

Episode 79: Summary

Episode name: Tracking, Surveillance, Financial Control: Understanding Coercive Control in Intimate Relationships

Guest(s): Hayder Shkara

What area(s) of law does this episode consider?

Coercive control from a family law perspective

Why is this topic relevant?

In November 2022, the *Crimes Legislation Amendment (Coercive Control) Act 2022* was passed in NSW. The Act will come into substantive effect in 2024, and in an Australian first, criminalises certain abusive and controlling behaviour towards current and former intimate partners.

What legislation is considered in this episode?

Crimes Legislation Amendment (Coercive Control) Act 2022 (NSW) (**CC Act**)

What are the main points?

- The CC Act is an amending Act to the *Crimes Act 1900* (NSW). While the CC Act has been passed, there is an extended consultation period before the offence of coercive control comes into substantive effect in 2024.
- The legislation establishes a task force. This is a panel consisting of a member from the New South Wales Police Force, a member from the Chair of the Domestic and Family Violence and Sexual Assault Council, and a member from the Domestic and Family Violence Sector with substantial expertise and experience in domestic and family violence service delivery.
- Hayder says that while the statistics coming out of family proceedings are scary, it's important to note that those statistics cover matters *in* the family court - i.e. it excludes settlements and other amicable matters.
- Coercive control is possibly best defined by examples. One of the most common forms of coercive or controlling behaviour is monitoring. This can include tracking someone's phone, tracking their vehicle, or installing surveillance systems within the family home.
- The coercive control offence is restricted to current or former intimate partners. This is because coercive or controlling behaviour is overwhelmingly perpetrated by current or former intimate partners.
- It is difficult to draw the distinction between conduct within a relationship that is unacceptable and conduct that deserves a custodial sentence. Perfectly acceptable behaviour like strict budgeting can be difficult to distinguish from unlawful behaviour such as financial control.
- Victims of these kinds of abuse often are not aware that the behaviour is abuse.

- Education and consultation is crucial in implementing the new legislation. The legislation also includes a list of non-exhaustive examples of unacceptable behaviours.
- Where there is an order made by a state court, such as an AVO in its criminal jurisdiction, an order made by the Family Court may override the order made by the state court.
- In Australia, 1 woman a week is killed by domestic violence. Two thirds of all homicides that occur between intimate partners occur within the first 3 months of separation.

What are the practical takeaways?

- If you are a practitioner with a matter in the Evatt list, be prepared for an accelerated process and different procedural steps, with a more hands on approach from the court.
- Hayder suggests that we encourage a supportive work environment as practitioners often deal with difficult issues such as coercive control.
- Hayder encourages exercise and to ensure you look after yourself by doing the basics like eating properly and sleeping.
- Reflect on positive moments and remember the positive impact you are having on your clients' lives.

Show notes

[*New court initiatives help uncover higher prevalence of family violence and other risks*](#) (FCFCOA Media Release, 10 November 2021).

[*Personal Safety Survey 2016*](#) (ABS 2016).