

WOMEN SPEAK TASMANIA

Submission to the Department of Justice

Family Violence Reforms Bill 2026

Consultation Draft — Proposed Coercive Control Offence

29 September 2026

1. INTRODUCTION

Women Speak Tasmania (WST) welcomes the opportunity to comment on the *Family Violence Reforms Bill 2026*.

WST supports the principle of recognising coercive control as a serious form of family violence and providing an appropriate criminal-law response to sustained patterns of controlling behaviour between intimate partners.

Our concern is not with recognising coercive control itself. It is with ensuring that a criminal offence carrying substantial penalties is drafted with sufficient precision to distinguish sustained domination from conduct that is defensive, protective, proportionate or otherwise objectively reasonable.

The offence will only protect women effectively if it is aimed at domination in intimate relationships and is not drafted so broadly that a woman defending herself, protecting a child, leaving a relationship or refusing an abusive demand could potentially be characterised as the aggressor.

WST therefore supports the Bill in principle but recommends amendments to ensure that the proposed offence is sufficiently clear, proportionate and resistant to unintended application.

2. SCOPE OF THIS SUBMISSION

This submission is principally concerned with proposed new sections 7, 8 and 9 of the *Family Violence Act 2004*, insofar as they establish the proposed coercive-control framework and criminal offence.

WST does not comment comprehensively on every amendment contained in the Bill.

Our focus is the drafting and operation of the proposed offence, particularly:

- the threshold for harm;
- the mental element;
- the definition of a course of conduct;
- the examples of coercive and controlling behaviour;
- the operation of the objective-reasonableness defence; and
- implementation and review.

3. WST POSITION IN BRIEF

The proposed offence contains several important features that WST supports.

The Bill:

- recognises coercive control as a **course of conduct**, rather than requiring a single incident;
- recognises that conduct should be assessed cumulatively and in the context of the relationship;
- expressly recognises restrictions concerning medical treatment, reproductive choices and sexual activity;
- includes technology-facilitated surveillance and abuse;
- recognises isolation, humiliation, sexual coercion, economic abuse and emotional or psychological abuse;
- provides an objective-reasonableness defence; and
- provides a two-year limitation period for proceedings.

These are important features of a coercive-control framework.

However, the proposed criminal offence also contains drafting choices that warrant reconsideration before enactment.

In particular, WST is concerned about the breadth of “harm”, the use of recklessness as a form of knowledge, and the need to make clear how objectively reasonable protective conduct is to be treated.

These issues are important because coercive control often involves behaviour that, when viewed individually, may appear ordinary or lawful. The criminal offence must therefore distinguish a sustained pattern of domination from conduct arising during separation, family conflict or self-protection.

4. PROPOSED SECTION 7 — COURSE OF CONDUCT

WST supports the proposed amendments to s 7 recognising that a course of coercive or controlling conduct may constitute family violence where it is reasonably likely to cause harm or fear of harm.

WST also supports the proposed recognition that the cumulative effect of conduct should be assessed in context.

This is important because coercive control is not ordinarily reducible to one isolated incident. A pattern may involve different forms of behaviour occurring over an extended period.

The requirement for more than one incident is therefore an important feature of the proposed criminal offence.

At the same time, the cumulative approach should not mean that ordinary conduct during a relationship breakdown is transformed into criminal conduct simply because it is restrictive, contentious or unpleasant.

Lawful conduct may form part of a course of conduct where the elements of the offence are otherwise satisfied. The relevant question is whether the course of conduct meets all the requirements of proposed s 8. Reasonable protective conduct should additionally be considered in accordance with the proposed s 8(7) defence.

This distinction is particularly important during separation, disputes concerning children or property, and circumstances in which one person is responding to violence, threats or unwanted contact from the other.

5. PROPOSED SECTION 8 — THE CRIMINAL OFFENCE

5.1 The threshold for harm

WST is concerned by the breadth of the proposed definition of “harm”.

Proposed s 8(1) provides that:

“harm includes any detrimental effect on a spouse or partner’s physical, sexual, emotional, psychological or financial wellbeing, whether temporary or permanent.”

WST does not suggest that emotional, psychological, sexual or financial harm should be excluded. These are all legitimate forms of harm within a family-violence framework.

The concern is the breadth of the expression “**any detrimental effect**”, particularly when considered alongside proposed s 8(4), which provides that actual harm does not need to be proved.

A criminal offence should nevertheless contain a meaningful threshold separating serious coercive control from ordinary interpersonal conflict.

WST recommends that “harm” be amended to refer to a **serious detrimental effect** on physical, sexual, emotional, psychological or financial wellbeing.

The legislation should also clarify that the reference to “fear of harm” in proposed s 8(2)(c) means fear of the same serious detrimental effect contemplated by the definition of harm.

This would not require proof of a diagnosed psychological injury or permanent physical injury. It would, however, provide an appropriate threshold for criminal liability.

The legislation should further make clear that ordinary disagreement, argument, relationship conflict, offence, disappointment or hurt feelings do not, without more, constitute the harm required for the criminal offence.

5.2 Proposed section 8(2) — elements of the offence

Proposed s 8(2) requires a course of conduct:

- that the person knows or ought to have known would have a coercive or controlling impact;
- that has, or a reasonable person would consider likely to have, that impact; and
- that a reasonable person would consider likely to cause harm or fear of harm.

WST supports the inclusion of an objective element.

The criminal law should not depend solely upon a person's subjective interpretation of another person's conduct.

However, the interaction between these provisions and proposed s 8(3) requires careful consideration.

5.3 Proposed section 8(3) — recklessness

WST recommends that proposed s 8(3) be removed.

Proposed s 8(2)(a) already provides that the relevant person must know, **or ought to have known**, that the course of conduct would have a coercive or controlling impact.

WST does not oppose this existing objective “ought to have known” element.

Our concern is the additional step in proposed s 8(3), which provides that a person is taken to know that the course of conduct would have a coercive or controlling impact if, at the relevant time, the person was reckless as to whether it would have that impact.

In other words, removing s 8(3) would not remove the objective “ought to have known” test. It would remove the additional deeming provision by which recklessness is treated as knowledge.

WST considers this distinction important.

The choice of mental element is particularly significant where the offence can encompass a broad range of behaviour and where the circumstances involve separation, disputes over children or property, or competing allegations of family violence.

A person may take action that restricts another person's activities without intending to coerce or control that person. This can include conduct undertaken in response to threats, violence, unwanted surveillance or other abusive behaviour.

The NSW coercive-control offence provides a useful comparison. The NSW offence requires that the accused **intended** the course of conduct to coerce or control the other person. NSW's legislative materials identified the intention requirement as an important safeguard.¹

NSW is now reviewing the operation of its offence, including whether the mental element should be extended to recklessness. That review means the question remains one of active legislative consideration rather than a settled proposition that recklessness is either appropriate or inappropriate in every jurisdiction.²

Tasmania should therefore exercise caution before adopting a broader mental element than is presently required in NSW, particularly before Tasmania has operational data on how its own offence would function.

¹ Crimes Act 1900 (NSW) s 54D(1)(c); New South Wales, Parliamentary Debates, Legislative Assembly, 19 October 2022 (Mark Speakman, Attorney General).
<https://legislation.nsw.gov.au/view/html/inforce/current/act-1900-040#sec.54D>

² NSW Department of Communities and Justice, *Review of the NSW coercive control law* (2026).
<https://dcj.nsw.gov.au/about-us/engage-with-us/public-consultations/statutory-reviews/review-of-the-nsw-coercive-control-law.html>

WST recommends removing s 8(3) while retaining the existing “knows or ought to have known” formulation in s 8(2)(a).

6. PROPOSED SECTION 8(4) — ACTUAL HARM

WST accepts that actual harm should not necessarily have to be proved in every coercive-control prosecution.

Coercive control can seriously restrict autonomy, safety and freedom before a readily identifiable physical or psychological injury has occurred.

However, this makes the threshold in the definition of harm particularly important.

If actual harm is not required, the legislation must contain sufficient safeguards elsewhere to distinguish serious coercive control from ordinary interpersonal conflict.

The proposed threshold for “serious” harm should therefore operate together with the objective elements of s 8(2).

7. PROPOSED SECTION 8(5) — COURSE OF CONDUCT

WST supports the requirement that the offence involve repeated or continuous behaviour comprising more than one incident.

We also support the provision that incidents do not need to occur in immediate succession or form an unbroken series.

This reflects the nature of coercive control, which may develop over time and involve different forms of behaviour.

The requirement that the cumulative effect be assessed in the context of the relationship is similarly important and should be retained.

The legislation should nevertheless continue to distinguish the existence of a pattern from the mere aggregation of individual acts. Individual acts may be lawful and may form part of a course of conduct, but the criminal offence arises only where all elements of s 8 are established.

8. PROPOSED SECTION 8(6) — EXAMPLES OF COERCIVE CONTROL

WST welcomes the extensive examples contained in proposed s 8(6).

The Bill already recognises a range of behaviour including surveillance, technology-facilitated abuse, isolation, monitoring, humiliation, threats, sexual coercion and other controlling behaviour.

The Bill also expressly recognises restrictions concerning medical treatment, reproductive choices and sexual activity within the concept of coercive or controlling impact.

WST recommends several additional examples for clarity.

8.1 Intimate images and digitally generated material

Technology can be used as an instrument of coercion and intimidation.

The examples should expressly include the creation, possession, publication, distribution or threatened distribution of intimate images or recordings, including digitally altered or generated material, where the conduct forms part of a coercive or controlling course of conduct.

The purpose would be clarification rather than limitation of the existing technology-related provisions.

8.2 Using children as leverage

The Bill already recognises threats of death or injury to an affected child as an example of coercive or controlling conduct.

The provision should also recognise the use of a child, or access to or contact with a child, to coerce, monitor, intimidate or punish a spouse or partner.

This would capture conduct that uses the parent-child relationship as leverage without requiring an explicit threat of physical injury to the child.

8.3 Reproductive coercion

WST welcomes the express recognition of reproductive choices within the proposed definition of coercive or controlling impact.

For clarity, reproductive coercion should also be included as an express example in s 8(6).

This could include coercion or threats concerning contraception, pregnancy, continuation or termination of pregnancy, or other reproductive choices.

9. PROPOSED SECTION 8(7) — OBJECTIVE REASONABLENESS AND PROTECTIVE CONDUCT

WST welcomes the inclusion of an objective-reasonableness defence.

Proposed s 8(7) provides a defence where the person establishes that the course of conduct, considered as a whole and in the context of the relationship, was objectively reasonable.

Proposed s 8(8) appropriately provides that considering each individual act separately is insufficient.

The defence is an important safeguard. However, because the person relying on the defence bears the onus of establishing it, the legislation should make clear what types of protective circumstances may be relevant.

A person experiencing family violence may reasonably:

- restrict another person's access to the home;
- refuse unwanted contact;
- change passwords or financial arrangements;
- prevent unwanted surveillance;
- leave or end an abusive relationship;
- protect a child from unsafe conduct;
- seek assistance from police or a court; or
- take reasonable steps to protect personal safety or property.

Such conduct should not be treated as coercive control merely because it restricts another person's freedom or activities.

WST recommends that proposed s 8(7), or an accompanying statutory provision, expressly recognise that conduct may be objectively reasonable where the circumstances reasonably require steps to:

- protect the person or another person from family violence;
- protect an affected child;
- prevent unwanted contact or surveillance;
- leave or end an abusive relationship; or
- protect personal safety or property.

Appropriate judicial, prosecutorial and police guidance should accompany the provision.

The guidance should make clear that the question is not simply whether both parties engaged in restrictive or unpleasant conduct. The circumstances and purpose of the conduct, the surrounding family violence, and the nature of the relationship between the parties must be considered.

This safeguard is essential to reduce the risk that a person experiencing family violence is incorrectly identified as the perpetrator because of reasonable protective conduct.

10. PROPOSED SECTION 9 — LIMITATION PERIOD

WST supports the proposed two-year limitation period.

The Bill replaces the existing standalone economic-abuse and emotional-abuse/intimidation offences with the proposed course-of-conduct offence and provides a two-year period for proceedings, calculated from the day of the relevant action or the last action forming the course of conduct.

A longer limitation period is appropriate for an offence involving conduct that may develop over an extended period.

WST also supports the transitional arrangements preventing the new offence from operating retrospectively.

11. IMPLEMENTATION AND MONITORING

The drafting of the offence is only one part of its effective operation.

Police, prosecutors, courts and relevant support services should receive specialised training before commencement.

Training should address:

- the requirement for a course of conduct;
- cumulative and contextual assessment;
- the distinction between coercive control and ordinary relationship conflict;
- the operation of the objective-reasonableness defence;
- reasonable self-protective and protective conduct;
- identification of the primary aggressor; and
- the risk of victim-perpetrator misidentification.

Implementation should also include robust sex-disaggregated monitoring.

Australian recorded-crime data demonstrate why this matters. In Tasmania in 2024–25, 79% of offenders proceeded against by police for family and domestic violence-related offences were male. Nationally, the corresponding figure was 78%.³

These figures describe police-recorded offenders and should not be treated as a measure of the total prevalence of family violence. They nevertheless provide relevant context for monitoring how the new offence operates.

Tasmania should record, at minimum:

- sex of the affected person;
- sex of the accused;
- relationship between the parties;
- whether children are involved;
- the nature of the alleged conduct;
- charging decisions;
- prosecution and court outcomes; and
- identified cases in which a person experiencing family violence is alleged to have been the perpetrator.

The NSW experience also demonstrates the value of early monitoring. Between 1 July 2024 and 31 December 2025, NSW Police recorded 473 coercive-control incidents and 22 charges.⁴ NSW's statutory review is examining the operation of the offence, including its mental element, the relationships covered and possible victim-perpetrator misidentification.

Tasmania should similarly provide for an independent review of the operation of the offence **within 24 months of commencement**.

The review should examine charging decisions, court outcomes, the operation of the reasonableness defence, the mental element, and any identified cases of victim-perpetrator misidentification.

12. FAMILY VIOLENCE OUTSIDE SPOUSE AND PARTNER RELATIONSHIPS

WST recognises that the proposed coercive-control offence is confined to current and former spouse/partner relationships.

³ Australian Bureau of Statistics, *Recorded Crime – Offenders, 2024–25*.
<https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-offenders/latest-release>

⁴ NSW Bureau of Crime Statistics and Research, *Coercive Control Monitoring Report December 2025* (March 2026).
https://bocsar.nsw.gov.au/research-evaluations/2026/Coercive_control_monitoring_report_Dec_2025.html

That limitation should not be expanded without careful examination of the evidence and legal consequences.

However, serious family violence also occurs in other relationships.

WST therefore recommends a separate, time-limited review of whether and how Tasmania's family violence framework should respond to serious violence and coercion outside current or former spouse/partner relationships.

The review should consider, among other matters:

- violence against mothers by adolescent or adult children;
- abuse of older women by family members;
- violence between other family members;
- the interaction between family violence legislation and existing criminal offences;
- the interaction with Family Violence Orders and other protective mechanisms;
- and
- circumstances involving children or young people as perpetrators.

This should be treated as a separate policy question and should not delay consideration of the proposed coercive-control offence.

13. RECOMMENDATIONS

Women Speak Tasmania recommends that the Government:

Recommendation 1

Retain the proposed coercive-control offence applying to a course of conduct between spouses and partners, subject to the amendments below, and retain the proposed two-year limitation period.

Recommendation 2

Amend proposed s 8(1) so that “harm” refers to a serious detrimental effect on physical, sexual, emotional, psychological or financial wellbeing. Clarify that “fear of harm” in s 8(2)(c) means fear of that serious detrimental effect, and that ordinary disagreement, relationship conflict, offence or disappointment does not, without more, constitute the harm required for the criminal offence.

Recommendation 3

Remove proposed s 8(3). WST does not oppose the existing “knows or ought to have known” element in s 8(2)(a); its concern is that s 8(3) additionally deems recklessness to constitute knowledge.

Recommendation 4

Amend proposed s 8(7) to make clear that objectively reasonable conduct may include reasonable steps taken to protect oneself or another person, protect an affected child, prevent unwanted contact or surveillance, leave or end an abusive relationship, or protect personal safety or property.

Recommendation 5

Add to the examples in proposed s 8(6) intimate images and recordings, including digitally altered or generated material; using a child or contact with a child as a means of coercion, monitoring, intimidation or punishment; and reproductive coercion.

Recommendation 6

Provide specialist implementation guidance and sex-disaggregated monitoring, including monitoring of victim-perpetrator misidentification, and provide for an independent review of the operation of the offence within 24 months of commencement.

Recommendation 7

Undertake a separate, time-limited review of serious family violence occurring outside current or former spouse/partner relationships, including violence against mothers by adolescent or adult children and abuse of older women by family members.

14. CONCLUSION

Women Speak Tasmania supports the principle of criminalising coercive control and recognises the importance of addressing patterns of behaviour that seriously restrict a person's autonomy, safety and freedom.

The proposed Bill contains several important features, particularly its recognition of cumulative conduct and its inclusion of technology-facilitated abuse, sexual coercion, reproductive choices, economic abuse and psychological abuse.

However, criminal law must be carefully bounded.

A coercive-control offence should be strong enough to address sustained domination while precise enough to prevent reasonable self-protection, protection of children and separation from an abusive relationship from being mistaken for coercive control.

WST considers the amendments proposed in this submission necessary to achieve that balance.

The objective should be a criminal offence that effectively addresses coercive control while reducing the risk of unintended application and victim-perpetrator misidentification.

Dr Elizabeth Caballero

President, Women Speak Tasmania

Elizabeth.Caballero@womenspeaktas.au

<https://womenspeaktas.au/>