

South Australia

Criminal Law Consolidation (Coercive Control) Amendment Act 2025

An Act to amend the *Criminal Law Consolidation Act 1935* and to make related amendments to the *Evidence Act 1929* and the *Intervention Orders (Prevention of Abuse) Act 2009*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Criminal Law Consolidation (Coercive Control) Amendment Act 2025*.

2—Commencement

- (1) This Act comes into operation on a day to be fixed by proclamation.
- (2) Section 27(6) of the *Legislation Interpretation Act 2021* does not apply to this Act.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

3—Amendment of section 5AA—Aggravated offences

Section 5AA(4a)—after paragraph (a) insert:

- (ab) they are engaged to be married to each other, including a betrothal under cultural or religious tradition; or

4—Amendment of section 20A—Choking, suffocation or strangulation in a domestic setting

Section 20A(3)—after paragraph (a) insert:

- (ab) they are engaged to be married to each other, including a betrothal under cultural or religious tradition; or

5—Insertion of Part 3 Division 7AAB

After section 20A insert:

Division 7AAB—Coercive control

20B—Interpretation

- (1) In this Division—
behaviour includes an omission or a threat to engage in behaviour;
controlling impact—see subsection (2);
in a relationship—2 people will be taken to be in a relationship if—
 - (a) they are married to each other; or
 - (b) they are engaged to be married to each other, including a betrothal under cultural or religious tradition; or
 - (c) they are domestic partners; or
 - (d) they are in some other form of intimate personal relationship in which their lives are interrelated and the actions of 1 affects the other;
physical harm has the same meaning as in section 21;
psychological harm means—
 - (a) mental illness; or
 - (b) nervous shock; or
 - (c) serious distress, anxiety or fear.

- (2) For the purposes of this Division, a person's behaviour will be taken to have a ***controlling impact*** on another person if the behaviour restricts 1 or more of the following:
- (a) the other person's freedom of movement;
 - (b) the other person's freedom of action;
 - (c) the other person's ability to engage in social, political, religious, cultural, educational or economic activities;
 - (d) the other person's ability to make choices with respect to their body (including, but not limited to, choices in relation to their reproductive options, medical treatment or sexual activity);
 - (e) the other person's ability to access—
 - (i) the justice system; or
 - (ii) basic necessities, including water, sleep, food or hygiene; or
 - (iii) support services, including welfare services or services provided by a registered health practitioner or a legal practitioner; or
 - (iv) property owned by the other person (whether solely or jointly with another person) or the other person's place of residence;
 - (f) any other aspect of the other person's life as may be prescribed by the regulations.
- (3) For the purposes of subsection (2), a person may ***restrict*** another person by—
- (a) physical restriction; or
 - (b) verbal or psychological restriction; or
 - (c) removing the means by which a person is able to do something; or
 - (d) deception; or
 - (e) any other behaviour that, directly or indirectly, significantly impairs the other person's ability to do something.

Examples—

The following are examples of behaviour that may have a controlling impact by restricting another person in a way contemplated in subsection (2):

- a person may restrict another person's freedom of movement by—
 - locking the other person in a room or building; or
 - excessively monitoring or tracking the other person's activities, movements or communications;
- a person may restrict another person's freedom of action by—

- physically harming the other person after the other person fails to undertake a household duty in accordance with the person's wishes; or
- making threats against the person or a child of, or animal belonging to, the person in order to influence the other person to take a certain action;
- a person may restrict another person's ability to engage in social, political, religious, cultural or economic activities by—
 - deleting or otherwise interfering with communications received from a third party by the other person; or
 - by threatening to harm a third party if the other person were to have contact with the third party;
- a person may restrict another person's ability to make choices with respect to their body by—
 - destroying the other person's method of contraception; or
 - threatening to sexually assault the other person if the other person were to behave or refuse to behave in a certain manner;
- a person may restrict another person's ability to access basic necessities by—
 - locking the refrigerator or pantry; or
 - engaging in derogatory name-calling of the other person each time the other person eats food;
- a person may restrict another person's ability to access support services by—
 - hiding the other person's keys to a motor vehicle or otherwise intervening in the other person's ability to utilise transport; or
 - threatening to harm the other person if the other person were to leave or attend a particular location;
- a person may restrict another person's ability to access property owned by the other person by—
 - changing or withholding information (for example, passwords or access codes) required by the other person to access the other person's financial assets; or
 - deceiving the other person as to their rights with respect to their own property.

20C—Coercive control

- (1) A person is guilty of the offence of coercive control if—
 - (a) the person engages in a course of conduct that consists of behaviour that has, or that a reasonable person would consider is likely to have, a controlling impact on another person; and
 - (b) the person intends by that course of conduct to have a controlling impact on the other person; and

- (c) the person is, or was, in a relationship with the other person; and
- (d) a reasonable person would consider the course of conduct to be likely to cause the other person—
 - (i) physical harm; or
 - (ii) psychological harm,(whether temporary or permanent).

Maximum penalty: Imprisonment for 7 years.

- (2) However, a person does not commit an offence against subsection (1) if the person engages in a behaviour, or behaviour of a kind, as may be prescribed by the regulations.
- (3) It is a defence to a charge of an offence against this section for the defendant to prove that the course of conduct alleged to have been engaged in by the defendant was reasonable in all the circumstances.
- (4) For the purposes of proceedings for an offence against this section—
 - (a) the course of conduct may be constituted of 1 or more kinds of behaviour; and
 - (b) whether the course of conduct consists of behaviour that has a controlling impact on another person must be determined by considering the totality of behaviours; and
 - (c) it is not necessary for the prosecution to prove that the defendant intended to have a controlling impact on the other person by engaging in each behaviour making up the course of conduct; and
 - (d) the prosecution is required to allege the particulars of the period of time over which the course of conduct occurred; and
 - (e) the information—
 - (i) must include the nature and description of the behaviours that amount to the course of conduct; but
 - (ii) need not allege the particulars of each behaviour with the degree of particularity that would be required if the behaviour was charged as an offence against any other provision of this Act or any other Act or law; and
 - (f) evidence of any behaviour of the defendant may be admissible in proceedings for an offence against this section despite the fact that the behaviour constituted 1 or more elements of a different offence for which the defendant has been convicted.

- (5) If—
- (a) a person engages in behaviour that makes up part of a course of conduct alleged in proceedings for an offence against this section; and
 - (b) the behaviour also constitutes the elements of a different offence,
- the person may—
- (c) be charged with an offence against this section and the other offence (whether in the same information or separately); and
 - (d) be convicted of, and sentenced for, an offence against this section and the other offence (provided that a court sentencing a person for an offence in these circumstances must take into account any other sentence that has been imposed on the person in respect of the same behaviour).

Example—

In proceedings for a coercive control offence it may be proved that one of the behaviours that the defendant engaged in involved acts of animal cruelty. Nothing prevents the defendant from also being charged with a specific animal cruelty offence but the court sentencing the defendant for the animal cruelty offence would be required to take into account the sentence imposed for the coercive control offence.

- (6) A person who has been convicted or acquitted of a previous offence against this section in relation to a person cannot be convicted of an offence against this section in relation to the same person if the period of the alleged course of conduct includes any part of the period during which the person was alleged to have committed the previous offence.
- (7) A court sentencing a person for an offence against this section is to sentence the person consistently with the verdict of the trier of fact but having regard to the general nature or character of the behaviour determined by the sentencing court to have been proved beyond a reasonable doubt (and, for the avoidance of doubt, the sentencing court need not ask any question of the trier of fact directed to ascertaining the general nature or character of the behaviour determined by the trier of fact found to be proved beyond a reasonable doubt).
- (8) A court sentencing a person for an offence against this section must take into account the effect any behaviour constituting the offence had on a child who witnessed or was affected by such behaviour (as may be known to the court).

20D—Review of Division

- (1) The Minister must, after the third, but before the fourth, anniversary of the commencement of this Division, cause a review of the operation of this Division to be prepared and submitted to the Minister.

- (2) The Minister must cause a copy of the report submitted to the Minister to be laid before both Houses of Parliament within 12 sitting days after receiving the report.

Schedule 1—Related amendments

Part 1—Amendment of *Evidence Act 1929*

1—Amendment of section 4—Interpretation

Section 4(1), definition of *serious offence against the person*—after paragraph (i) insert:

- (ia) an offence of coercive control under section 20C of the *Criminal Law Consolidation Act 1935*; or

Part 2—Amendment of *Intervention Orders (Prevention of Abuse) Act 2009*

2—Amendment of section 8—Meaning of abuse—domestic and non-domestic

Section 8(8)—after paragraph (a) insert:

- (ab) they are engaged to be married to each other, including a betrothal under cultural or religious tradition; or