensland's coercive control (civil protection) reforms in practice. *QUT Centre for Justice Briefing Paper Series - Practitioner and Event Papers*, 1, pp. 1-4, May 2025.

Time and Financial Cost in evidencing a 'Pattern of Abuse'

- Multiple, lengthy meetings required to support survivors
- Burdensome subpoena process
- Legal representatives must apply to inspect and copy



The Human Cost in Evidencing a 'Pattern of Abuse'

- **Support person ((*DFVP Act 2012 (Qld)*, s. 158(3))** during DV proceedings are prohibited from giving statement of evidence or given **less weight** (*The Australasian Institute of Judicial Administration Inc.*, 2024)
- **Re-traumatising 3rd parties** who give evidence
- **Trauma informed lawyering**
- Balance the emotional and mental health of their client against the desire for independent corroborating evidence (Wangmann et al., 2023).
- Corroborating 3rd-party evidence may need to be sacrificed in favour of the survivor being supported to provide their best evidence and retaining their support network in the long term

Cross applications & the person most in need of protection

S41C Hearing of applications – cross applications before the same court

(2)The court must—

- (a)hear the applications together; and
 - (b)in hearing the applications, consider—
 - (i)the principle mentioned in section 4(2)(e); and
 - (ii)whether it is **necessary to make arrangements for the safety, protection or wellbeing** of the person most in need of protection in the relevant relationship that exists between the persons who are the aggrieveds and respondents to the applications.
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s4 Principles for administering Act

(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—

...

(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— (i) the person who is most in need of protection in the relationship should be identified; and (ii) only 1 domestic violence order protecting that person should be in force unless, in exceptional circumstances, there is clear evidence that each of the persons in the relationship is in need of protection from the other

41G Deciding cross applications

(2)The court must decide—

- (a)which of the parties to the relevant relationship is the person most in need of protection in the relationship; and
 - (b)the application that makes, or varies, the protection order that is necessary or desirable to protect the person most in need of protection from domestic violence; and
 - (c)if the other application is an application for a protection order—to dismiss the other application; and
 - (d)if the other application is an application for the variation of a protection order—to vary the order by reducing its duration so that the order ends.
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The Person most in need of protection 22A DFVP Act

- 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 a whole –
 - The behaviour of the second person towards the first person is more likely than not:
 - **Abusive, threatening or coercive**; or
 - **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
 - The first person's behaviour towards the second person is more likely than not:
 - 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
 - **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
 - **Attributable to the cumulative effect of the second person's domestic violence towards the first person.**
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To determine who is PMINOP, the court must consider (s22A(2))

- The history of the relationship and of domestic violence between the persons.
 - The nature and severity of the harm caused by each person by the behaviour of the other person.
 - The level of fear experienced by each person because of the behaviour of the other person.
 - Which person has the capacity to seriously harm the other person, or to control or dominate the other person and cause them to fear for the safety or wellbeing of themselves, a child, another person or an animal.
 - Whether the persons have characteristics that may make them particularly vulnerable to DV. Eg:
 - 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
-

Cross applications & the person most in need of protection – practical challenges

- **No clear guidance re best practice but assume need to file 2x everything:**
 - Form DV26 Notice of Change of Address for Service
 - Affidavit material
 - Subpoena material
 - Application to file media exhibits etc
- **Legal representatives need to give clear guidance to Magistrates at mentions & review hearings**
- **Language used by legal representatives & Magistrate can upset parties**
- **Challenges when one matter is finalised & other matter ongoing as matter has to be heard**

Section 157(2) Costs

- ... the party who made the application if the court **hears the application** and **decides** -
- (a) to **dismiss the application** and, in doing so, also decides that the party, in making the application, **intentionally** engaged in **behaviour, or continued a pattern of behaviour**, towards the respondent to the application that is **domestic violence**

Note

This type of behaviour is known as systems abuse or legal abuse. It is behaviour in which a person intentionally misuses the legal system, including for example, by starting court proceedings based on false allegations against another person, as a way to intentionally exert control or dominance over the other person or to torment, intimidate or harass the other person.

PPDs under *DFV Protection & Other Legislation Amendment Bill 2025*

- Police to be given the power to issue on the spot 12 mth Police Protection Directions (PPDs) without having to go to Court
- Objective to improve frontline police efficiencies and improve and increase safety for victim-survivors
- **We disagree.** Instead PPDs:
 - will increase police inefficiencies
 - erode the role of judicial oversight
 - expand police power without accountability
 - fragment the current service system framework & undervalue the role of specialist DFV courts
 - favour an incident-based response and create a two-tier justice system
 - risk misidentification of the person most in need of protection
 - increase criminalisation & disadvantage of Qld's most vulnerable people
 - are misaligned with human rights
 - divert attention away from evidence-led measures and systemic solutions to DFV & shift the cost-burden to other parts of the system

See [Caxton Legal & HopgoodGanim submission on draft Bill](#) for more detail

Taking an elder law lens to coercive control



- **Elder Abuse:** is any act which causes harm to an older person and is carried out by someone they know and trust.

- **Coercive control** :a course of conduct against the other person that consists of domestic violence occurring on more than one occasion and the person intends the course of conduct to coerce or control the other person..... (***Criminal Code Act 1899 (Qld)***)

- **Legal spheres in which elder abuse and coercive control appear:**

- ❖ Civil litigation- financial abuse
 - ❖ Capacity law- Misuse of Enduring Powers of Attorney and other abuses
 - ❖ Domestic Violence
 - ❖ Criminal law.
-

Elder Abuse – the statistics

- 598,000 older Australians suffered some form of elder abuse in a single year.
- 471,300 - psychological abuse
- 115,500 - neglect
- 83,800 - financial abuse
- 71,900 - physical abuse
- 39,500 - sexual abuse
- A slightly higher percentage of women than men had experienced any form of elder abuse in the past year.
- Coercive control statistics QLD – watch this space

Domestic Relationship

- **QLD – Extends beyond intimate partner relationship**
 - **"domestic relationship"** means a relevant relationship under the [*Domestic and Family Violence Protection Act 2012*](#), [*section 13*](#).
 - *Example—*
 - Under the [*Domestic and Family Violence Protection Act 2012*](#), [*section 13*](#), a relevant relationship means an intimate personal relationship, a family relationship or an informal care relationship, as defined under that Act. An intimate personal relationship includes a former intimate personal relationship.
- **Relevant relationships for older people**
 - *"family relationship"*
 - *"informal care relationship"*
 - *"intimate personal relationships"*

Elder Law - signs of coercive control

- Pressure to give away money or property
- Pressure to change a will or power of attorney
- Isolation / control over contact with friends and family
- Not giving / withholding important items such as medication or access to services
- Taking control over finances or personal decisions
- Causing a person to self doubt e.g. memory
- Pressure to do things the person does not want to do e.g. household tasks or regular free child minding

Elder Abuse – The Civil Litigation Lens

Far more complicated because:

- Not just a legal problem - social issues abound
 - Notorious matter-types:
 - Granny-flat and co-ownership break-downs
 - Recovery of money or assets
 - Misuse of Enduring Powers of Attorneys
 - Overlap into 'capacity law' - guardianship & admin
 - Domestic Violence orders
 - Sometimes family law overlap
-



Coercion in the civil sense- issues



- **Coercion:**
- Featured in all types of civil disputes and Court have formulated definitions over time
- Often goes hand-in-hand with duress, unconscionable transactions, and undue influence but is a discrete remedy
- Lord Denning – ***Morgan v Fry*** {1968} 2 QB 710:

“The essential ingredients are these: there must be a threat by one person to use unlawful means (such as violence or a tort or a breach of contract) so as to compel another to obey his wishes and the person so threatened must comply rather than risk the threat being carried into execution.”

Coercion – Criminal Perspective (too soon to tell?)

New Legislative provisions

Potential barriers

- Individual and personal
- Societal and systematic
- Legal and procedural



Case Studies

Case Study 1 – Social Barriers

- The "helpful" adult child moves home

Case Study 2 – Systematic Barriers

- Taking care of mum or parent-napping?
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Questions



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