
LEGISLATIVE COUNCIL

Crimes Legislation Amendment (Coercive Control) Bill 2022

Second print

Proposed amendments

- No. 1 **Commencement**
Page 2, clause 2(3)(a), line 15. Omit “1 July 2024”. Insert instead “1 February 2026”.
- No. 2 **Commencement**
Page 2, clause 2(3)(b), line 16. Omit “1 February 2024”. Insert instead “1 February 2025”.
- No. 3 **Offence of abusive behaviour**
Page 3, Schedule 1[1], proposed section 54D(1)(b), line 25. Omit all words on the line. Insert instead—
(b) the adult and the other person have, or have had, a domestic relationship, and
- No. 4 **Offence of abusive behaviour**
Page 3, Schedule 1[1], proposed section 54D(1)(c), lines 26 and 27. Omit all words on the lines. Insert instead—
(c) the adult intends to cause, or is reckless as to whether the course of conduct causes, the other person to suffer physical, emotional or psychological harm, including fear, harm or distress, and
- No. 5 **Offence of abusive behaviour** (alternative to No. 4)
Page 3, Schedule 1[1], proposed section 54D(1)(c), lines 26 and 27. Omit all words on the lines. Insert instead—
(c) the adult intends to cause the other person to suffer physical, emotional or psychological harm, including fear, harm or distress, and
- No. 6 **Meaning of abusive behaviour** (consequential amendment)
Page 4, Schedule 1[1], proposed section 54F(1), lines 11 and 12. Omit “consists of or involves”.
- No. 7 **Meaning of abusive behaviour** (consequential amendment)
Page 4, Schedule 1[1], proposed section 54F(1)(a), line 13. Insert “consists of or involves” before “violence or threats”.

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- No. 19 **Purposes of Taskforce**
Page 6, Schedule 1[1], proposed section 54I(3)(e). Insert after line 20—
 (ia) providing advice to the Minister about amendments to the provisions of this Division that may need to be made, either before or after the commencement of the provisions, and
- No. 20 **Purposes of Taskforce**
Page 6, Schedule 1[1], proposed section 54I(3)(f), line 23. Insert “, a review under section 54J” after “paragraph (a)–(e)”.
- No. 21 **Report about advice of Taskforce**
Page 6, Schedule 1[1], proposed section 54I. Insert after line 45—
 (8A) The Minister must also prepare a report at least once in each 6 months identifying any advice received by the Minister from the taskforce that the Minister has chosen not to follow, including the reasons the advice was not followed.
- No. 22 **Report about advice of Taskforce (consequential amendment)**
Page 6, Schedule 1[1], proposed section 54I(9), line 46. Insert “or (8A)” after “(8)”.
- No. 23 **Report about advice of Taskforce (consequential amendment)**
Page 6, Schedule 1[1], proposed section 54I(9), line 47. Insert “or preparing” after “receiving”.
- No. 24 **Review of Division**
Page 7, Schedule 1[1], proposed section 54J(2), line 9. Omit “In particular”. Insert “Without limiting subsection (1)”.
- No. 25 **Review of Division (only to be moved if No 4 is successful)**
Page 7, Schedule 1[1], proposed section 54J(2), line 10. Omit all words on the line.
- No. 26 **Review of Division**
Page 7, Schedule 1[1], proposed section 54J(2). Insert after line 17—
 (f) the effectiveness of training in relation to the offence under section 54D(1), including an examination of transcripts of court proceedings relating to the prosecution of the offence,
 (g) the prosecution, or lack of prosecution, of the offence under section 54D(1) in relation to different groups of people,
 (h) circumstances in which police do not lay charges when victims report abusive behaviour under this Division, including the reasons for not laying charges,
 (i) the types of behaviour for which prosecutions for an offence under section 54D(1) are proceeding, including whether charges are being laid in relation to non-physical forms of abusive behaviour,
 (j) the extent to which the offence under section 54D(1) is being charged on its own or in combination with other charges,
 (k) the use of the defence under section 54E,
 (l) whether there are any variations in the use of the offence under section 54D(1) in different police areas,
 (m) how often the offence under section 54D(1) is used as the grounds for an apprehended violence order and, if the NSW Police Force does not consider the behaviour the subject of the complaint meets the threshold to lay charges for the offence, circumstances in which the behaviour is sufficient to be the grounds for an apprehended violence order,
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- (n) victims' experience of the criminal legal process when involved with offences under section 54D(1),
 - (o) the operation of the reasonable person test in section 54D(1) and whether it needs to be simplified,
 - (p) the definition of domestic abuse in the *Crimes (Domestic and Personal Violence) Act 2007* to assess its education function and whether the definition improves police practice in responding to domestic and family abuse,
 - (q) in relation to particular areas in the State and types of courts—
 - (i) the number of cases for which proceedings for an offence under section 54D(1) are undertaken, and
 - (ii) the number of convictions for offences under section 54D(1), and
 - (iii) the average period of time from service of a complaint or an indictment for an offence under section 54D(1) to a finding or verdict as to guilt, including a plea of guilty.

No. 27 **Annual data**

Page 7, Schedule 1[1], proposed section 54J. Insert after line 30—

- (5) The Minister must, on an annual basis, publish data about prosecutions of the offence under section 54D(1).

No. 28 **Meaning of domestic abuse**

Page 8, Schedule 2[2], proposed section 6A. Insert after line 15—

- (1A) Behaviour, or a pattern of behaviour, mentioned in subsection (1)(c) must be considered in the context of the relationship between the first person and second person as a whole.

No. 29 **Examples of abusive behaviour**

Page 9, Schedule 2[2], proposed section 6A(2), Examples, line 6. Insert “explicit or implicit” before “threats”.

No. 30 **Person most in need of protection**

Page 9, Schedule 2. Insert after line 20—

[2AA] Section 9 Objects of Act in relation to domestic violence

Insert after section 9(3)(b)—

- (b1) that, 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 self-protection, the person who is most in need of protection should be identified, and

No. 31 **Apprehended violence orders**

Page 9, Schedule 2. Insert before line 30—

[5A] Section 36 Prohibitions taken to be specified in every apprehended violence order

Insert after 36(c)—

- (d) engaging in behaviour that consists of domestic abuse of the protected person.

[5B] Section 40 Interim apprehended violence order must be made on charge for certain offences

Insert “6A or” after “section” in section 40(5)(e).

[5C] Section 46A

Insert after section 46—

46A Who is the person most in need of protection in a relevant relationship

- (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 the 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 and 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 for 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 and 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 the persons particularly vulnerable to domestic violence.
- Examples of persons 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 a disability, people who are lesbian, gay, bisexual, transgender or intersex, elderly people