

29 May 2025

The Hon. Guy Barnett
76 Emu Bay Road, Deloraine.

Dear Minister,

Re: Submission – Family Violence (Miscellaneous) Amendment Bill 2025

Thank you for the opportunity to review and provide feedback on the proposed Family Violence (Miscellaneous Reforms) Bill 2025. Laurel House welcomes the chance to contribute to this important work.

We commend all efforts to improve outcomes for victim-survivors of family, domestic and sexual violence in Lutruwita/Tasmania. We know that, far too often, sexual violence and abuse forms part of the family and domestic violence experienced by victim-survivors.

Overall, we are generally supportive of the proposed amendments, with our reasons and comments set out below. However, we maintain the position in our joint submission with Engender Equality on the Family Violence Amendment Bill 2024, that a comprehensive review of the Family Violence Act 2004 is necessary and overdue.

Power to Vary or Revoke a PFVO

We are generally supportive of an amendment to the Family Violence Act 2004 Section 14, subsection (7) to provide the Commissioner of Police, or an authorised police officer of the rank of inspector or above, with the power to vary or revoke a Police Family Violence Order (PFVO) in prescribed circumstances including in the interests of justice, where it promotes the objects of the Act, and will not adversely affect the safety and interests of an affected person or affected child. We see this as a critical allowance in situations such as where a victim-survivor of family violence has been misidentified as the perpetrator.

The misidentification of a predominant perpetrator occurs when a victim-survivor of family violence is inaccurately identified as a family violence perpetrator (“misidentification”). In these circumstances, it is not unusual for Police to issue a PFVO against the victim-survivor, rather than recognise they need protection.

In these circumstances, PFVOs can have serious implications for the affected person most at risk of harm. These implications include:

- the equalisation of blame (“*she’s just as bad as he is*” rhetoric), which can prevent a victim-survivor from reaching out for help;



- possible suspension or cancellation of a WWVP card, and consequential impacts on employment;
- impacts on family law proceedings (specifically parenting); and
- an inability to access specialist family violence services including emergency house (e.g., women's shelters).

All of which can increase vulnerability of a victim-survivor and children to an escalation of violence from the perpetrator.

In addition to the above implications, if the person who is misidentified wants to have the PFVO revoked, they face having to make an application to the Magistrates Court of Tasmania, which can take many months to finalise. This process also currently carries a risk of costs if the applicant is unsuccessful and we know that there are many people who are reluctant to make an application to the court given the challenges involved.

In addition, there are also groups who face additional barriers, including:

- people with low literacy,
- people who cannot access a computer or the internet,
- People experiencing homelessness
- people from culturally or linguistically diverse backgrounds,
- people who are part of the LGBTQIA+ community,
- people with a disability, and
- First Nations people.

If a PFVO is not revoked, and the misidentified person breaches the order, they risk being charged with a family violence offence. Family violence offences have a presumption against bail, and there are implications for sentencing if convicted, therefore increasing negative impacts on the misidentified person.

Amending the Act to allow for Police to revoke a PFVO, if it becomes apparent it never should have been granted, will go a long way in alleviating the issues raised above. In addition, the removal of the requirement for parties to consent to a variation of a PFVO also has the potential to benefit victim-survivors who have been misidentified. Tasmanian legal practitioners describe situations where victim-survivors are coerced by a perpetrator to consent to variations that will leave them unsafe, and situations where a perpetrator will withhold consent to a variation in circumstance of misidentification as a form of systems abuse. However, given the amendments place decision-making for variations back into the hands of Police, it is vital Police are adequately educated in the nuances and complexities of family violence, specifically coercive control, emotional, and financial abuse.

In addition to the above, we note that victim-survivors will also need legal and social supports to approach Police, like the ARCH centres, and these services remain underfunded.

Extension of Limitation Period

We are supportive of extending the limitation period from 6 to 12 months for commencing prosecution for breach of a PFVO, FVO or an interim FVO (IFVO).

We know that victim-survivors of family and sexual violence do not necessarily report breaches of orders immediately to Police. This is especially the case when it comes to reporting sexual offences. There can also be an accumulation of breaches that are reported at the same time, and if some of the earlier breaches occurred prior to 6-months beforehand, they are unable to be prosecuted.

While supportive of this amendment, we reiterate our above position that there are marginalised groups who may be much more reluctant to approach Police. Groups who may require additional assistance include those who have reason to be mistrustful of Police, including many of those listed above.

Victim-survivors are often experiencing trauma, and should be fully supported by legal, community, and specialist services to approach Police when they chose to do so.

Publication of Material – Victims of Crime Applications

We are generally supportive, in part, of amending section 8 of the *Victims of Crime Assistance Act* (Tas) 1976 to improve provisions for the confidentiality of material gathered in determining applications for assistance to victims, while enabling publication of material in limited circumstances, such as deidentified law reports or for research purposes. We support the work of the Commissioner, and the benefit to victim-survivors (as well as legal and medical professionals) in having access to de-identified decisions. This could provide crucial information about the application process, reasons for decisions, and highlight the assistance scheme and the work of the Commissioner to the public.

The protection of information that could disclose the identity of a victim-survivor, without their consent or permission, is vital to this amendment especially in protecting victims-survivors from future harm or retaliation where an identity may be disclosed and discovered by a perpetrator. We therefore suggest that the requirement set out in proposed section 8(3)(d)(iii) that states, “*provided the publication does not directly identify, and is not likely to result in the identification of, a person referred to in subsection (2)(b)*” be extended to proposed section 8(3)(d)(i) and section 8(3)(d)(ii) as well. As the amendments are currently drafted, it appears that identifying information about a victim-survivor may be permissible, if it is for the purpose of law reports, or on an official website for publishing judgements, which we oppose.

In relation to the protection of identifying information, we note that Tasmania has a small population, with many towns made up of only hundreds or several thousand people, many of which are deeply interconnected communities. For that reason, care will need to be taken to remove identifying information, with a view to not only someone’s name or age, but factors that are likely to identify them in a small community. These factors include, but are not limited to gender, parenting or marital status, illness or disability, being a part of the LGBTIQ+ community, being from a culturally or ethnically diverse background, being Aboriginal or Torres Strait Islander, having a criminal record, employment, and/or their religion. We suggest an amendment that includes a non-exhaustive list of factors such as these that should be considered before information is published that incorporates these attributes.

We note there is some ambiguity around the definition of *information* in section 8(4) of the proposed amendments. We suggest, in addition to the words, “*information includes -*” that the words, “*but is*

not limited to” be added. This provides clarity that while “information” includes things set out in 8(4)(a)-(c), it also includes things that are included in its everyday interpretation.

While we maintain it is crucial for victim-survivors to retain anonymity, we also support those who choose to speak about their lived experience, including in cases of child sexual abuse. For this reason, we suggest an amendment that clarifies that a person who was under the age of 18 at the time they appeared in proceedings before the Commissioner, are not prevented from self-identifying themselves once they become an adult. This position is consistent with section 194K of the *Evidence Act (Tas) 2001*, which allows child sexual abuse victim-survivors to consent to identify themselves as an adult.

Please do not hesitate to contact us for any future consultation processes related to reforms impacting victim-survivors. We value the opportunity to contribute to legislative and policy developments that promote justice, healing, and systemic accountability.

Kind regards,

A handwritten signature in cursive script, appearing to read 'Kd Fordyce'.

Kathryn Fordyce
Chief Executive Officer
Laurel House