

Criminalising coercive control in NSW - exposure draft bill

Justice factsheet

The NSW Government has committed to criminalising coercive control in intimate partner relationships and released a public exposure draft bill for comment. We welcome community and stakeholder input.

What is coercive control?

Coercive control is a form of domestic abuse that involves patterns of behaviour which have the cumulative effect of denying victim-survivors their autonomy and independence. This abuse can involve physical, sexual, psychological or financial abuse.

Background

In response to findings by the [Joint Select Committee on Coercive Control](#), the [NSW Government committed in December 2021](#) to:

- criminalise coercive control in intimate partner relationships;
- support in principle introducing a definition of 'domestic abuse' into the *Crimes (Domestic and Personal Violence) Act 2007*; and
- release a public exposure draft for consultation on these proposed amendments.

The Crimes Legislation Amendment (Coercive Control) Bill 2022 (**the Exposure Draft Bill**) gives effect to this commitment and has now been released for public comment.

NSW law already recognises that domestic abuse extends beyond physical violence and may involve the exploitation of power imbalances and patterns of abuse over many years but there is more that can be done.

The NSW Government has consistently said that any legislative reform must be approached with great care and caution to ensure it does not unintentionally put in further danger those in our community we are seeking to help.

This Exposure Draft Bill has been carefully developed, taking into account the extensive stakeholder submissions to the Joint Select Committee on Coercive Control.

The NSW Government provided an earlier draft to restricted legal stakeholders and NSW Police to identify and address any technical legal matters, prior to releasing an exposure draft for broader consultation.

The NSW Government welcomes your feedback on the Exposure Draft Bill.

Have your say

Go to <https://www.nsw.gov.au/have-your-say/coercive-control-exposure-draft-bill> to find out more about making a submission. Consultation closes **31 August 2022**.

What would the new offence look like?

The Exposure Draft Bill outlines a stand-alone offence for coercive control. The offence can only be charged if five elements are met:

1. An adult (18 years or older) must engage in a 'course of conduct'. This means engaging in behaviour repeatedly or continuously.
2. That course of conduct must be 'abusive behaviour'. This means behaviour that involves violence, threats or intimidation and/or coercion or control of the person against who the behaviour is directed.
3. A reasonable person must consider that the 'abusive behaviour' would, in all circumstances, be likely to cause the other person to fear that violence will be used

against them, or have a serious impact on their day-to-day activities.

4. The 'abusive behaviour' must be directed against a current or former intimate partner.
5. The offender must intend their course of conduct to cause physical or mental harm, or the offender must have been reckless about whether this could happen.

What is the maximum penalty?

The offence will carry a maximum penalty of seven years' imprisonment.

Are there any defences?

It is a defence if the course of conduct was reasonable in the circumstances. This may apply, for example, if the person accused of coercive control can establish that their actions were reasonable in the circumstances because they were protecting family finances from another person with a gambling addiction.

How will a person be found guilty?

A jury or a judge can find a person guilty of coercive control without having to find that one or more of the abusive behaviours happened 'beyond reasonable doubt', which is the usual criminal standard. However, they must find beyond reasonable doubt that the nature of the behaviours amounted to coercive control.

Will ordinary relationships be prosecuted?

No. The coercive control offence can only be used when all of the elements of the offence are present, which means that ordinary relationships will not be captured. The Exposure Draft Bill includes a requirement that the new offence be reviewed after three years of operation.

Can the proposed laws be used to prosecute past behaviour?

No. The proposed laws will only apply to behaviour that happens once the laws are passed by Parliament and then commence. Violent or threatening behaviour that occurred before the new laws pass may nonetheless be criminal under other, existing offences.

Will the new offence apply to any family member or friend who is abusive?

The new offence of coercive control will only apply to a person who uses abusive behaviour repeatedly or continuously against a current or former intimate partner. This means a person who is or was in an intimate relationship with the other person. The offence will not apply to siblings, parents, children, other relatives or friends.

What is the amendment relating to domestic abuse?

The Joint Select Committee on Coercive Control also recommended that a definition of 'domestic abuse' should be legislated as a priority, as NSW currently does not have a statutory definition.

The Exposure Draft Bill introduces a definition of 'domestic abuse' to the *Crimes (Domestic and Personal Violence) Act 2007*. This provides that domestic abuse means behaviour that is directed by one person against another person, that they have a domestic relationship with, that:

- is physically abusive or violent;
- is sexually abusive, coercive or violent;
- is economically, verbally or emotionally abusive;
- coerces or controls the person;
- is intimidation or stalking;
- is intended to cause the second person to fear for their safety or wellbeing, or the safety and wellbeing of others.

Domestic abuse can be made up of a mixture of acts over time during the relationship, such as damaging or destroying property, stopping the person from being connected with their family, friends or culture, or using technology to unreasonably monitor the person's messages.

When will the Bill be passed?

The NSW Government is well advanced to introduce a final Bill to Parliament in the spring session of 2022.

What else is the Government doing?

Beyond legislation, as part of the 2022-23 Budget, the [NSW Government announced](#) in June 2022 that more women and children experiencing domestic and family violence will be supported by \$69.6 million in new funding, building on the NSW Government's landmark \$484.3 million investment in housing and related support services as part of the COVID-19 Economic Recovery Strategy.

The [2022-23 Budget](#) also included an initial down-payment of \$0.7 million over two years to support the NSW Government's commitment to outlaw coercive control.

Is support available?

If you or someone you know are in immediate danger, call the Police on [Triple Zero \(000\)](#). For confidential advice, support and referrals, contact [1800 RESPECT](#) on [1800 737 732](#).