Criminal Law Consolidation (Coercive Control) Amendment Bill 2023

Government of South Australia

Presented by Legislative Services, Attorney-General's Department and the Office for Women, Department of Human Services

Support services

If you or someone you know is experiencing coercive control or domestic violence, there is confidential support available.

South Australian Domestic Violence Crisis Line
1800 800 098 (24 hours)

1800RESPECT
1800 737 732 (24 hours)

The Government is committed to making coercive control a crime and has prepared the **Criminal Law Consolidation (Coercive Control) Amendment Bill 2023** for community consultation.

About the Bill

- The Bill creates a new crime of coercive control in intimate partner relationships, which will be punishable by up to 7 years imprisonment.
- The offence will be placed in South Australia's major criminal statute, the *Criminal Law Consolidation Act 1935.*
- The Bill is a draft version and is subject to potential changes based on the feedback given by the community.

Language

- In this presentation:
  - **Perpetrator** = the person inflicting or allegedly inflicting coercive control
  - **Victim** = the person subject to or allegedly subject to coercive control

What is Coercive Control?

Coercive control is a type of abuse that involves **deliberately trying to control another person’s behaviour** through **fear, intimidation or manipulation.**

Facts about Coercive Control

- Not all abusive relationships involve coercive control, but many do, and it is a very serious and often undetected type of abuse
- Coercive control can happen to anyone regardless of gender, sexual orientation or cultural background.
- Coercive control is never the victim’s fault.

Building a crime

Every crime is made up of ‘**elements**’ – things the Government must prove before a person can be convicted of that crime.

Action

What the perpetrator did

Intent

The perpetrator’s state of mind at the time of the action

Example: Murder

Action – The perpetrator did something that caused the death of the victim

Intent – The perpetrator intended the victim to die

How does the Bill define coercive control?

- **The action:** the perpetrator engaged in a course of behaviour that had a controlling impact on another person.
- **The intent:** The perpetrator did the behaviour because they wanted to control the victim, or because they wanted to cause the victim serious apprehension or fear.
- **The effect:** the controlling impact is serious.
- **The relationship:** The victim is a current or former spouse, domestic partner, or intimate partner of the perpetrator.

How does the Bill define coercive control?

- **The action:** the perpetrator engaged in a course of behaviour that had a controlling impact on another person.
- **The intent:** The perpetrator did the behaviour because they wanted to control the victim, or because they wanted to cause the victim serious apprehension or fear.
- **The effect:** the controlling impact is serious.
- **The relationship:** The victim is a current or former spouse, domestic partner, or intimate partner of the perpetrator.

The action – behaviour with a controlling impact

A controlling impact is when the behaviour directly or indirectly restricts the victim's:

- freedom of movement
- freedom of action
- ability to engage in social, political, religious, cultural or economic activities.

The action – behaviour with a controlling impact

A controlling impact is when the behaviour directly or indirectly restricts the victim's:

- ability to make choices with respect to their body, including:
  - choices in relation to their reproductive options
  - medical treatment
  - sexual activity.

The action – behaviour with a controlling impact

A controlling impact is when the behaviour directly or indirectly restricts the victim's:

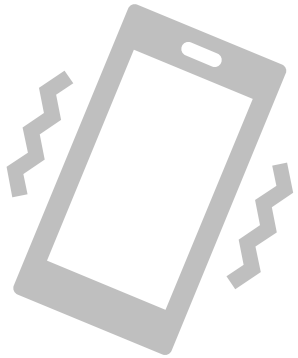
- ability to access—
  - basic necessities (including water, sleep, food or hygiene)
  - support services (including services provided by registered health practitioners or legal practitioners)
  - their place of residence or any property they own.

What behaviours can have a controlling impact?

- The Bill does not limit the kind of behaviours that might be found to have a controlling impact.
- Whether a course of behaviour has a controlling impact must be determined by considering **the impact of the behaviours as a whole.**
- Many different kinds of behaviour can work together to have a controlling impact.

Examples - behaviours with controlling impact

- Threats
- Frightening or punishing behaviours (including against children)
- Anger and blame
- Verbal abuse and shaming
- Manipulation
- Taking or damaging property
- Monitoring



How does the Bill define coercive control?

- **The action:** the perpetrator engaged in a course of behaviour that had a controlling impact on another person.
- **The intent:** The perpetrator did the behaviour because they wanted to control the victim, or because they wanted to cause the victim serious apprehension or fear.
- **The effect:** the controlling impact is serious.
- **The relationship:** The victim is a current or former spouse, domestic partner, or intimate partner of the perpetrator.

How does the Bill define coercive control?

- **The action:** the perpetrator engaged in a course of behaviour that had a controlling impact on another person.
- **The intent:** The perpetrator did the behaviour because they wanted to control the victim, or because they wanted to cause the victim serious apprehension or fear.
- **The effect:** the controlling impact is serious.
- **The relationship:** The victim is a current or former spouse, domestic partner, or intimate partner of the perpetrator.

How does the Bill define coercive control?

- **The action:** the perpetrator engaged in a course of behaviour that had a controlling impact on another person.
- **The intent:** The perpetrator did the behaviour because they wanted to control the victim, or because they wanted to cause the victim serious apprehension or fear.
- **The effect:** the controlling impact is serious.
- **The relationship:** The victim is a current or former spouse, domestic partner, or intimate partner of the perpetrator.

Defence – Reasonable behaviour

- A charge of coercive control can be defended by proving that the behaviour was **reasonable** in the circumstances.
- This might be needed if someone restricted their partner’s behaviour in order to:
  - Keep themselves or someone else safe; or
  - Protect their financial security.

Special protections for victims in court

- Giving evidence via videolink
- Having a screen placed between them and the alleged perpetrator
- Being accompanied by a support person
- Extra breaks while giving evidence
- Ban on direct cross-examination by alleged perpetrator

Next steps

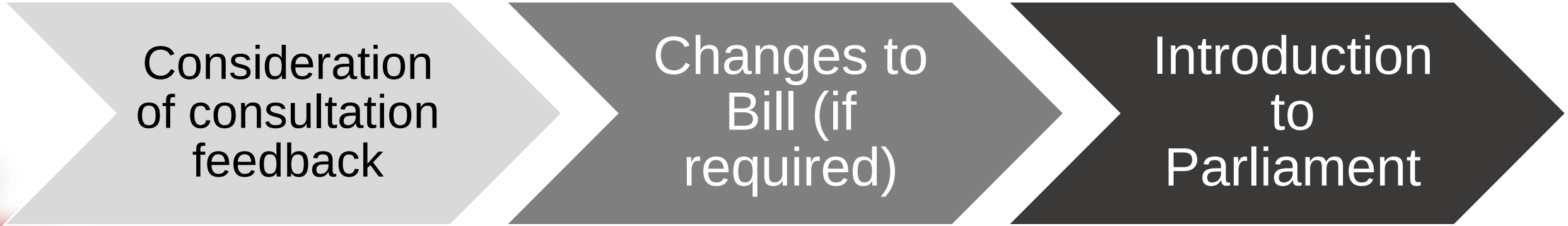
How to get involved

Provide written feedback **via email** to:
LLPSubmissions@sa.gov.au

Take the **survey** through YourSAy:
www.yoursay.sa.gov.au/coercive-control

Consultation ends on **10 October 2023**

What happens after consultation?



After passing the Bill

- Once the Bill is passed, the Government will set a date for it to start operating
- The Government intends to review the coercive control offence after it has been operating for **three years**

Support services

If you or someone you know is experiencing coercive control or domestic violence, there is confidential support available.

South Australian Domestic Violence Crisis Line
1800 800 098 (24 hours)

1800RESPECT
1800 737 732 (24 hours)

Questions?

Government of
South Australia

Take our survey

yourSAy

Take the **survey** through YourSAy:
www.yoursay.sa.gov.au/coercive-control

Government of South Australia