



07 February 2025

Submitted via email: haveyoursay@justice.tas.gov.au

Re: Family Violence Amendment Bill 2024

Laurel House and Engender Equality welcome the opportunity to provide feedback on the proposed amendments to section 20 and section 34 of the Family Violence Act 2004.

This submission has been developed in consultation and collaboration with a range of stakeholders, including Lutruwita/Tasmanian victim-survivors of family, domestic, and sexual violence, children, parents and caregivers of children who have been subject to violence, other supporters of victim-survivors, and professionals who work in the sexual and family violence sectors.

We commend all efforts to improve outcomes for victim-survivors of family and domestic violence in Lutruwita/Tasmania. The feedback we have received on the Amendment Bill is that, overall, it proposes valuable amendments which will drive positive outcomes.

We support the proposed amendments in part and propose a number of recommendations with the intention of strengthening protections both individually and systemically for victim-survivors.

ENDORSEMENT OF OTHER'S SUBMISSIONS

Submission: Ellie Bedells, Advocate for Change (Engender Equality, Hobart)

We firmly endorse the separate submission made to this consultation by Ellie Bedells, Advocate for Change (Engender Equality, Hobart).

Ms Bedells highlights in her submission that key concepts have not been sufficiently considered in the amendments to subsection (2) of section 34 – namely the misidentification of the predominant aggressor and processes whereby victim-survivors can safely withdraw court applications.

Regarding the former, victim-survivors in Lutruwita/Tasmania are at high risk of being misidentified as the predominant aggressor on PFVOs. Ms Bedells highlights that it is critical that misidentified victim-survivors do not also run the risk of being assessed as "malicious" or "vexatious" in court proceedings. Thus, the scope of applications that can be disciplined should be carefully constrained to avoid systems abuse.

Given the high prevalence of such systems abuse in Lutruwita/Tasmania, we reiterate Ms Bedells' recommendation that:

A Gendered Violence Systems Abuse Public Advocate in Tasmania be established to assist victim-survivors in formal situations where there is a risk of systems abuse. This includes victim-survivors who are ineligible for Court Support due to PFVO misidentification.

Regarding the latter issue of safe withdrawals of applications, we emphasise that victim-survivors must be able to withdraw applications without fear of being accused of perpetrating systems abuse.

We endorse Ms Bedells' recommendation in her submission to this consultation:

Given that proposed subsection (2) already includes an appropriate sanction against "prolonging unreasonably the time taken to complete the proceedings" (s 34(2b)) and other sanctions, I strongly recommend the removal of withdrawal of applications from the list of actions that can be disciplined in s 34(2a).

Specifically:

The removal of the reference to withdrawn applications in proposed s 34(2a) so that it reads as follows:

"(a) whether the liable party has made the application, objected to the application, or ~~withdrawn the application~~ –

This will prevent some weaponisation of cost orders against victim-survivors and reduce some of the fear around applying for an FVO for victim-survivors.

Submission: Sexual Assault Support Services

We support the separate submission made to this consultation by Sexual Assault Support Services (SASS).

SASS highlight concerns related to the unintended consequences of this reform given the ongoing misidentification of victim-survivors as predominant aggressors, the prevalence of systems abuse, and the impacts of financial abuse.

We also endorse SASS' concerns around critical implementation issues with section 34 relating to systemic abuse where perpetrators commonly weaponise the legal system to harass, intimidate and exert control, including financial control, over victim-survivors. We endorse SASS' recommendations that steps be taken to:

- Prevent payment mechanisms related to this Bill between perpetrators and victim-survivors from facilitating systems abuse via aggressive or threatening messages being sent through financial (banking) platforms; and
- Reduce the potential for cost recovery mechanisms in FVO proceedings to inadvertently place victim-survivors at further risk. This pertains to instances where unpaid court ordered costs such as those allowed for in section 34 are recovered from respondents through stressful and potentially threatening Monetary Penalties Enforcement Services. This may inadvertently place victim-survivors at risk where they are the respondent in an FVO resulting from being misidentified as the predominant aggressor. This allows for further systems and financial abuse through legal systems by their perpetrator. Cost recovery directions must recognise the complex financial vulnerabilities experienced by victim-

survivors of family violence especially in the context of high rates of misidentification in Lutruwita/Tasmania.

BROADER REVIEW OF THE FAMILY VIOLENCE ACT 2004

Beyond the scope of this Amendment Bill, we strongly urge the State Government to initiate a comprehensive review of the Family Violence Act 2004 as has been advocated for by the family and sexual violence sectors for some time now. In recent years, significant resources have been allocated to incremental, though valuable, amendments to the Act. However, these efforts fail to address the systemic and foundational issues of the Act that demand attention.

While we acknowledge the progress made through recent amendments and the sustained attention given to this critical issue, we believe a more far-reaching review is necessary, a review that extends to the intersecting court and legal processes. Such a review should address the gaps in the current framework and examine broader issues that impede victim-survivor's access to justice.

We stress that any review must be led by those with lived experience of family violence in Lutruwita/Tasmania, ensuring that victim-survivors' voices and insights shape the process. Their lived expertise must be at the centre of reform efforts.

Additionally, we emphasise that criminal justice models are not the sole or always the safest path to justice for victim-survivors. To be effective, legislative change must be accompanied by a robust investment in community-based models of justice that offer alternatives to the carceral system. These approaches can provide safer, more supportive options for preventing and responding to family violence in Lutruwita/Tasmania.

Yours sincerely



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