



Submission cover sheet

Inquiry into the Crimes (Coercive Control) Amendment Bill 2026

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Submitter: ANU Law Students for Gender Equity

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The Committee Secretary
Standing Committee on Legal Affairs
Office of the Legislative Assembly
GPO Box 1020, Canberra ACT 2601

By email: LACommitteeLegal@parliament.act.gov.au

RE: Inquiry into the Crimes (Coercive Control) Amendment Bill 2026

Introduction

1. Law Students for Gender Equality (**LSGE**) welcomes the opportunity to make a submission to the Standing Committee on Legal Affairs' inquiry into the Crimes (Coercive Control) Amendment Bill 2026 (**'the Bill'**).

Law Students for Gender Equality

2. LSGE is a student-run group at the Australian National University College of Law, operating under its Law Reform and Social Justice (**LRSJ**) program. The LSGE is dedicated to promoting gender equality in the legal profession through research, advocacy and education.
3. Supported by ANU Law School academics, LSGE gives students the opportunity to engage with law reform through research. This submission has been prepared by LSGE members with a particular interest in criminal and family law and the implications these disciplines have on gender equality. This submission draws on criminal law, statutory interpretation and a comparative analysis of coercive control law reform in other jurisdictions.
4. We thank you for the opportunity to provide a submission to the Bill. If any further information is required, please contact
5. On behalf of the LSGE, under the ANU Law Reform and Social Justice program,
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Summary of Recommendations

6. LSGE supports the criminalisation of coercive control, an important step in recognising that family violence can be complicated and may not be physically violent. Additionally, through such recognition, the criminalisation of coercive control will likely reduce domestic violence fatalities. While LSGE is supportive of the Bill, we are concerned that the Bill does not provide adequate safeguards to protect victim-survivors of coercive control. The recommendations below outline the changes we consider necessary to address this gap.

Recommendation A: That the definition of “course of conduct consisting of family violence” under section 72J(1)(b) be broadened and set out expressly within section 72I, including explicit recognition of technology and AI-facilitated coercive control.

Recommendation B: That section 72I be amended to expressly clarify that a “course of conduct” may exist regardless of the passage of time between individual incidents.

Recommendation C: That the “reasonable in all the circumstances” defence under section 72J(3) and the reasonable person standard under section 72J(1)(d), be accompanied by a non-exhaustive statutory list of factors relevant to that assessment.

Recommendation D: That procedural safeguards against misidentification of the primary aggressor be enshrined directly in legislation, requiring police to interview all parties separately and to accurately record and flag all reported incidents of an alleged course of conduct.

Recommendation E: That given the ACT’s court and custodial capacity, the maximum penalty for the offence be reduced to 700 penalty units, imprisonment for 5 years, or both.

A. Broadening the Scope of Conduct Captured Under Section 72J(1)(b)

7. Section 72J(1)(b) of the Bill criminalises “a course of conduct consisting of family violence” consistent with provisions laid out in the *Family Violence Act 2016* (ACT). Accordingly ‘family violence’ captures: “physical violence or abuse”; “sexual violence or abuse”; “emotional or psychological abuse”; “economic abuse”; “threatening behaviour”; “coercion or any other behaviour which controls or dominates, and causes” an individual “to feel fear for the safety or wellbeing of” themselves or another family member.¹
8. Given this statutory definition of ‘family violence’ in the *Family Violence Act 2016* (ACT), the Bill in its current form fails to acknowledge the broad spectrum of behaviour and offending which would otherwise amount to coercive or controlling conduct.
9. Consequently, LSGE recommends that the Bill contain a broader definition of the “course of conduct consisting of family violence” which amounts to an offence of coercive control of a family member per section 72J(1). A non-exhaustive list defining “course of conduct consisting of family violence” would be best defined under section 72I ‘Definitions—pt 3B’ as opposed to solely being defined in the guiding legislation of section 8 of the *Family Violence Act 2016* (ACT).
10. Comparative analysis against the approach of New South Wales supports broadening the operation of section 72J(1)(b) in the proposed Bill. The *Crimes Act 1900* (NSW) establishes an offence of ‘abusive behaviour towards current or former intimate partners’ under section 54D. Further, section 54F(2) establishes a non-exhaustive list

¹ *Family Violence Act 2016* (ACT) s 8(1)(a)(i)–(vi)(B).

of behaviours which may amount to abusive behaviour, including but not limited to, “behaviour that shames, degrades or humiliates”, “causes damage [to] ... property”, “isolates” the affected individual from “family, friends or culture” and “controls or regulates a person’s day-to-day activities”. Accordingly, the behaviours captured by this definition address the pervasive and often unseen behaviours which are coercive and controlling and can escalate toward further violence. LSGE hence recommends a similar definition being enacted within the proposed Bill upon appropriate consultation to ensure violent, coercive and controlling behaviours are criminalised by the legislation.

11. Critically, the Joint Select Committee on Coercive Control in New South Wales stressed that the expansive definition of “abusive behaviour” may “capture behaviours present in ordinary relationships that community standards would dictate ought not reach the level” of criminal culpability required for an offence, although it acknowledged that a raft of safeguards attached to the offence so as ‘to minimise the risk of overcriminalisation’.² Hence, LSGE recommends that if the definition of “family violence” is enacted within the Bill, it is drafted with adequate consultation to prevent any unintended ramifications.
12. Given the widespread and evolving presence of artificial intelligence (AI) and its potential to harm, coerce and control individuals, LSGE recommends that the Bill specify behaviours that utilise technology and AI within its definition of family violence. As the Bill stands, there is limited scope for behaviour which utilises AI to create deepfakes and artificial intimate material to be criminalised. Notably, Australia’s National Research Organisation for Women's Safety conducted a study in 2025 that found that one in two Australian adults had experienced at least one technology-facilitated abusive behaviour in their lifetime.³ The seriousness of AI-facilitated abuse is already recognised at the Commonwealth level. The *Criminal Code Act 1995* (Cth) criminalises the use of a carriage service to transmit sexual material without consent under s 474.17A. However, this offence is narrowly confined to the non-consensual transmission of sexual material and does not address the broader use of AI-generated or AI-facilitated conduct as an ongoing tool of coercive control within a family relationship, including threats to create or distribute manipulated material, AI-enabled impersonation, or covert digital surveillance of a family member outside a sexual context. LSGE therefore recommends the Bill’s definition of family violence be drafted broadly enough to capture technology and AI-facilitated coercive control in its own right, rather than relying on the narrower scope of the Commonwealth’s existing response.

² Helen Gibbon and Emma Buxton-Namisnyk, ‘The New Coercive Control Offence in NSW: (How) Will it Work?’ (2025) 37(3) *Current Issues in Criminal Justice* 348, 356.

³ No to Violence, ‘16 Days of Activism: Digital Violence is Rising, Recognition of it is Not’, No to Violence (Web Page, 10 December 2025) <<https://ntv.org.au/16-days-of-activism-digital-violence-is-rising-recognition-of-it-is-not/>>.

B. Providing for the Duration of “Course of Conduct” in s 72I

13. The Bill provides that the nature of the offence is a “course of conduct” offence. LSGE recommends the insertion of a subsection clarifying that a course of conduct may exist regardless of the passage of time between individual incidents.
14. For domestic violence and harassment offences, there is a risk that judicial decisions interpreting the Bill will “lapse back into an examination of individual incidents of assault and battery”.⁴
15. For example, in the UK case of *Hills* [2001], the prosecution charged Gavin Hills of harassment under the *Protection from Harassment Act 1997* (PHA). He was later charged with rape. Evidence of several incidents of abuse in a relationship was presented before Otton LJ, though the victim found it difficult to provide specific times and dates. Otton LJ found that two incidents of assault could not constitute a “course of conduct” under the PHA, given the “incidents were isolated and separated by six months”.⁵ In his reasoning, Otton LJ explained that “the prosecution might have been wiser to have abandoned the harassment count and to have concentrated on the two substantive counts of violence”.⁶
16. While *Hills* arose in a different statutory context, it demonstrates the risk that absent legislative guidance, courts may focus on discrete incidents rather than cumulative course of conduct.
17. It is especially necessary to clarify the temporal scope of “course of conduct” regarding coercive control to ensure uniform operation of the legislation and to prevent a focus on individual incidents because such incidents may be non-violent and may not satisfy individual charges of assault and battery.

C. A Non-Exhaustive List of Factors for the Reasonableness Defence (ss 72J(1)(d), 72J(3))

18. The Bill's defence of reasonableness, and its reasonable person test for harm, are left substantively undefined. The Explanatory Statement acknowledges only that “what is considered reasonable in the circumstances will differ in each individual case based on the facts”, offering no guidance on what those circumstances should include. An undefined reasonableness standard does not naturally incorporate the gendered dynamics of power, dependency and control that define coercive control, and conduct that appears protective on its face, as restricting a partner’s movements or controlling access to money or transport “for their safety” can be presented to a court as reasonable without reference to the pattern of control it forms part of.
19. LSGE recommends the Bill include a non-exhaustive list of factors relevant to the reasonableness assessment, addressing, at minimum: the cumulative pattern of conduct rather than any single act in isolation; the relative power and dependency between the parties; whether the conduct served a truly protective purpose as distinct from control; and whether the conduct occurred during or after separation, a period

⁴ Cassandra Wiener, *Coercive Control and the Criminal Law* (Routledge, 2023) 64.

⁵ Ibid; *R v Hills* [2001] 1 FLR 580.

⁶ *R v Hills* [2001] 1 FLR 580.

consistently identified in Australian domestic violence research as carrying the highest risk of escalation and lethal violence.⁷ This drafting technique is observed in the ACT, reflected in, for example, the *Family Violence Act 2016* (ACT), which this Bill's definition of family violence draws from and which uses an illustrative list to guide the identification of abusive conduct.⁸

20. Comparative approaches further support this recommendation, while also showing its necessity. Queensland's equivalent offence expressly provides that it is not a defence for a single incident, or each incident considered in isolation, to have been reasonable in the context of the relationship as a whole.⁹ The United Kingdom's controlling or coercive behaviour offence contains an analogous "reasonable in all the circumstances" defence, framed around whether the accused believed they were acting in the victim's best interests.¹⁰ Notably, the UK Government has since had to strengthen its statutory guidance in response to concerns that key terms remained too vague in practice, adding further examples of "serious effect" and "substantial adverse effect" and clarifying that physical violence need not be present for the offence to be charged.¹¹
21. Every comparable jurisdiction operating a similar reasonableness standard has needed to add clarifying guidance after commencement, once the gaps in the bare statutory language became apparent in practice. Rather than waiting for the same gap to emerge here, the ACT has the opportunity to include this clarity in the legislation itself, from commencement.

D. Procedural Safeguards Against Misidentification of the Primary Aggressor

22. As the Explanatory Statement itself acknowledges, misidentification of the primary aggressor is a live risk under this offence.¹² Yet the Bill's safeguards operate only at trial. Section 72J(4) guards against the offence unintentionally capturing "individual, discrete incidents", and subsections 72J(5)–(7) relax the particulars the prosecution and jury must be satisfied of, reflecting the evidentiary difficulty that coercive control is typically repeated conduct which victims may struggle to particularise.¹³ LSGE considers this approach well founded in principle but notes it carries a risk specific to this offence not present in the contexts from which the drafting technique originates.
23. In *KBT v The Queen*, the High Court held that Queensland's original persistent child sexual abuse offence, despite being framed around a "relationship", still required

⁷ Hayley Boxall et al, *The 'Pathways to Intimate Partner Homicide' Project: Key Stages and Events in Male-Perpetrated Intimate Partner Homicide in Australia* (Research Report No 4, Australia's National Research Organisation for Women's Safety, 2022) 6, 9; Australian Institute of Health and Welfare, *Domestic Homicide* (Web Report, 2025)

<<https://www.aihw.gov.au/family-domestic-and-sexual-violence/responses-and-outcomes/domestic-homicide>>.

⁸ *Family Violence Act 2016* (ACT) ss 8(1)–(2), see especially examples given at s 8(2)(f).

⁹ *Criminal Code Act 1899* (Qld) s 334C(11).

¹⁰ *Serious Crime Act 2015* (UK) s 76(8)–(10).

¹¹ Home Office (UK), *Controlling or Coercive Behaviour Statutory Guidance: Government Response* (Consultation Outcome, 27 July 2023) ch 2, 2.5, s 'Controlling or coercive behaviour legislation'.

¹² Explanatory Statement, Crimes (Coercive Control) Amendment Bill 2026 (ACT).

¹³ Lillian Darke, Helen Paterson and Celine van Golde, 'Gaslighting and memory: the effects of partner-led challenges on recall and self-perception' (2025) 33(7) *Memory* 828, 837.

jurors to unanimously agree on the same specific acts, undermining its purpose.¹⁴ Queensland's 2003 reform corrected this by removing the requirement, allowing conviction where a child could not particularise individual instances of abuse.¹⁵ That reform succeeded as the only risk it needed to manage was prosecutorial failure, where the accused and the victim were never at risk of being confused for one another.¹⁶ Coercive control is different and by reducing scrutiny of individual incidents, subsections 72J(5)–(7) also reduces the opportunity to notice that a specific act, such as resistance, or self-protective conduct, may indicate the accused is in fact the victim.

24. Critically, neither safeguard prevents a charge from being laid in the first place. Both operate only once a matter reaches court. Being wrongfully charged imposes an immense financial and psychological burden on victims left to defend a charge they should never have faced,¹⁷ with flow-on effects including further criminalisation and a reduced willingness to seek help from police and other services, denying victims the protection the legislation intends to provide.¹⁸ In Victoria, women are misidentified as the respondent in approximately ten per cent of family violence matters, and magistrates courts are largely unable to correct this once it occurs, with many victims consenting to orders under a “culture of consent”, demonstrating that trial-stage safeguards arrive too late.
25. LSGE recommends two complementary procedural safeguards be enshrined directly in legislation, targeting misidentification at the point of first police contact.

Part A

26. First, that police be required to interview all parties to an alleged incident separately before determining the primary aggressor. This guidance currently exists only within policy, such as the ACT's Domestic and Family Violence Risk Assessment and Risk Management Framework, leaving it dependent on training and carrying no legislative force. Comparative evidence supports the efficacy of legislating this requirement. Twenty-three US states have done so, with Georgia requiring police to gather evidence from both parties, including any history of family violence and whether either party acted in self-defence, typically through separate interviews.¹⁹ States with primary aggressor laws of this kind report a dual-arrest rate roughly half that of states without them.²⁰

Part B

¹⁴ *KBT v The Queen* (1997) 191 CLR 417, 422 (Brennan CJ, Toohey, Gaudron and Gummow JJ).

¹⁵ *Criminal Code Act 1899* (Qld) s 229B(4)(c), as inserted by *Sexual Offences (Protection of Children) Amendment Act 2003*(Qld).

¹⁶ *KBT v The Queen* (1997) 191 CLR 417, 422 (Brennan CJ, Toohey, Gaudron and Gummow JJ).

¹⁷ Family Violence Reform Implementation Monitor, *Monitoring Victoria's family violence reforms: Accurate identification of the predominant aggressor* (Report, 2021) 14.

¹⁸ *Ibid.*

¹⁹ GA Code § 17-4-20.1 (2024).

²⁰ David Hirschel and Lindsay Deveau, ‘The Impact of Primary Aggressor Laws on Single Versus Dual Arrest in Incidents of Intimate Partner Violence’ (2017) 23(10) *Violence Against Women* 1155, 1171.

27. Second, that police be required to accurately record and flag all incidents reported as part of an alleged course of conduct of coercive control. The consequences of failing to do so are starkly illustrated by the inquest into the deaths of Doreen Langham and Gary Hely, which found numerous missed opportunities for police to respond to escalating behaviour, including a failure to act on information Ms Langham had provided, a failure to correctly record that information, and a failure to flag both parties' names on the police database.²¹ Accurate, mandatory documentation is a necessary precondition for any police officer, however well trained, to correctly identify a pattern of coercive control and correctly identify who within it is the primary aggressor.
28. Both safeguards should be supported by dedicated police training informed by the lived experience of victim-survivors. Together, they would restore the individualised scrutiny that subsections 72J(5)–(7) deliberately relax for the purpose of prosecuting genuine offenders, while ensuring that scrutiny occurs before a charge is laid, protecting victim-survivors at their first point of contact with the justice system, rather than leaving misidentification to be rectified, often too late, through the trial process.

E. Given the ACT's Court and Custodial Capacity, Reducing the Maximum Penalty to 5 Years

29. The Bill provides that the maximum penalty for the offence of coercive control will be 700 penalty units, imprisonment for 7 years, or both.
30. LSGE does not dispute that coercive control is a serious offence warranting a substantial maximum penalty. However, given the ACT's court and custodial capacity, LSGE recommends the maximum penalty be reduced to 700 penalty units, imprisonment for 5 years, or both.
31. LSGE recognises that with a maximum penalty of imprisonment for 7 years, a defendant may elect to have their matter dealt with summarily in the Magistrates Court per s 375 of the *Crimes Act 1900* (ACT). Alternatively, the case will be heard on indictment in the Supreme Court, which is currently under-resourced.²²
32. If a lower maximum penalty of imprisonment for 5 years was adopted, s 374 of the *Crimes Act 1900* (ACT) would enable the DPP to make an election for a summary disposal of the case, allowing the matter to be heard in the Magistrates Court. If an election is made, the Court must not impose a penalty that exceeds a fine of \$5000, imprisonment for 2 years, or both.²³
33. LSGE recognises that imprisonment for 2 years may not be appropriate for all cases and may risk undermining the seriousness of the offence. However, for serious cases, the DPP may choose not to make an election per s 374 of the *Crimes Act 1900* (ACT)

²¹ Inquest into the deaths of Doreen Gail Langham and Gary Matthew Hely (Coroners Court of Queensland, Jane Bentley, Deputy State Coroner, 27 June 2022) 723.

²² *Crimes Act 1900* (ACT) s 375.

²³ *Ibid* s 374(9).

34. The proposed 7-year maximum penalty also risks compounding an existing capacity issue at the Alexander Maconochie Centre (AMC),²⁴ the ACT's only adult correctional facility. LSGE does not suggest that reducing the maximum penalty would resolve overcrowding at the AMC on its own. However, it would reduce the likelihood of longer custodial sentences being imposed at a time when the facility's capacity is already strained.

Conclusion

35. This inquiry submission addresses a critical gap in the ACT's response to family and domestic violence. The LSGE thanks the Committee for the opportunity to contribute to this important reform and trusts that the recommendations above will strengthen the Bill's capacity to protect victim-survivors while safeguarding against unintended harm.

²⁴ See, for example, Australian Bureau of Statistics, *Prisoners in Australia*, 2025 (Web Page, 16 April 2026) <<https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release>>.