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Domestic Abuse

Section 8 of the Domestic and Family Violence Protection Act (QLD) sets out what domestic abuse is.

Domestic violence is behaviour that is:

- Physically or sexually abusive;
- Emotionally or psychologically abusive;
- Economically abusive;
- Threatening;
- Coercive;
- Behaviour that 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.

Without limiting the above, domestic violence includes the following behaviour:

- Causing personal injury to a person or threatening to do so;
- Coercing a person to engage in sexual activity or attempting to do so;
- Damaging a person's property or threatening to do so;
- Depriving a person of the person's liberty or threatening to do so;
- Threatening a person with the death or injury of the person, a child of the person, or someone else;
- Threatening to commit suicide or self-harm so as to torment, intimidate or frighten the person to whom the behaviour is directed;
- Causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the person to whom the behaviour is directed, so as to control, dominate or coerce the person;
- Unauthorised surveillance of a person;
- Unlawfully stalking a person.

A person who counsels or procures someone else to engage in behaviour that, if engaged in by the person, would be domestic violence is taken to have committed domestic violence.

To remove any doubt, it is declared that, for behaviour mentioned above that may constitute a criminal offence, a court may make an order under this Act on the basis that the behaviour is domestic violence even if the behaviour is not proved beyond a reasonable doubt.

Definitions:

Coerce, a person, means compel or force a person to do, or refrain from doing, something.

Unauthorised Surveillance, of a person, means the unreasonable monitoring or tracking of the person's movements, activities or interpersonal associations without the person's consent, including, for example, by using technology.

Examples of surveillance by using technology:

- Reading a person's SMS messages
- Monitoring a person's email account or internet browser history
- Monitoring a person's account with a social networking internet site
- Using a GPS device to track a person's movements
- Checking the recorded history in a person's GPS device

Unlawful Stalking see the Criminal Code, section 359B.

Queensland is about to introduce legislation to make **Coercive Control** a **Criminal Offence**.

What is Coercive Control?

Coercive control is a pattern of assault, threats, intimidation, humiliation, and other abuse that ultimately erodes a person's autonomy and ability to thrive.

Many survivors of domestic abuse describe coercive control as the most harmful aspect of their abusive relationship. Victims – who are mostly women – may be trapped in a relationship characterised by fear and manipulation for decades without any physical violence, but the torment is just as devastating.

Jess Hill's book "*See What You Made Me Do*" (2019) considered the views of a range of women's safety services and survivor advocates.

The murder of Hannah Clarke and her three children (in Feb 2020) by Hannah's estranged husband, was the first physical violence, in a long-term, abusive relationship characterised by coercive control. This case greatly influenced the move to criminalise **coercive control**.

The Queensland Government set up a Taskforce in March 2021 to investigate coercive control.

March 2021 – Women's Safety & Justice Taskforce.

The taskforce, headed by the Honourable Margaret McMurdo, released a first report **Hear Her Voice – Addressing coercive control and domestic and family violence in Queensland**, in December 2021.

89 recommendations were made and QLD is adopting all the recommendations.

The taskforce wants the Qld Police Service (QPS) to make changes in how it responds when a woman seeks help from the Police. It is suggested that QPS build specialist expertise across its ranks, and for the government to **trial and evaluate a co-responder model between police and specialist domestic violence services** in a number of locations.

The report also targets the criminal justice system including the judiciary, with a recommendation for the government to consult, with a view to **establish an independent judicial commission to receive and respond to complaints about judicial officers**, such as lawyers and judges.

The government has also been asked to work with the Bar Association and the Law Society to ensure all lawyers in Queensland have a current understanding of the nature and impact of domestic and family violence.

One of the recommendations asks the Department of Justice to develop a plan to improve safety for victims while attending court.

Why is it Important to Criminalise Coercive Control?

Currently, in Queensland, coercive control is not specifically included in the Criminal Code. Unless a victim is injured, stalked, or property is damaged, they are not fully protected.

This is an important issue – as the reality is – a lot of domestic and family abuse involves coercive control. Studies show that a large percentage of domestic abuse homicides never involved any physical abuse – the abuse was a long pattern of coercive control.

What Could the Legislation Look Like?

In 2015, England and Wales introduced the offence of “*controlling and coercive behaviour*” under section 76 of the *Serious Crime Act 2015*. This Section provides:

A person commits coercive control if:

- a. *A person (A) repeatedly or continuously engages in behaviour towards another person (B) that is controlling or coercive;*
 - b. *At the time of the behaviour, A and B are personally connected;*
 - c. *The behaviour has a serious effect on B; and*
 - d. *A knows or ought to know that the behaviour will have a serious effect on B.*
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New Coercive Control Legislation on its way.



Article by Townsville Family Lawyer, [Emma Donald](#)

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All Lawyers need to know about Coercive Control.

Criminalisation of Coercive Control must be accompanied by state-wide training for police, first responders and the community more broadly.

We all have a part to play.

As lawyers, we see clients regularly. We must know about this.

O'Shea Dyer Townsville has experienced lawyers who practice exclusively in Family Law

We offer first appointments with experienced family lawyers for \$220 - a low fixed fee, so that everyone can afford to obtain advice about their situation.

**If you need advice about coercive control or domestic abuse, please call us.
We are here to help you.**

Call us on 4772 5155 to make an appointment.