

31 March 2026

The Hon Guy Barnett MP
Attorney-General
Level 9, 15 Murray Street
Hobart TAS 7000
By email: guy.barnett@dpac.tas.gov.au

Dear Attorney-General

As you may be aware, there is currently significant national and international conversation about the need to end the harmful practice of physically punishing children and young people.¹

Locally, I commend the Tasmanian Government's work on developing and implementing the Child and Youth Safe Organisations Framework and establishing the Office of the Independent Regulator. While these important mechanisms demonstrate a strong commitment to realising the right of all children to be safe from violence, abuse and neglect in organisational settings, Tasmania has not yet fully recognised this same right for children in their homes.

Currently, s.50 of the *Criminal Code Act 1924* (Tas) ('Criminal Code') permits a parent, or person in the place of a parent, 'to use, *by way of correction, any force towards a child in his or her care that is reasonable in the circumstances*' (emphasis added). The Tasmanian Law Reform Institute (TLRI) has noted that there is no community consensus or consistent legal precedent on what amounts to 'reasonable' force, meaning there is little to no guidance for parents and carers.² Along with this codified provision, you would also be aware of the common law defence of lawful chastisement, which provides a parent with a 'right to inflict reasonable and moderate corporal punishment on his or her child for the purpose of correcting the child in wrong behaviour'.³

The groundbreaking Australian Child Maltreatment Study (ACMS) revealed that physical punishment of children remains prevalent nationwide with 62.5 per cent of Australians experiencing physical punishment as children, including 58.4 per cent of young people aged

¹ [Queensland Law Reform Commission, *Review of Particular Criminal Defences*](#). Among other criminal defences, the Commission is reviewing the domestic discipline defence. The Commission provided its final report to Queensland's Attorney-General in December 2025 but it is yet to be tabled in the Queensland Parliament.

² [Tasmania Law Reform Institute, *Physical Punishment of Children \(Final Report No 4, 2003\)*](#).

³ [R v Terry \[1955\] VLR 114 at \[116\]](#).



16 to 24.⁴ More than 50 per cent of parents in the ACMS survey indicated they had used physical punishment. However, Australian views on physical punishment in the home are changing, with almost three in four Australians not considering physical punishment to be necessary to raise a child. This proportion is even higher among younger people. This shift in community sentiment suggests that the common law and statutory defences are contrary to emerging community views, as well as evidence on effective ways to discipline children.⁵ In fact, research shows that physical punishment of children is not only ineffective, it can also be used as a cover for physical abuse.⁶ Yet, even where physical punishment does not lead to abuse, negative impacts on children can include anti-social behaviour, aggression and psychological harm.⁷ Over the long-term, a history of physical punishment has also been associated with poor mental health outcomes and increased risk of suicide.⁸

In response to the established evidence-base and changing community attitudes, there has been a global shift away from physical punishment of children, which has now been prohibited in 68 countries.⁹ Sweden was the first country to make this change in 1979, with more recent reforms in Zambia, Mauritius and Thailand.¹⁰ Notably, New Zealand passed amendments in 2007 to repeal the defence in s.59 of the *Crimes Act 1961* (NZ), which had allowed parents to use reasonable force by way of correction. In its place, a new provision was enacted allowing parents to use reasonable force for the purpose of – protecting a child or other person from harm; preventing a child from engaging in offensive or disruptive behaviour or conduct that amounts to a criminal offence; performing the normal daily tasks incidental to good care and parenting.¹¹ The revised s.59 clearly stipulates that neither the statutory provision, nor anything at common law, may justify use of force for the purpose of correction.¹² In contrast, every Australian state and territory has retained either a common law or statutory defence, or both.¹³ Australia is clearly lagging behind the rest of the world and our failure to address this issue has brought criticism from the United Nations.¹⁴

It is a fundamental principle of the *United Nations Convention on the Rights of the Child* that signatories take all appropriate legislative (and other) measures to protect children from ‘all forms of physical or mental violence, injury or abuse, neglect or negligent treatment,

⁴ [Divna M Haslam et al, ‘The Prevalence of Corporal Punishment in Australia: Findings from a Nationally Representative Survey’ \(2024\) 59 *Australian Journal of Social Issues* 580.](#)

⁵ [Sophie S Havighurst et al, ‘Corporal Punishment of Children in Australia: The Evidence-based Case for Legislative Reform’ \(2023\) 47\(3\) *Australian and New Zealand Journal of Public Health*.](#)

⁶ [Queensland Law Reform Commission, *Review of Particular Criminal Defences – Domestic Discipline Defence: Key Insights into Police Practices* \(Research Report No 3, 2025\).](#)

⁷ [Queensland Law Reform Commission, *Review of Particular Criminal Defences – Equality and Integrity: Reforming Criminal Defences in Queensland* \(Consultation Paper, February 2025\).](#)

⁸ [Tracie O Afifi et al, ‘Spanking and Adult Mental Health Impairment: The Case for the Designation of Spanking as an Adverse Childhood Experience’ \(2017\) 71 *Child Abuse and Neglect* 24.](#)

⁹ [End Corporal Punishment, *Global Progress Towards Prohibiting All Corporal Punishment* \(Update, March 2025\).](#)

¹⁰ [Queensland Law Reform Commission, *Review of Particular Criminal Defences* \(Domestic Discipline Information Sheet, November 2023\); End Corporal Punishment, *Global Progress Towards Prohibiting All Corporal Punishment* \(Online update, March 2025\).](#)

¹¹ [Crimes Act 1961 \(NZ\) s 59.](#)

¹² [End Corporal Punishment, *Corporal Punishment Against Children in New Zealand* \(Update, March 2019\).](#)

¹³ [Queensland Law Reform Commission, *Review of Particular Criminal Defences* \(Domestic Discipline Information Sheet, November 2023\).](#)

¹⁴ [Queensland Law Reform Commission, *Review of Particular Criminal Defences – Equality and Integrity: Reforming Criminal Defences in Queensland* \(Consultation Paper, February 2025\).](#)



maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child' (Article 19). The Committee on the Rights of the Child has called for clear and unconditional prohibition of all corporal punishment.¹⁵

With this in mind, over 20 years ago, the TLRI recommended the defence in s.50 of the Criminal Code to be abolished.¹⁶ There has been continued advocacy since that time, including by former Commissioner for Children, Aileen Ashford, and former Commissioner for Children and Young People, Leanne McLean. Commissioner McLean highlighted that '[i]t is difficult to reconcile the defence in section 50 with other laws designed to protect children from violence'.¹⁷

While the statutory domestic discipline defence in Tasmania has not changed substantially since it first passed in 1924,¹⁸ other laws have been updated, including legislation prohibiting corporal punishment in schools and youth justice detention in 1999^{19,20}. In explaining the purpose of the 1999 Amendment Bill, the then Leader for the Government in Council, Mr Aird, rightly asked '[h]ow can we expect our children to grow up to resolve disputes and overcome problems without resorting to violence if from an early age they are presented with the example of corporal punishment being used as a dispute-resolution mechanism?'²¹ More than 26 years later, Mr Aird's logic is as relevant to the defence of domestic discipline as it was to the use of corporal punishment.

A campaign to End Physical Punishment of Australian Children (EPPAC) commenced in 2022 as an initiative of the Parenting and Family Research Alliance. EPPAC is made up of researchers and academics, practitioners and individuals from professional bodies, Indigenous institutions, child services and government departments. This Office is represented on the EPPAC Working Group and, as such, I join EPPAC in advocating for legislative reform as well as public education to promote knowledge about the harms of physical punishment and the benefits of alternative parenting strategies.

Most recently, I have advocated for legislative reform to end physical punishment of children by parents in my submission to the Department of Justice on the *Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper*, which I have attached for your reference.

¹⁵ [Committee on the Rights of the Child, General Comment No 8 \(2006\) The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment \(arts. 19; 28, para. 2; and 37, inter alia\) \(CRC C GC 8, 2 March 2007\).](#)

¹⁶ [Tasmania Law Reform Institute, Physical Punishment of Children \(Final Report No 4, 2003\).](#)

¹⁷ [Commissioner for Children and Young People \(Tas\), Talking Point – Physical Punishment \(Media Release, 20 January 2021\).](#)

¹⁸ Before s 50 was amended by the *Criminal Code Amendment Act 1999*, the domestic discipline defence was also available to a 'schoolmaster' disciplining pupils who were 'under his care'. See [Austlii Point-in-time legislation – Tasmania Acts](#).

¹⁹ [Education Amendment Act 1999 \(Tas\)](#). This legislation inserted a new section 82A into *Education Act 1994* (Tas). A modified version of this provision now features in section 248 of the [Education Act 2016 \(Tas\)](#).

²⁰ [s 132\(c\), Youth Justice Act 1997](#) (proclaimed in 2000).

²¹ [Tasmania, Parliamentary Debates, Legislative Council, 30 September 1999, 1 \(Michael Aird, Leader of the Government in Council\).](#)



As far as I am aware, there is no current work to further consider or advance the TLRI's recommendations. This is regrettable, and inconsistent with the government's enduring statement of intent to ensure the safety of children in this state.²² I call on the government to take appropriate steps to prohibit physical punishment by parents and lead the nation in what is an inevitable shift in contemporary parenting practices.

I thank you for your consideration of this important issue.

Yours sincerely,

Isabelle Crompton

Interim Commissioner for Children and Young People

cc: The Hon Jane Howlett MP, Minister for Women and the Prevention of Family Violence

cc: The Hon Jo Palmer MP, Minister for Children and Youth

²² Crown in the Right of the State of Tasmania (2025), [Change for Children – Tasmania's 10-year strategy for upholding the rights of children by preventing, identifying and responding to child sexual abuse](#)

31 March 2026

Kristy Bourne
Secretary
Department of Justice
By email: haveyoursay@justice.tas.gov.au

Dear Secretary,

Re: Strengthening Our Responses to Family Violence in Tasmania: *Family Violence Act 2004* and Related Legislation Discussion Paper

Thank you for the opportunity to provide feedback on the Department of Justice's *Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper* (the Discussion Paper). Understanding how crucial it is to get these reforms right, I commend you for extending the consultation period to 2 April 2026.

This law reform project represents an important opportunity to strengthen family violence prevention in Tasmania and to better recognise, protect and support all victim-survivors without discrimination, including children and young people.

Tasmania has historically shown leadership and innovation by enacting key legislative safeguards, including provisions related to coercive control and economic abuse.¹ The current reform project provides an opportunity to build on these foundations and, with a commitment to continual improvement, assess what is working well and what needs to be addressed to reduce the risk of harm to young Tasmanians.

Introduction

While the Discussion Paper covers an extensive range of issues, feedback in this submission is not intended to be exhaustive and instead focuses on areas that are particularly relevant to children and young people, with reform recommendations included in section 9. Many of the issues raised in this submission will also be pertinent to policy and legislative reform in other areas, particularly if the relationship categories covered by the *Family Violence Act 2004* (FVA) are expanded to include, among others, relationships with parents and caregivers, grandparents, siblings, cousins and housemates.

¹ [Karen Wilcox, 'Island Innovation, Mainland Inspiration: Comments on the Tasmanian *Family Violence Act*' \(2007\) 32:4 *Alternative Law Journal* 212.](#)



The Tasmanian Government's approach under the *Youth Justice Blueprint 2024–2034*,² which prioritises prevention, early intervention, diversion and therapeutic responses, should inform any interventions for children and young people using harmful behaviours in family and family-like settings. Further, any changes to the FVA should align with anticipated rights-based reforms to the *Youth Justice Act 1997*, the *Bail Act 1994* and the *Children, Young Persons and Their Families Act 1997* (CYPTF Act), and should consider recommendations of the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* (Commission of Inquiry).

Role of the Commissioner

The statutory role of the Commissioner for Children and Young People (Commissioner) is to provide independent, child-centred feedback and advice on law reform relevant to Tasmanian children and young people, and to assist in ensuring Tasmania satisfies its national and international child rights obligations. In performing these and other functions, the Commissioner is required to:

- adhere to the principle that the wellbeing and best interests of children and young people are paramount; and
- observe any relevant provisions of the *United Nations Convention on the Rights of the Child* (UNCRC).

My perspective on the matters raised in the Discussion Paper is informed by a child rights framework. Experiencing family violence directly undermines children's rights under the UNCRC, particularly Article 19 (protection from all forms of violence), Article 27 (an adequate standard of living and development) and Article 12 (the right to be heard).³ Regarding compliance with Article 12, I note from the outset my concerns about the apparently limited opportunity for children and young people's voices to be heard during the present consultation. Before proposed legislative amendments are drafted, proper consultation with children and young people, including child victim-survivors of family violence, should be undertaken.

When children experience family violence directed against another family member, or where they are the direct target, their physical safety, emotional wellbeing, and developmental trajectories are compromised, reflecting a breach of both protection and provision rights.⁴ Incorporating a child rights-based⁵ approach into the FVA and related legislation will ensure reforms recognise the inherent dignity of children as rights-holders in their own capacity, and not as passive extensions of adult victim-survivors. This approach will enable legislation to embed structural guarantees for children's participation in decisions affecting them, strengthen mandatory protections that reflect the lived impacts of violence, and support the provision of integrated services that uphold children's right to recovery and development.⁶

² [Department for Education, Children and Young People \(Tas\), *Youth Justice Blueprint 2024-2034: Keeping Children and Young People Out of the Youth Justice System* \(2023\).](#)

³ [United Nations Convention on the Rights of the Child, GA Res 44/25 \(20 November 1989\); Committee on the Rights of the Child, *General Comment No 13: The Right of the Child to Freedom from All Forms of Violence* \(CRC C GC 13, 18 April 2011\).](#)

⁴ [Commissioner for Children and Young People \(Tas\), *Making Rights Real for Children and Young People in Tasmania: A Child Rights-based Approach to Monitoring and Evaluating the Wellbeing of Children and Young People* \(Report, 2025\) Appendix B p 44.](#)

⁵ [Committee on the Rights of the Child, *General Comment No 13: The Right of the Child to Freedom from All Forms of Violence* \(CRC C GC 13, 18 April 2011\) para\(s\) 13, 53.](#)

⁶ [Committee on the Rights of the Child, *General Comment No 13: The Right of the Child to Freedom from All Forms of Violence* \(CRC C GC 13, 18 April 2011\) para 53.](#)



With this in mind, I note the *Domestic and Family Violence Protection Act 2012* (Qld) specifically highlights that Australia is a party to the UNCRC and acknowledges, among other things, that family violence is a ‘violation of human rights that is not acceptable in any community or culture’.

1 Children and young people’s experiences of family violence

1.1 Experiencing family violence

Contrary to the belief that they are passive witnesses, children and young people directly experience family violence, even when they are not the primary target.⁷ Children who experience family violence directed towards another family member may overhear shouting, see damaged objects, and sense tension and hostility.⁸ Further, children can also become more immediately involved, including by remaining present to protect a family member, intervening during physical violence, providing emotional support or being coerced into monitoring the primary target.⁹ These experiences can have detrimental impacts on a child’s relationships, both with the person using violence as well as their protective parent. For these reasons, Queensland’s Family and Child Commission note that legislation should acknowledge that children ‘exposed to’ family violence are not only witnesses, but victim-survivors in their own right.¹⁰

1.2 Forms of family violence against children and young people

Together with exposure to family violence, children and young people may also be the primary target and can experience a wide range of harmful conduct. This can include physical abuse and neglect (such as denying food or misusing medicines); sexual abuse (including forcing a child to view pornography or sexual touching of siblings); emotional abuse (such as repeatedly blaming a child for negative events or isolating them from friends and family); coercive control (including threats to disclose a child’s sexual orientation or harm their pets); and stalking behaviours (such as hiding GPS trackers in children’s belongings). For more detail, I refer you to the work of the former Commissioner for Children and Young People, Mark Morrissey, on *Children and Young People’s Unique Experiences of Family Violence*¹¹ and Dr Carmel Hobbs’ report, *Young, In Love and In Danger*, which discusses violence and coercion experienced by young people in intimate partner settings.¹²

While a number of behaviours listed above are offences under Tasmanian or Federal law for any person (not just a family member),¹³ failing to capture this conduct as ‘family violence’ when directed towards a child in a family or family-like setting means the safeguards under the FVA, including the ability to apply for a Family Violence Order (FVO) as an ‘affected person’ (not just as an ‘affected child’) and obtaining a replacement residential tenancy agreement, are not available to children as

⁷ [YFoundations, Submission to the Australian Law Reform Commission, Review of the Family Law System \(7 May 2018\)](#); [Robert Urquhart and Jennifer Doyle, ‘Truth Is, The Abuse Never Stopped’ \(Barnardos Australia Survey 2022\)](#).

⁸ [Natalia Bueso-Izquierdo et al, ‘Psychological, Emotional, and Neuropsychological Sequelae of Child Victims of Domestic Violence: A Review of the Literature’ \(2025\) Journal of Child and Adolescent Trauma](#).

⁹ [Commissioner for Children and Young People \(Tas\), Children and Young People’s Unique Experiences of Family Violence: Family Violence and Children and Young People in Tasmania \(Report, September 2016\)](#); [eSafety Commissioner, Children and Technology-Facilitated Abuse in Domestic and Family Violence Situations \(Full Report, December 2020\)](#); [Australian Institute of Criminology, Children’s Exposure to Domestic Violence in Australia \(Trends and Issues in Crime and Criminal Justice No. 419, June 2011\)](#); [Jane Callaghan et al, “Beyond “Witnessing”: Children’s Experiences of Coercive Control in Domestic Violence and Abuse’ \(2015\) 33\(10\) Journal of Interpersonal Violence 1551](#).

¹⁰ [Queensland Family and Child Commission, Submission to the Education, Arts and Communities Committee, Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025 \(26 May 2025\)](#).

¹¹ [Commissioner for Children and Young People \(Tas\), Children and Young People’s Unique Experiences of Family Violence: Family Violence and Children and Young People in Tasmania \(Report, September 2016\)](#).

¹² [Carmel Hobbs, Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania \(Report for Anglicare – Social Action Research Centre, November 2022\)](#).

¹³ For example, under the [Criminal Code Act 1924 \(Tas\)](#) offences include ill-treatment of children (s.178), persistent sexual abuse of a child or young person (s.125A) and stalking and bullying (s.192).



victim-survivors in their own right (unless they are aged between 16 and 18,¹⁴ and experience family violence in a 'significant relationship').

This deficit is recognised in the Discussion Paper, which points to alternative safeguards under the CYPTF Act and the *Justices Act 1959*. However, as noted at 2.2, these measures are not always viable or appropriate for children in family violence situations, particularly where no trusted adult is available. While system responses for child victim-survivors typically assume there is a protective parent who can intervene on their behalf, this is not always the case.¹⁵

1.3 Impacts of family violence on children and young people

Just as children directly experience family violence, so too are they directly impacted. Child victim-survivors report various issues, including poor sleep, withdrawal, depression, suicidal ideation, risk-taking and difficulty making friends.¹⁶ The impacts of family violence, however, are not confined to childhood. As noted in South Australia's *Royal Commission into Domestic, Family and Sexual Violence* (SA Royal Commission), the myth that children will simply 'bounce back' from family violence is 'demonstrably false'. Instead, family violence can have 'lasting, devastating impacts on a child's life trajectory'.¹⁷ The mental health impacts are particularly significant, with adults who experienced child maltreatment being 2.8 times more likely to experience a mental health disorder than those who did not.¹⁸ Further, while not predictive, experiencing family violence as a child can contribute to future intimate partner violence.¹⁹ With this in mind, where we do not acknowledge children as victim-survivors of family violence in their own right, and fail to provide tailored, child-centred supports and services, we miss a crucial opportunity to 'reduce the risk of inter-generational violence'.²⁰

1.4 Prevalence of child maltreatment

Exposure to one or more forms of child maltreatment is becoming recognised as a major public health challenge in Australia. The Australian Child Maltreatment Study (ACMS)²¹ identified how many Australians experienced any of the five child maltreatment types, which include physical abuse, neglect, sexual abuse, emotional abuse and exposure to domestic violence. Almost 40 per cent of Australians reported 'exposure to domestic violence', with people typically experiencing multiple incidents throughout childhood. Further, 32 per cent reported physical abuse and almost 31 per cent reported emotional abuse.

¹⁴ This is the language used in the [Family Violence Act 2004 \(Tas\) s.4](#) (definition of 'family relationship'). It covers young people who are aged 16 and 17, but less than 18 years of age.

¹⁵ [Kate Fitz-Gibbon, *Seeking Help in Their Own Right: Young Victim-Survivors' Experiences of Family Violence Crisis Responses in Victoria* \(Final Report, Secure Consulting and Safe Steps, 2025\).](#)

¹⁶ [Robert Urquhart and Jennifer Doyle, 'Truth Is, The Abuse Never Stopped' \(Barnardos Australia Survey 2022\).](#)

¹⁷ [Royal Commission into Domestic, Family and Sexual Violence, *With Courage: South Australia's Vision Beyond Violence* \(Report – South Australia, August 2025\).](#)

¹⁸ [D Haslam et al, *The Prevalence and Impact of Child Maltreatment in Australia – Findings from the Australian Child Maltreatment Study* \(Brief Report, Australian Child Maltreatment Study Queensland University of Technology, 2023\).](#)

¹⁹ [Sophie Gillfeather-Spetere and Amy Watson, *In Their Own Right: Actions to Improve Children and Young People's Safety from Domestic, Family and Sexual Violence* \(ANROWS Insights, 01/2024\); Jane Callaghan et al, "'Beyond Witnessing": Children's Experiences of Coercive Control in Domestic Violence and Abuse' \(2015\) 33\(10\) *Journal of Interpersonal Violence* 1551.](#)

²⁰ [Kate Fitz-Gibbon et al, *Adolescent Family Violence in Australia: A National Study of Prevalence, History of Childhood Victimization and Impacts* \(ANROWS, Research Report 15/2022\).](#)

²¹ [D Haslam et al, *The Prevalence and Impact of Child Maltreatment in Australia – Findings from the Australian Child Maltreatment Study* \(Brief Report, Australian Child Maltreatment Study, Queensland University of Technology, 2023\).](#)



Child maltreatment can be perpetrated by parents or caregivers, adolescents or other people known to a child or young person. In the case of child sexual abuse (CSA), known persons under 18 engage in the highest proportion of CSA, while the second highest proportion is perpetrated by parents and other adult caregivers in the home. While parents and caregivers are reported to perpetrate a lower proportion of CSA, they are the most common people engaging in neglect and physical/emotional abuse within the caregiving environment. However, children and young people also experience violence in ways that extend beyond parental or caregiver abuse and beyond standard maltreatment categories.

Family violence and abuse against children and young people in Tasmania is likely to be significantly under-reported, but available indicators point to concerning levels of harm. Evidence from *Young, In Love and In Danger* further shows that young Tasmanians experience psychological, physical and sexual abuse within their intimate relationships, demonstrating that violence in the lives of young people extends beyond the family home and into peer and dating relationships.²² Together, these data suggest that many children and young people in Tasmania face multiple forms of violence across different settings.

2 Legally recognising children as victim-survivors in their own right

As noted, legal recognition of children as victim-survivors of family violence is crucial to ensuring they have full access to the safeguarding measures in the FVA, as well as child-centred supports and services. While *Survivors at the Centre: Tasmania's Third Family and Sexual Violence Action Plan 2022–2027* specifically recognises children and young people as victim-survivors of family violence in their own right, and includes some initiatives to help them recover and develop healthy relationships, it is highly problematic that legislation does not align with this policy position.

2.1 Covering family and family-like relationships

The definition of 'family violence' in the FVA focuses on harmful behaviours towards a 'spouse or partner'. A child is considered to be a 'spouse or partner' for the purposes of the FVA if they are aged between 16 and 18 and are currently in, or have previously been in, a 'family relationship', defined to include a marriage or 'significant relationship'.²³ Apart from this, a child is only covered by the FVA as an 'affected child' where spouse or partner violence is occurring.²⁴ The problem with this approach is plainly apparent in s.8(b)(iii), where even non-consensual disposal of an affected child's property is framed as economic abuse of a person's spouse or partner.

Failing to cover children as victim-survivors in their own right is an unacceptable omission that is clearly out of step with other jurisdictions.²⁵ It is crucial that the FVA be amended to cover the broad range of family and family-like relationships that children and young people experience, including but not limited to relationships with parents and caregivers, siblings and step-siblings, uncles, aunts, cousins and grandparents. Consideration should also be given to including any person with whom a child normally or regularly resides²⁶ or any person who is living or has lived in the same household,²⁷

²² [Carmel Hobbs, *Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania* \(Report for Anglicare – Social Action Research Centre, November 2022\).](#)

²³ [Family Violence Act 2004 \(Tas\) \('FVA'\) s.7 \(definition of 'family violence'\) and s.4 \(definitions of 'spouse or partner' and 'family member'\).](#)

²⁴ [FVA s.7 \(definition of 'family violence'\) and s.4 \(definition 'affected child'\).](#)

²⁵ [Family Violence Protection Act 2008 \(Vic\) \('FVP Act \(Vic\)'\) ss 5 and 8; Crimes \(Domestic and Personal Violence\) Act 2007 \(NSW\) \('CDPV Act \(NSW\)'\) ss 5 and 6A; Intervention Orders \(Prevention of Abuse\) Act 2002 \(SA\) \('IOPA Act \(SA\)'\) s.8\(8\); Restraining Orders Act 1997 \(WA\) \('RA Act \(WA\)'\) ss 4 and 5A\(1\); Family Violence Act 2016 \(ACT\) \('FV Act \(ACT\)'\) ss 8 and 9; Domestic and Family Violence Act 2007 \(NT\) \('DFV Act \(NT\)'\) ss 5, 9 and 10; Family Law Act 1975 \(Cth\) \('FLA'\) ss 4\(1AB\)\(aa\) and \(e\), 4\(1AC\).](#)

²⁶ [FVP Act \(Vic\) s.8\(1\)\(d\); RA Act \(WA\) s.4\(1\)\(d\); IOPA Act \(SA\) s.8\(8\)\(g\).](#)

²⁷ [CDPV Act \(NSW\) s.5\(1\)\(d\).](#)



to ensure that children are protected from harmful conduct by a new romantic partner of the child's parent, other household members who are not related by blood or marriage, carers of children in out-of-home care, and housemates in share-house arrangements.²⁸ Further, in making any definitional amendments, it will be important to implement changes recommended by the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*,²⁹ and to consult with Tasmanian Aboriginal people and organisations about the sorts of family and kinship relationships that should be covered by the FVA.

While the Discussion Paper raises concerns that expanding the application of the FVA will require additional services for affected persons which will have 'significant cost and resource implications', this is an insufficient reason to maintain the status quo. Government has a moral obligation to take a rights-based approach and ensure that all people, without discrimination, who are experiencing or at risk of family violence, can access safeguards under the FVA. That said, acknowledging the challenges associated with extending family violence services and supports to a broader range of people, and that service system transformation cannot happen overnight, consideration should be given to a staged rollout that is carefully planned and designed in consultation with the sector and people with lived experience. Among other things, it will be crucial to improve workforce capacity and capability across the entire service system to implement a child-centred, therapeutic approach.

2.2 Limits of protective measures under other legislation

Measures under the CYPTF Act

The definition of 'at risk' in s.4 of the CYPTF Act covers various situations, including specified circumstances where there is actual or threatened 'abuse or neglect', or threatened child homicide, as well as situations where someone is an 'affected child' under the FVA. Where a child is deemed to be 'at risk', the Secretary may intervene, including by causing a family group conference to be convened or applying for a care and protection order.³⁰ However, certain forms of family violence directed towards a child, such as economic abuse by a sibling or covert surveillance by a grandparent, might not satisfy the definition of 'abuse or neglect' in s.3 of the CYPTF Act which, under para (b), requires actual or likely physical or psychological impacts. This means children in these situations might not be considered 'at risk'.

Further, while measures like family group conferences, care and protection orders and supervision orders have their place, they may not be appropriate in many family violence situations. Family group conferences are an important early intervention measure, which can help keep families together and provide an opportunity for children to participate in decisions affecting them.³¹ However, they may not be appropriate where there is ongoing coercive control and/or systems abuse, or where there is significant ongoing risk to a child and/or their protective parent.³² As for care and protection orders, over-reliance on statutory child protection responses is not appropriate and is likely to over-burden the system.³³

²⁸ [Centre for Innovative Justice \(RMIT\) and Melbourne City Mission, *Unsafe and Unseen: Spotlighting the Needs and Experiences of Unaccompanied Young People Seeking Shelter* \(Summary Report, October 2025\)](#). Young people can experience a range of harms in share-house settings, including sexual exploitation, financial abuse and exposure to substance misuse.

²⁹ [Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Executive Summary: Our Vision for an Inclusive Australia and Recommendations* \(Final Report, September 2023\)](#). See Recommendation 8.24.

³⁰ [Children, Young Persons and Their Families Act 1997 \(Tas\) \('CYPTF Act'\) ss 30 and 42](#).

³¹ [Select Committee on Child Protection, Parliament of Tasmania, *Inquiry into Child Protection* \(Final Report, No 44, 2011\)](#).

³² [M Rogers and K Parkinson, 'Exploring Approaches to Child Welfare in Contexts of Domestic Violence and Abuse: Family Group Conferences' \(2018\) 23\(1\) *Child & Family Social Work* 105](#).

³³ [Cathy Humphreys, *Domestic Violence and Child Protection: Challenging Directions for Practice* \(Issues Paper for the Australian Domestic and Family Violence Clearinghouse, January 2007\)](#).



This issue was highlighted in a comprehensive review of the interaction between the family violence and child protection systems in the ACT, published in 2016.³⁴ At the time, statutory child protection services were the main entry point for children experiencing family violence. The review found this was inconsistent with the role of child protection services and that increasing service demand was unsustainable. Research by Australia's National Research Organisation for Women's Safety (ANROWS) has also made this point,³⁵ and a recent report by Western Australia's Ombudsman, following a review of that state's family and domestic violence response model, was critical of the fact that the response for children at domestic violence incidents was limited to a Child Protection response.³⁶ The Ombudsman further noted that unless a Child Protection response was provided for a child victim-survivor in a family violence incident, children did not appear to receive any follow-up or intervention, leaving many without recognition or support. Noting the thorough co-ordination and mapping work of Tasmania's Safe at Home Co-ordination Unit, the potential for Tasmanian children and young people experiencing family violence to fall through the cracks nonetheless deserves due consideration.

Measures under the Justices Act

The Discussion Paper also argues that restraint orders under the *Justices Act 1959* may be an option in situations where the FVA does not apply.³⁷ However, where a person to be protected by a restraint order is a child, that child's parent or guardian must generally apply for the order.³⁸ While a police officer may also apply for a restraint order,³⁹ and a Court may issue a restraint order instead of a care and protection order under the CYPTF Act,⁴⁰ it seems a child cannot apply directly to the Court or seek the Court's leave to apply.⁴¹ This limitation is particularly relevant where a child does not have a protective parent or trusted adult available. Further, it should also be noted that restraint orders may only be sought in specific circumstances, typically where personal injury or damage to property has occurred or is threatened, or there is stalking or offensive conduct. This falls well short of the breadth of conduct captured by the FVA.

2.3 Young people in a 'significant relationship'

As noted in the Discussion Paper, young people in intimate relationships may not be covered by the definition of 'significant relationship' given the factors to be considered when determining whether such a relationship exists. These factors are quite adult-centric, particularly the nature and extent of common residence, the ownership, use and acquisition of property, and the care and support of children.⁴² As such, in addition to expanding the range of relationships captured by the FVA, the definition of 'significant relationship' may also need to be amended (or other definitional changes made) to ensure that a person aged between 16 and 18 in an intimate relationship can access FVA safeguards. On this issue, the ACT's approach may be instructive, as its legislation covers both

³⁴ [Laurie Glanfield AM, Report of the Inquiry: Review into the System Level Responses to Family Violence in the ACT \(Report for the ACT Government, April 2016\).](#)

³⁵ [Sophie Gillfeather-Spetere and Amy Watson, In Their Own Right: Actions to Improve Children and Young People's Safety from Domestic, Family and Sexual Violence \(ANROWS Insights, 01/2024\).](#)

³⁶ [Ombudsman \(WA\), A Review of Family and Domestic Violence in Western Australia \(Report, 19 March 2026\).](#)

³⁷ I note that the restraint order provisions in the *Justices Act 1959* were reformulated through the [Restraint Orders Act 2019 \(Tas\)](#), however, due to some practical challenges, this legislation has not yet been proclaimed.

³⁸ [Justices Act 1959 \(Tas\) s.106B](#). An application may also be made by a guardian or administrator of a person who is a represented person within the meaning of the *Guardianship and Administration Act 1995* or a person who is granted leave to make an application for a restraint order, with some notable exceptions – namely persons mentioned in s.106B(2)(a)-(b) cannot seek leave under s.106B(3).

³⁹ [Justices Act 1959 s.106B\(2\)\(a\).](#)

⁴⁰ [CYPTF Act s.43.](#)

⁴¹ [Justices Act 1959 s.106B\(3\).](#)

⁴² [Relationships Act 2003 \(Tas\) s.4\(3\).](#)



‘domestic partners’ and ‘intimate partners’ with the latter defined as ‘someone with whom the person has an intimate relationship, whether they are members of the same household or not’.⁴³

Resolving this issue is vital as intimate partner violence among young Tasmanians is a significant, albeit largely hidden, problem.⁴⁴ For further detail on intimate partner violence among young people, I refer you to *Young, In Love and In Danger*⁴⁵ and the Tasmania Law reform Institute’s (TLRI) *Evaluation of Youth Justice Responses to Allegations of Sexual Offending by Young People*.⁴⁶ While this section has focused on intimate partner violence among young people, it is important to distinguish between this form of family violence and adolescent violence in the home (AVITH), which may be broadly defined as ‘physical, psychological, or economic violence carried out by adolescents against parents, grandparents, siblings, kinship carers, or other family members’.⁴⁷ The core drivers and dynamics of these two forms of harmful behaviour differ, and each form requires tailored interventions.

Emotional abuse, intimidation and harassment

Adolescent couples often have little experience navigating the challenges associated with intimate relationships, including jealousy, frustration and boundary-setting.⁴⁸ This may increase use of poor coping strategies, including emotional abuse and intimidation, verbal abuse, harassment and stalking.⁴⁹ I note that the concept of ‘intimidation’ under the FVA is closely associated with coercion and emotional abuse.⁵⁰ However, the definition of ‘harassing’ has little work to do in the FVA,⁵¹ and largely mirrors the ‘stalking and bullying’ offence in the *Criminal Code Act 1924* (Criminal Code). As such, it may be worth amending the definition of ‘harassing’ in the FVA and/or incorporating this concept into the definition of ‘emotional abuse or intimidation’. A similar approach is taken in Victoria,⁵² where the legislation also lists examples of ‘emotional or psychological abuse’, including disclosing a person’s sexual orientation, threatening self-harm and preventing a person from keeping connections with their friends, family or culture.

This latter example of ‘relational isolation’ is not explicitly named in the FVA but would fit neatly alongside the concepts of ‘controlling’ and ‘limiting freedom of movement’ within the definition of ‘emotional abuse or intimidation’. Relational isolation is also explicitly addressed in the NSW Act⁵³ and has recently been discussed by the Family Law Council.⁵⁴ Notably, relational isolation can often be used by young people in intimate partner settings.⁵⁵

⁴³ [FV Act \(ACT\) s.10\(1\)\(a\)](#).

⁴⁴ [Carmel Hobbs, *Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania* \(Report for Anglicare – Social Action Research Centre, November 2022\)](#).

⁴⁵ [Carmel Hobbs, *Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania* \(Report for Anglicare – Social Action Research Centre, November 2022\)](#).

⁴⁶ [Tasmania Law Reform Institute, *An Evaluation of Youth Justice Responses to Allegations of Sexual Offending by Young People* \(Research Paper No 10, January 2026\)](#).

⁴⁷ [Respect Victoria, *Summarising the Evidence: Adolescent Violence in the Home* \(Context Brief, 2023\)](#).

⁴⁸ [Carrie Mulford and Peggy Giordano, ‘Teen Dating Violence: A Closer Look at Adolescent Romantic Relationships’ \(2008\) 261 *National Institute of Justice Journal* 34](#).

⁴⁹ [Carrie Mulford and Peggy Giordano, ‘Teen Dating Violence: A Closer Look at Adolescent Romantic Relationships’ \(2008\) 261 *National Institute of Justice Journal* 34](#); [Carmel Hobbs, *Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania* \(Report for Anglicare – Social Action Research Centre, November 2022\)](#); [Australian Institute of Health and Welfare, *Family, Domestic and Sexual Violence – Stalking and Surveillance*](#).

⁵⁰ [FVA ss 7\(1\)\(a\)\(ii\) and 9](#).

⁵¹ The definition of ‘harassing’ only operates in relation to [s 14 of the FVA](#) regarding PFVO conditions.

⁵² [FVP Act \(Vic\) s.7](#).

⁵³ [CDPV Act \(NSW\) s.6A\(2\)\(j\)](#).

⁵⁴ [Australian Government, Family Law Council, *Disincentives to Disclosing Family Violence and Child Abuse, and Responding to Systems Abuse* \(Family Law Council Report No 1a and 1b, 2024\)](#). See Recommendation 8.

⁵⁵ [Carmel Hobbs, *Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania* \(Report for Anglicare – Social Action Research Centre, November 2022\)](#).



2.4 Responding to children and young people using family violence

Where definitions in the FVA are expanded to cover a broader range of family and domestic relationships, including siblings, cousins and housemates, tailored legislative provisions and system responses for children and young people using violence will be required to ensure that the diversionary and therapeutic principles in the *Youth Justice Blueprint 2024–2034* are applied in practice. In particular, a nuanced approach is needed to prevent and respond to harmful sexual behaviours among children and young people, in line with recommendations of the Commission of Inquiry.⁵⁶

This child-rights based approach to legislative reform will also need to be applied to the anticipated review of the *Youth Justice Act 1997*, revised bail laws and other legislative reform to ensure Tasmania's responses to children and young people using violence is consistent and does not operate in a siloed fashion. As regards the amendments to the FVA itself, consideration will need to be given to how specific provisions apply to children and young people using violence, including sections 11 (arrest and detention), 12 (bail), 13 (sentencing factors), 14 (PFVOs), 16 (FVOs) and 35 (contravention offences).

Regarding PFVOs and FVOs, for example, it is my view that police should not be authorised to issue a PFVO to a person under 18, and that there should be a minimum age for an FVO respondent.⁵⁷ On this issue, the approach to child respondents in other jurisdictions may be instructive,⁵⁸ particularly the *Restraining Orders Act 1997 (WA)*⁵⁹ and provisions in the *Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026 (Vic)*.⁶⁰ For further detail on considerations relevant to the application of FVOs to children and young people, I refer you to Victoria Legal Aid's *Feeling Supported, Not Stuck: Rethinking Intervention Orders for Children and Young People*.⁶¹

3 Technology-facilitated abuse

3.1 Relevance of technology-facilitated abuse to children and young people

As noted by the eSafety Commissioner, technology-facilitated family violence is highly relevant to children and young people growing up in a world of smartphones, social media and ubiquitous surveillance.⁶² While technology can play a positive role in young people's relationships, it can also be used to cause harm. Young people are typically early adopters of new technology, and the ability to be anonymous online can reduce the barriers to engaging in harmful conduct.⁶³

⁵⁶ [Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings. *Who Was Looking After Me? Prioritising the Safety of Tasmanian Children \(Report, Volume One – Summary, Recommendations and Findings, August 2023\)*](#). See, for example, Recommendations 9.28, 12.30, 21.6 and 21.8.

⁵⁷ While the term 'respondent' is not used in the FVA, it is used throughout this submission as shorthand for 'the person against whom an FVO is made'.

⁵⁸ [FVP Act \(Vic\) ss 57A, 83, 96A; DFVP Act \(Qld\) ss 51\(2\), 108\(3\); IOPA Act \(SA\) s.10\(1\)\(d\)\(v\)](#).

⁵⁹ [RA Act \(WA\)](#) See, for example, ss 30D, 50A, 50C, 50D and 53G.

⁶⁰ [Justice Legislation Amendment \(Family Violence, Stalking and Other Matters\) Act 2026 \(Vic\)](#) See, for example, new or amended ss 45A, 53AC, 57A, 60CB, 76B, 96A and 96C.

⁶¹ [Victoria Legal Aid, *Feeling Supported, Not Stuck: Rethinking Intervention Orders for Children and Young People \(Report, July 2025\)*](#).

⁶² [eSafety Commissioner, *Children and Technology-Facilitated Abuse in Domestic and Family Violence Situations \(Full Report, December 2020\)*](#).

⁶³ [James Banks and Catrin Andersson, 'The Role of Technology in Stalking and Coercive Control Among Young People,' in Mellins, Wheatley and Flowers \(eds\), *Young People, Stalking Awareness and Domestic Abuse \(Springer Nature, Switzerland, 2023\)*](#).



Children and young people may experience or engage in technology-facilitated family violence in various ways, including through monitoring and stalking, intimidation and harassment, image-based abuse, and blocking access to communication. For further detail on technology-facilitated abuse involving children and young people, I refer you to the eSafety Commissioner's report, *Children and Technology-facilitated Abuse in Domestic and Family Violence Situations*.⁶⁴

The FVA currently captures certain forms of abuse that may be carried out through technological means, including intimidation, stalking and bullying, and emotional abuse or intimidation.⁶⁵ However, the scope of these provisions may not necessarily cover new and emerging ways of perpetrating family violence via technology. As such, the ACT's approach warrants consideration, where the definition of family violence specifically includes any 'harmful use of, or interference with, technology'.⁶⁶ Incorporating a similar provision in Tasmania may also give more weight to this form of abuse, noting that research shows police may fail to respond to technology-facilitated coercive control, as it is not considered to be 'real' family violence.⁶⁷

The above report of the eSafety Commissioner also exposes various ways that adults involve children and young people in aiding or abetting technology-facilitated abuse, such as using a child to obtain their parent's passwords, forcing a child to log into a device or having a child record their parent's private conversations. With this in mind, if amendments are enacted to make it easier to penalise third parties for aiding or abetting family violence, as proposed in the Discussion Paper, care should be taken to ensure that the rights and interests of children and young people are protected, noting that the limited liability provision in s.13C of the FVA only protects an 'affected person' not an 'affected child' and s.73 of the *Justices Act 1959*, referred to in s.13C, applies to children as it does to adults. While the Discussion Paper refers to a recent amendment regarding third party liability in Queensland, it should be noted that this provision only applies to adults.⁶⁸ Such limitations ensure that children are not 'inadvertently criminalised due to coercion'.⁶⁹

3.2 Stalking and bullying

As noted in the Discussion Paper, 'stalking and bullying', as defined in the Criminal Code, forms part of the definition of 'family violence'. While stalking and bullying may occur offline, in today's world it is often undertaken through technological means. Online stalking and bullying can have particularly harmful consequences, as technology 'amplifies' the impact of stalking and surveillance on the victim-survivor, who has to deal with a person engaging in stalking behaviour who is seemingly 'omnipresent'.⁷⁰

Given the prevalence and impact of stalking, victim-survivors, including children and young people, must be adequately protected. However, as the Discussion Paper notes, this may not be the case with respect to covert tracking behaviour, since 'stalking and bullying' requires an intention to cause the victim physical or mental harm, extreme humiliation, apprehension or fear.

⁶⁴ [eSafety Commissioner, *Children and Technology-Facilitated Abuse in Domestic and Family Violence Situations \(Full Report, December 2020\)*.](#)

⁶⁵ [FVA ss 7 and 9.](#)

⁶⁶ [FV Act \(ACT\) s.8\(2\)\(f\).](#)

⁶⁷ [Asher Flynn et al, *Technology-facilitated Coercive Control: Mapping Women's Diverse Pathways to Safety and Justice \(Report to Criminology Research Advisory Council Grant: CRG 2020/21-22, October 2024\)*.](#)

⁶⁸ [Criminal Law \(Coercive Control and Affirmative Consent\) and Other Legislation Amendment Act 2024 \(Qld\) s.46 \(insertion of new s.179A\).](#)

⁶⁹ [Royal Commission into Domestic, Family and Sexual Violence, *With Courage: South Australia's Vision Beyond Violence \(Report – South Australia, August 2025\)*.](#)

⁷⁰ [James Banks and Catrin Andersson, 'The Role of Technology in Stalking and Coercive Control Among Young People,' in Mellins, Wheatley and Flowers \(eds\), *Young People, Stalking Awareness and Domestic Abuse* \(Springer Nature, Switzerland, 2023\).](#)



Notably, where a young person engages in online stalking of their partner it may be motivated more by jealousy and insecurity than a desire to cause mental harm, and may be incorrectly considered a sign of love.⁷¹ Further, technology-mediated stalking may also be intentionally covert, with the person engaging in stalking behaviour intending to remain completely anonymous. Having said this, amendments to the intention threshold in s.192 of the Criminal Code should be carefully considered as they may have unintended consequences. It is appropriate for this offence provision to have an intention element. However, for the purposes of the FVA, a separate definition of 'stalking' with no intention element may be appropriate. For example, in NSW there is a general definition of 'stalking' as a form of 'domestic abuse', which has no intention component, as well as an offence provision of 'stalking or intimidation with intent to cause fear of physical or mental harm'.⁷²

3.3 Image-based abuse

Consensual sharing of intimate images has become part of young people's accepted 'sexual practise', however harm can occur where intimate images are recorded and/or shared without consent or where a person's image is altered to create a deep-fake image which a person shares or threatens to share.⁷³ Threatened distribution of intimate images can be used to coerce and manipulate victim-survivors,⁷⁴ and research shows that non-consensual or threatened sharing of intimate images may be a common experience among Tasmanian young people.⁷⁵ Adequate legislative protections are therefore required to protect young people from this conduct. The TLRI considered this issue in detail in its *Evaluation of Youth Justice Responses to Allegations of Sexual Offending by Young People*, identifying legislative problems and appropriate solutions.⁷⁶

While it is vital to ensure that the law protects people from image-based abuse, it is also essential to avoid the criminalisation of young Tasmanians engaging in consensual 'sexting' behaviour, as can potentially occur under Federal and State law.⁷⁷ While prosecution of children under these provisions may be rare,⁷⁸ the law should nonetheless be appropriately framed. As such, the TLRI argues that reform is needed to ensure provisions in the Criminal Code, the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* and the *Police Offences Act 1935* do not have unintended consequences and lead to over criminalisation of young people for developmentally appropriate and consensual conduct.⁷⁹

⁷¹ [Carmel Hobbs, *Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania* \(Report for Anglicare – Social Action Research Centre, November 2022\).](#)

⁷² [CDPV Act \(NSW\) ss 6A\(2\)\(g\), 8 and 13.](#)

⁷³ [Caitlin H Douglass et al, 'Non-consensual Sharing of Personal Sexually Explicit Imagery Among Young People in Australia' \(2020\) 17\(2\) *Sexual Health* 182; Tasmania Law Reform Institute, *An Evaluation of Youth Justice Responses to Allegations of Sexual Offending by Young People* \(Research Paper No 10, January 2026\).](#)

⁷⁴ [Law, Crime and Community Safety Council, *National Statement of Principles Relating to the Criminalisation of the Non-Consensual Sharing of Intimate Images*.](#)

⁷⁵ [Carmel Hobbs, *Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania* \(Report for Anglicare – Social Action Research Centre, November 2022\).](#)

⁷⁶ [Tasmania Law Reform Institute, *An Evaluation of Youth Justice Responses to Allegations of Sexual Offending by Young People* \(Research Paper No 10, January 2026\).](#)

⁷⁷ [Tasmania Law Reform Institute, *An Evaluation of Youth Justice Responses to Allegations of Sexual Offending by Young People* \(Research Paper No 10, January 2026\).](#) Federal provisions relate to sharing intimate images, with the offence of use of a carriage service for child abuse material under the [Criminal Code Act 1995 \(Cth\) ss 474.22, 473.1](#) (definition of 'child abuse material').

⁷⁸ [Australian Institute of Criminology, *Sexting Among Young People: Perceptions and Practices* \(Trends and Issues in Crime and Criminal Justice, No 508, December 2015\).](#)

⁷⁹ [Tasmania Law Reform Institute, *An Evaluation of Youth Justice Responses to Allegations of Sexual Offending by Young People* \(Research Paper No 10, January 2026\).](#)



4 Systems abuse

4.1 Systems abuse – forms and impacts on children and young people

The Discussion Paper notes that despite its prevalence, many forms of systems abuse are not criminalised. While certain forms of systems abuse, such as weaponisation of child support and non-compliance with parenting orders, are typically characterised as abuse solely against a parent, they have direct and significant impacts on the rights and wellbeing of children and young people.⁸⁰ For further detail on the various forms of systems abuse and their impacts, I refer you to the Family Law Council's *Disincentives to Disclosing Family Violence and Child Abuse, and Responding to Systems Abuse*⁸¹ and Engender Equality's *Systems Abuse and Family Violence in Tasmania*.⁸²

4.2 Weaponisation of child support and the family law system

Child support can be weaponised in various ways.⁸³ For example, since child support is considered income when calculating entitlement to government family payments, a person engaging in systems abuse may agree to a high-value order and then fail to comply. In this scenario, not only are child support payments withheld, but government support is significantly reduced which means that even a child's most basic material needs can go unmet. Additional harm can also be caused by manipulation of the taxation system, through late lodgement of tax returns, and manipulating the timing of child support payments to maximise harm by missing payments right before children's birthdays and the start of the school year.⁸⁴ Clearly children are direct victims of this form of systems abuse. They are victim-survivors in their own right.

Of course, there may be some cross-over in the above scenarios between systems abuse and economic abuse, noting that 'economic abuse' under the FVA covers 'withholding, or threatening to withhold, the financial support reasonably necessary for the maintenance of his or her spouse or partner or an affected child'.⁸⁵ However, consideration should be given to whether manipulating the timing of child support payments and manipulating the taxation system would be caught by this provision or other aspects of the definition of 'family violence'.

As with the weaponisation of child support, there are various ways that people can abuse the family law system to cause ongoing harm to victim-survivors, including use of delay tactics, initiating multiple actions in different courts, applying for parenting or protection orders as a retaliatory measure, and coaching children to make false accusations against a protective parent.⁸⁶ While amendments were made to the *Family Law Act 1975* (Cth) to empower the Court to prevent harmful

⁸⁰ Australian Government, Family Law Council, *Disincentives to Disclosing Family Violence and Child Abuse, and Responding to Systems Abuse* (Family Law Council Report No 1a and 1b, 2024).

⁸¹ Australian Government, Family Law Council, *Disincentives to Disclosing Family Violence and Child Abuse, and Responding to Systems Abuse* (Family Law Council Report No 1a and 1b, 2024) citing *Re H-N and Others (Children) (Domestic Abuse: Finding of Fact Hearings)* [2021] EWCA Civ 448, United Kingdom Court of Appeal.

⁸² Engender Equality, *Systems Abuse and Family Violence in Tasmania: Evidence and Recommendations for Action* (Research Paper, August 2025).

⁸³ Kay Cook et al, 'Postseparation Financial Abuse Perpetrated Through Government Systems: A Survey of Australian Mothers' Experiences of Child Support' (2015) 31(12-13) *Violence Against Women* 3355.

⁸⁴ Kay Cook et al, 'Postseparation Financial Abuse Perpetrated Through Government Systems: A Survey of Australian Mothers' Experiences of Child Support' (2015) 31(12-13) *Violence Against Women* 3355.

⁸⁵ FVA s.8(e).

⁸⁶ Australian Government, Family Law Council, *Disincentives to Disclosing Family Violence and Child Abuse, and Responding to Systems Abuse* (Family Law Council Report No 1a and 1b, 2024); House of Representatives Standing Committee on Social Policy and Legal Affairs, Parliament of Australia, *Inquiry into Family Violence Orders (Final Report, 13 February 2025)* Ch 3; Rae Kaspiew et al, *Compliance with and Enforcement of Family Law Parenting Orders: Views of Professionals and Judicial Officers* (ANROWS, Research Report, Issue No 1, January 2022).



litigation, including through issuing a ‘harmful proceedings order’,⁸⁷ the family law system and other legal systems are still capable of being misused. As with weaponisation of child support, when the family law system is misused, children directly experience harm through prolonged litigation, unstable parenting arrangements and exposure to conflict and coercion.⁸⁸

4.3 Protecting victim-survivors against systems abuse

Noting that systems abuse covers a wide range of harmful behaviours and, given the lack of clarity as to whether the FVA covers all forms of systems abuse, a recent amendment in Victoria which incorporates this concept into the definition of ‘family violence’ warrants consideration.⁸⁹ This change was made to ‘acknowledge the prevalence of systems abuse, raise awareness of the circumstances where perpetrators misuse and weaponise protections for victim-survivors as a mechanism for further harm, and help guide the interpretation of legislation by the judiciary’.⁹⁰

4.4 An integrated definition of ‘family violence’

While the analysis in sections 3 and 4 of this submission focuses on specific forms of family violence and their relevance to children and young people, it is important to note that differing forms of family violence tend not to occur in isolation. Family violence is characterised by a pattern of coercive control where people using violence engage in multiple forms of abuse simultaneously.⁹¹ This could be made clearer in the FVA by combining different types of family violence into a single definition and by noting, like Queensland, that coercive control consists of multiple acts over time and needs to be considered in the context of the relationship as a whole.⁹²

5 Lawful correction – The domestic discipline defence

5.1 Physical punishment against children in Australia

As argued above, Tasmanian children should be legally recognised as victim-survivors of family violence in their own right, however this change alone will not be sufficient given the defence of lawful chastisement at common law,⁹³ and the domestic discipline defence in the Criminal Code, which provides that ‘[i]t is lawful for a parent or a person in the place of a parent to use, by way of correction, *any* force towards a child in his or her care that is *reasonable* in the circumstances’ (emphasis added). The TLRI notes there is no community consensus or consistent legal precedent on what amounts to ‘reasonable’ force.⁹⁴ This lack of clarity means there is little to no guidance for parents and caregivers, and it is difficult to prosecute cases of child abuse where parents rely on this defence. In contrast, NSW gives clear examples of unreasonable force.⁹⁵

Physical punishment of children by a parent or caregiver is currently lawful across Australia,⁹⁶ and is widespread in Australian families, with 62.5 per cent of Australians experiencing physical

⁸⁷ [Family Law Amendment Act 2023 \(Cth\) s.102QAC.](#)

⁸⁸ [House of Representatives Standing Committee on Social Policy and Legal Affairs, Parliament of Australia, *Inquiry into Family Violence Orders* \(Final Report, 13 February 2025\) Ch 3.](#)

⁸⁹ [Justice Legislation Amendment \(Family Violence, Stalking and Other Matters\) Act 2026 \(Vic\).](#)

⁹⁰ [Victoria, *Parliamentary Debates*, Legislative Assembly, 14 November 2025, 4844 \(Sonya Kilkeny, Attorney-General\).](#)

⁹¹ [Australian Institute of Family Studies, *Coercive Control Literature Review: Final Report* \(Research Paper, May 2023\).](#)

⁹² [Domestic and Family Violence Protection Act 2012 \(Qld\) s.8\(2\).](#)

⁹³ [R v Terry \[1955\] VLR 114.](#)

⁹⁴ [Tasmania Law Reform Institute, *Physical Punishment of Children* \(Final Report No 4, 2003\).](#)

⁹⁵ [Crimes Act 1900 \(NSW\) s.61AA.](#)

⁹⁶ [Queensland Law Reform Commission, *Review of Particular Criminal Defences – Domestic Discipline Defence: Key Insights into Police Practices* \(Research Report No 3, 2025\).](#)



punishment as children, including 58.4 per cent of young people aged 16 to 24.⁹⁷ Further, the ACMS study found that more than 50 per cent of parents had used physical punishment.⁹⁸ However, Australian views on physical punishment in the home are changing, with almost three in four Australians not considering physical punishment to be necessary to raise a child, with an even higher proportion of younger people holding this view.⁹⁹

This shift in community sentiment suggests that the common law and statutory defences are contrary to emerging community views, as well as evidence regarding effective ways to discipline children.¹⁰⁰ In fact, research shows that physical punishment of children is not only ineffective, it can also be used as a cover for physical abuse,¹⁰¹ and can be part of a broader pattern of coercive control of the child and other family members.¹⁰² For example, children can be deliberately set up to fail by being given age-inappropriate tasks and then punished for that failure, or they may be punished for showing signs of resisting coercive control tactics of a parent engaging in family violence.¹⁰³ This physical punishment of children can also be emotionally abusive to a protective parent. Yet, even where it does not lead to abuse, negative impacts can include anti-social behaviour, aggression and psychological harm.¹⁰⁴ Over the long-term, a history of physical punishment has been associated with poor mental health and increased risk of suicide.¹⁰⁵

In response to the established evidence-base and changing community attitudes, there has been a global shift away from physical punishment of children, which has now been prohibited in 68 countries.¹⁰⁶ Sweden was the first country to make this change in 1979, with more recent reforms in Zambia, Mauritius and Thailand.¹⁰⁷ Notably, New Zealand passed amendments in 2007 to repeal the defence in s.59 of the *Crimes Act 1961* (NZ), which had allowed parents to use reasonable force by way of correction. In its place, a new provision was enacted allowing parents to use reasonable force for the purpose of – protecting a child or other person from harm; preventing a child from engaging in offensive or disruptive behaviour or conduct that amounts to a criminal offence; or performing the normal daily tasks incidental to good care and parenting.¹⁰⁸ The revised s.59 clearly stipulates that neither the statutory provision, nor anything at common law, may justify use of force for the purpose of correction.¹⁰⁹ In contrast, every Australian state and territory has retained either a common law or statutory defence, or both.¹¹⁰ Australia is clearly lagging behind and our failure to address this issue has attracted criticism from the United Nations.¹¹¹

⁹⁷ [Divna M Haslam et al, 'The Prevalence of Corporal Punishment in Australia: Findings from a Nationally Representative Survey' \(2024\) 59 *Australian Journal of Social Issues* 580.](#)

⁹⁸ [Divna M Haslam et al, 'The Prevalence of Corporal Punishment in Australia: Findings from a Nationally Representative Survey' \(2024\) 59 *Australian Journal of Social Issues* 580.](#)

⁹⁹ [Divna M Haslam et al, 'The Prevalence of Corporal Punishment in Australia: Findings from a Nationally Representative Survey' \(2024\) 59 *Australian Journal of Social Issues* 580.](#)

¹⁰⁰ [Sophie S.Havighurst et al, 'Corporal Punishment of Children in Australia: The Evidence-based Case for Legislative Reform' \(2023\) 47\(3\) *Australian and New Zealand Journal of Public Health*.](#)

¹⁰¹ [Queensland Law Reform Commission, *Review of Particular Criminal Defences – Domestic Discipline Defence: Key Insights into Police Practices* \(Research Report No 3, 2025\).](#)

¹⁰² [Emma Katz, *Coercive Control in Children's and Mothers' Lives* \(Oxford University Press, 2022\), Ch 4.](#)

¹⁰³ [Emma Katz, *Coercive Control in Children's and Mothers' Lives* \(Oxford University Press, 2022\), Ch 4.](#)

¹⁰⁴ [Queensland Law Reform Commission, *Review of Particular Criminal Defences – Equality and Integrity: Reforming Criminal Defences in Queensland* \(Consultation Paper, February 2025\).](#)

¹⁰⁵ [Tracie O Afifi et al, 'Spanking and Adult Mental Health Impairment: The Case for the Designation of Spanking as an Adverse Childhood Experience' \(2017\) 71 *Child Abuse and Neglect* 24.](#)

¹⁰⁶ [End Corporal Punishment, *Global Progress Towards Prohibiting All Corporal Punishment* \(Update, March 2025\).](#)

¹⁰⁷ [Queensland Law Reform Commission, *Review of Particular Criminal Defences* \(Domestic Discipline Information Sheet, November 2023\); End Corporal Punishment, *Global Progress Towards Prohibiting All Corporal Punishment* \(Online update, March 2025\).](#)

¹⁰⁸ [Crimes Act 1961 \(NZ\) s.59.](#)

¹⁰⁹ [End Corporal Punishment, *Corporal Punishment Against Children in New Zealand* \(Update, March 2019\).](#)

¹¹⁰ [Queensland Law Reform Commission, *Review of Particular Criminal Defences* \(Domestic Discipline Information Sheet, November 2023\).](#)

¹¹¹ [Queensland Law Reform Commission, *Review of Particular Criminal Defences – Equality and Integrity: Reforming Criminal Defences in Queensland* \(Consultation Paper, February 2025\).](#)



The review of the FVA and associated legislation presents an important opportunity to progress nation-leading reforms by repealing the statutory domestic discipline defence and prohibiting reliance on the common law defence. Tasmania recognised the inappropriateness of physical punishment of children more than 26 years ago, when outlawing corporal punishment in schools and detention centres.¹¹² In outlining the rationale behind this change, the then Leader of the Government in Council rightly asked ‘[h]ow can we expect our children to grow up to resolve disputes and overcome problems without resorting to violence, if from an early age they are presented with the example of corporal punishment being used as a dispute resolution-mechanism?’¹¹³

6 Police Family Violence Orders

6.1 Misidentification and Police Family Violence Orders

Police-issued family violence orders are used in most jurisdictions to provide immediate protection to victim-survivors when a Magistrate is unavailable, and typically last only a short period.¹¹⁴ Further, police orders are generally considered to be an application for a Court order,¹¹⁵ noting judicial oversight of long-term orders is recommended in the absence of significant other measures to reduce the real risk of police misidentifying the person most in need of protection.¹¹⁶

Tasmania’s approach differs from other jurisdictions, as police may issue a PFVO for up to 12 months with few constraints on this power.¹¹⁷ Given the potentially lengthy duration of PFVOs, their potentially unworkable conditions, and the difficulty of varying them, there can be serious consequences when the person most in need of protection is misidentified.¹¹⁸ Further, since PFVOs can be issued without a victim-survivor’s consent, and against their explicit wishes, this can risk further eroding a victim-survivor’s ‘agency and autonomy’ and can be viewed as paternalistic and potentially coercive.¹¹⁹ Issues with PFVOs and misidentification were recently highlighted by advocates in Tasmania who note that in 2025, 26 per cent of PFVOs were issued against women.¹²⁰ This contrasts to court-issued FVOs over this same period where only 11 per cent were issued against women. Engender Equality suggests that the proportion of PFVOs against women does not reflect evidence about the gender-based nature of family violence.¹²¹

PFVOs are, of course, important to secure immediate protection for victim-survivors, however they are too onerous to amend. While an amendment to s.14(7) of the FVA has been drafted to make it easier to vary or revoke a PFVO,¹²² this proposal may not go far enough. As noted by Tasmania’s

¹¹² [Education Amendment Act 1999 \(Tas\)](#); [Youth Justice Act 1997 s.132\(c\)](#).

¹¹³ [Tasmania, Parliamentary Debates, Legislative Council, 30 September 1999, 1 \(Michael Aird, Leader of the Government in Council\)](#).

¹¹⁴ [FVP Act \(Vic\) Part 3, Div 2](#); [CDPV Act \(NSW\) Part 7](#); [IOPA Act \(SA\) s.18](#). Alternatively, in the [ACT](#) and [WA](#), police may apply to a Magistrate for an after-hours order.

¹¹⁵ [FVP Act \(Vic\) s.31\(1\)](#); [CDPV Act \(NSW\) s.29](#); [IOPA Act \(SA\) s.18\(5\)](#); [DFVP Act \(Qld\) s.112](#).

¹¹⁶ [Ellen Reeves, ‘The Potential Introduction of Police-Issued Family Violence Intervention Orders in Victoria, Australia: Considering the Unintended Consequences’ \(2022\) 34\(2\) *Current Issues in Criminal Justice* 207](#).

¹¹⁷ [FVA s.14\(6\)](#). A new Police Protection Directions (PPDs) scheme has been introduced in Queensland, where PPDs can last up to 12 months. However, a PPD can only be issued where it would not be more appropriate for the matter to go to Court, and there are various other requirements – see [DFVP Act \(Qld\) Part 4, Div 1A](#).

¹¹⁸ [Engender Equality, *Misidentification of the Predominant Aggressor in Tasmania: Practitioner Perspectives from Engender Equality* \(Research Discussion Paper, December 2022\)](#).

¹¹⁹ [Fitzroy Legal Service et al, *When Do I Get to Tell My Story? Agency and Resistance in Family Violence Intervention Order Narratives* \(Research Report, February 2023\)](#).

¹²⁰ [Scout Wallen, ‘Quarter of Tasmanian Police Family Violence Orders Issued Against Women, With Fears Victims are Being Misidentified’, *ABC News* \(online, 21 March 2026\)](#).

¹²¹ [Scout Wallen, ‘Quarter of Tasmanian Police Family Violence Orders Issued Against Women, With Fears Victims are Being Misidentified’, *ABC News* \(online, 21 March 2026\)](#).

¹²² [Family Violence \(Miscellaneous Reforms\) Bill 2025 \(Tas\)](#).



Sexual Assault Support Service (SASS), the proposed amendment assumes that a victim-survivor who has been misidentified will engage with police to have the order varied, but they may be unlikely to do so due to mistrust of police and/or fear of retaliation from the person using violence.¹²³ Further, even if a victim-survivor does seek to vary or revoke a PFVO, significant harm will likely have already occurred.¹²⁴

There may be serious consequences for children where a protective parent is misidentified. For example, the child may be separated from a protective parent, remaining in the sole custody of the person using violence,¹²⁵ prolonged separation from a protective parent may occur if that parent commits an offence by breaching a PFVO¹²⁶ and, where a PFVO is revoked following misidentification, a protective parent may be reluctant to report future abuse.¹²⁷ With this in mind, together with legislative measures to reduce the risk of misidentification and associated consequences,¹²⁸ a co-responder model may be beneficial where family violence specialists can provide 'real-time input' and contextual information required for PFVO decisions.¹²⁹

However, even where police rightly identify the person most in need of protection, lengthy PFVOs can still negatively impact children, since children's views are generally not taken into account when PFVOs are issued,¹³⁰ and standard conditions for PFVOs are not as flexible as the Court's power, which allows them to tailor conditions to meet children's specific safety needs.¹³¹

7 Court processes, procedures and standards

7.1 Family Violence Orders – Applications, conditions and variations

Applications for Family Violence Orders

As noted, failure to recognise children as victim-survivors in Tasmania means they cannot apply for an FVO as an 'affected person', except for certain young people aged between 16 and 18 in the context of a significant relationship. In contrast, many jurisdictions allow children to apply for a Court order, or for an adult to apply on their behalf.¹³² In Victoria and South Australia, a child aged 14 or older may apply for an order with the Court's leave,¹³³ while in Western Australia and NSW the age threshold is 16 years.¹³⁴

¹²³ SASS, Submission to the Department of Justice, *Family Violence (Miscellaneous Reforms) Bill 2025*.

¹²⁴ SASS, Submission to the Department of Justice, *Family Violence (Miscellaneous Reforms) Bill 2025*.

¹²⁵ [Family Violence Reform Implementation Monitor, Monitoring Victoria's Family Violence Reforms: Accurate Identification of the Predominant Aggressor \(Report, December 2021\)](#).

¹²⁶ [Sentencing Advisory Council, Sentencing of Adult Family Violence Offenders \(Report No 5, 2015\)](#).

¹²⁷ [Australian Government, Family Law Council, Disincentives to Disclosing Family Violence and Child Abuse, and Responding to Systems Abuse \(Family Law Council Report No 1a and 1b, 2024\)](#).

¹²⁸ [DFVP Act \(Qld\) s.22A](#) provides statutory guidance on identifying the person most in need of protection; [Justice Legislation Amendment \(Family Violence, Stalking and Other Matters\) Act 2026 \(Vic\) s.34](#), inserting a new s.24(2) into the *Family Violence Protection Act 2008* (Vic).

¹²⁹ [Engender Equality, Submission to the Department of Justice, Family Violence \(Miscellaneous Reforms\) Bill 2025 \(31 May 2025\)](#); [Queensland Family and Child Commission, Submission to the Education, Arts and Communities Committee, Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025 \(26 May 2025\)](#).

¹³⁰ A similar issue was raised about PPDs in Queensland – [Queensland Family and Child Commission, Submission to the Education, Arts and Communities Committee, Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025 \(26 May 2025\)](#).

¹³¹ [FVA s.16\(2\)](#).

¹³² [House of Representatives Standing Committee on Social Policy and Legal Affairs, Parliament of Australia, Inquiry into Family Violence Orders \(Final Report, 13 February 2025\)](#).

¹³³ [FVP Act \(Vic\) s.45\(d\)](#); [IOPA Act \(SA\) s.20\(2\)](#).

¹³⁴ [RA Act \(WA\) s.24A](#), note s.18 telephone applications are slightly different; [CDPV Act \(NSW\) s.48\(6\)](#).



Tasmania appears to be out of step with these jurisdictions as well as recent calls for greater national consistency in FVO provisions.¹³⁵ The recent *Inquiry into Family Violence Orders* recommended that the Federal Attorney-General advocate for, and assist all states and territories to, ‘allow children and young people to apply for FVOs and to be named as protected persons on FVOs’.¹³⁶ To facilitate this, it may be advisable for community legal centres servicing children and young people to facilitate applications on a child’s behalf. This may also help avoid any conflicts of interest where a parent or other family member against whom an application is to be made is seeking their own legal advice.

FVOs are an important option for children and young people experiencing family violence, however great care needs to be taken where the respondent to an application is also a child. Victoria Legal Aid notes that many young respondents in Victoria are themselves victim-survivors, and a significant portion also have a mental health issue or disability.¹³⁷ As such, they recommend measures be put in place to ensure intervention orders against children are used as a last resort, including but not limited to a minimum age for child respondents and a legal presumption against making an interim or final order against an unrepresented child respondent unless there are exceptional circumstances.¹³⁸

Duration of Family Violence Orders

As the Discussion Paper notes, despite having discretion to set any duration for an FVO, courts typically issue 12-month orders. This short duration means FVOs may not be functioning as an effective deterrent and, as they can be difficult to extend absent a breach, FVOs may expire while family law proceedings are ongoing, putting victim-survivors, including children, at risk. In contrast to PFVOs, a longer duration is appropriate for FVOs as they are generally issued following more fulsome consideration of the circumstances of the case, reducing the risk of misidentification, and can include tailored conditions to meet the needs of the parties.

Since the Discussion Paper was released, Victoria has passed amendments to address a similar issue with the duration of Court orders. Victoria’s legislation now provides that where no duration is specified in a Court order, it remains in place for 24 months unless revoked or set aside on appeal.¹³⁹ However, this default duration only applies to adult respondents, with a maximum 12-month duration continuing to apply to final orders against children.¹⁴⁰ In addition to the default duration for adults, a Court in Victoria must, when determining the duration of a final order, take into account ‘any assessment by the applicant of the level and duration of the risk from the respondent’ and, where the protected person was not the applicant, the Court must consider that person’s views.¹⁴¹

Inconsistency with Family Court orders

The Discussion Paper also considers s.33 of the FVA, which provides that FVOs and other specified orders are subject to any Family Court order, and asks whether the definition of ‘Family Court order’ should be amended to cover all relevant orders by the Federal Circuit and Family Court of Australia, not just those related to children and parenting, noting recent amendments to property settlement provisions under the *Family Law Act 1975* (Cth)(FLA).

¹³⁵ [House of Representatives Standing Committee on Social Policy and Legal Affairs, Parliament of Australia, *Inquiry into Family Violence Orders* \(Final Report, 13 February 2025\) Recommendation 3.](#)

¹³⁶ [House of Representatives Standing Committee on Social Policy and Legal Affairs, Parliament of Australia, *Inquiry into Family Violence Orders* \(Final Report, 13 February 2025\) Recommendation 3.](#)

¹³⁷ [Victoria Legal Aid, *Rethinking Intervention Orders Against Children and Teenagers*.](#)

¹³⁸ [Victoria Legal Aid, *Feeling Supported, Not Stuck: Rethinking Intervention Orders for Children and Young People* \(Report, July 2025\).](#)

¹³⁹ [Justice Legislation Amendment \(Family Violence, Stalking and Other Matters\) Act 2026 \(Vic\) amendment to s.99\(b\) and a new s.96B.](#)

¹⁴⁰ [Justice Legislation Amendment \(Family Violence, Stalking and Other Matters\) Act 2026 \(Vic\) s.96C.](#)

¹⁴¹ [FVP Act \(Vic\) s.97\(2\)\(b\)-\(c\).](#)



My primary concern with s.33, however, relates to the fact that the supremacy of a ‘Family Court order’ over an FVO is mentioned without any reference to the Court’s power under s.68R of the FLA which, in proceedings to make or vary an FVO, allows a Court to revive, vary, discharge or suspend certain FLA orders. This notable absence differs from other jurisdictions. For example, in Queensland, a Court is required to consider whether to exercise its power under s.68R.¹⁴² Queensland’s Act further specifies that the Court ‘must not diminish the standard of protection given by a domestic violence order for the purpose of facilitating consistency with a family law order’.¹⁴³ This requirement gets to the crux of the matter, which is about ensuring consistency between orders, together with an appropriate standard of protection.

I note that concerns have been raised that state and territory courts are reluctant to use their power under s.68R of the FLA, which means that ‘applicants will typically be referred to the family law courts’ and often end up being ‘kicked between the two courts’.¹⁴⁴ For this reason, the *Inquiry into Family Violence Orders* recommended that the Federal Attorney-General advocate for and assist states to ‘[m]ake amendments to laws to require courts making or varying an FVO to consider varying parenting orders to prioritise the safety of victim-survivors and children under s.68R’.¹⁴⁵ This issue was also raised by the SA Royal Commission, which noted that ‘[p]arenting orders that are inconsistent with FVOs can put victim-survivors and children at risk’.¹⁴⁶ While additional training and capacity-building may be required for Magistrates in Tasmania to be comfortable amending s.68R orders, this would be worthwhile to ensure the standard of protection in FVOs is appropriate.

Requirements to vary or revoke a Family Violence Order

Under the FVA, a Court may not grant leave to vary or revoke an FVO unless there has been a ‘substantial change in the relevant circumstances’.¹⁴⁷ The Discussion Paper notes the challenges associated with this requirement such as where, despite no substantial change, compliance with the FVO is completely impractical or extremely onerous, leading to an unavoidable breach, which amounts to a criminal offence.¹⁴⁸

In contrast to Tasmania, where there is an application for variation in Queensland, a Court must be given the respondent’s criminal and domestic violence histories and may generally vary an order after considering certain matters, including the findings of the Court that made the order.¹⁴⁹ However, there are separate requirements if the Court thinks a proposed variation may adversely affect the safety, protection or wellbeing of a person named in the order. In these situations, the Court must consider whether the respondent or someone acting on their behalf pressured or threatened a person named in the order.¹⁵⁰ While Queensland’s approach supports victim-survivor safety and mitigates the risk of coerced applications, it also provides flexibility.¹⁵¹

¹⁴² [DFVP Act \(Qld\) s.78\(1\)\(b\)](#).

¹⁴³ [DFVP Act \(Qld\) s.78\(2\)](#).

¹⁴⁴ [House of Representatives Standing Committee on Social Policy and Legal Affairs, Parliament of Australia, *Inquiry into Family Violence Orders* \(Final Report, 13 February 2025\)](#).

¹⁴⁵ [House of Representatives Standing Committee on Social Policy and Legal Affairs, Parliament of Australia, *Inquiry into Family Violence Orders* \(Final Report, 13 February 2025\)](#).

¹⁴⁶ [Royal Commission into Domestic, Family and Sexual Violence, *With Courage: South Australia’s Vision Beyond Violence* \(Report – South Australia, August 2025\)](#).

¹⁴⁷ [FVA s.20\(3\)](#). Noting that under s.20(3A), a substantial change is not required to *extend* an order.

¹⁴⁸ [FVA s.35](#).

¹⁴⁹ [DFVP Act \(Qld\) ss 90A and 91](#).

¹⁵⁰ [DFVP Act \(Qld\) s.92](#).

¹⁵¹ For comparison, also see [FV Act \(ACT\) s.83](#) and the [FVP Act \(Vic\) s.100](#) (slightly amended in [2026](#)).



7.2 Responding to family violence offences

Breach of Family Violence Orders and harsher penalties

Stakeholders have also been asked whether the penalties for breaching FVOs and PFVOs should be increased and whether aggravated forms of the contravention offence in s.35 of the FVA should be introduced. On these issues, I refer you to the Sentencing Advisory Council's *Sentencing of Adult Family Violence Offenders*.¹⁵² Among other things, they discuss the 'recidivist premium' in s.35 and highlight the need to ensure that FVOs are appropriately drafted. Further, they note that the sentencing options under s.35 are 'punitive rather than therapeutic'. While this will be appropriate in some cases, in others a therapeutic approach may reduce repeat offending and further risk to victim-survivors. As such, the Sentencing Advisory Council recommended 'greater investment in rehabilitative interventions and the adoption of a more therapeutic approach to sentencing'.

Given the above advice, it may be worth considering the diversionary approach to contraventions in Part 4A of Queensland's family violence legislation. Part 4A establishes a diversion orders scheme for persons charged with contravening a police or court-issued order.¹⁵³ The scheme is aimed at early intervention, promoting rehabilitation, reducing risk to victim-survivors and promoting accountability. Part 4A was introduced in response to a recommendation by the Women's Safety and Justice Taskforce after findings that criminal justice responses alone are insufficient to address patterns of coercive and controlling behaviour.¹⁵⁴ Before changes are made to Tasmania's contravention offence, this evidence base should be properly considered.

In addition, noting s.35 currently applies to certain young people aged between 16 and 18 (and that this submission recommends the types of relationships covered by the FVA be expanded), the potential application of more onerous penalty provisions to children and young people should be seriously considered. While children are typically sentenced under and in accordance with the principles in the *Youth Justice Act 1997*, it is nonetheless crucial to 'ensure that criminal penalties, as the result of breaches of intervention orders, are applied as a last resort to a young person's violent behaviour and that alternative services are initially provided'.¹⁵⁵ Alternative services are indeed crucial, noting that research shows that '90 per cent of young people who were charged with a breach of an intervention order in Victoria were recorded as having a disability'.¹⁵⁶

Delayed litigation – limitation periods and jury directions

Family violence litigation may be significantly delayed for a range of reasons, particularly where the abuse involves coercive control. As such, the Discussion Paper asks whether the 12-month limitation period for offences related to economic abuse and emotional abuse or intimidation is inappropriate. Reasons for delayed litigation may include that victim-survivors:¹⁵⁷

¹⁵² [Sentencing Advisory Council, *Sentencing of Adult Family Violence Offenders* \(Report No 5, October 2015\).](#)

¹⁵³ [DFVP Act \(Qld\) Part 4A.](#)

¹⁵⁴ [Women's Safety and Justice Taskforce, *Hear Her Voice: Report One – Addressing Coercive Control and Domestic and Family Violence in Queensland* \(Report One, 2021\).](#) See Recommendation 74.

¹⁵⁵ [Victorian Law Reform Commission, *Review of Family Violence Laws* \(Report, 2006\).](#)

¹⁵⁶ [Victoria Legal Aid, *Feeling Supported, Not Stuck: Rethinking Intervention Orders for Children and Young People* \(Report, July 2025\).](#)

¹⁵⁷ [Jasmine B MacDonald et al, *What the Research Evidence Tells Us About Coercive Control Victimisation* \(AIFS, Policy and Practice Paper, 2024\); Australian Law Reform Commission, *Family Violence and Commonwealth Laws* \(DP No 76, 2011\); Ida Kilku et al, 'The Disclosure of Child Psychological Maltreatment: A Systematic Review' \(2025\) 7 *Child Protection and Practice*; Kate Fitz-Gibbon et al, *Victim-survivors' Views on and Expectations for the Criminalisation of Coercive Control in Australia: Views from a National Survey* \(Monash Gender and Family Violence Prevention Centre, Monash University, 2023\); Family Law Council, *Disincentives to Disclosing Family Violence and Child Abuse, and Responding to Systems Abuse* \(Family Law Council Report No 1a and 1b, 2024\).](#)



- have been gaslit and experience a 'sense of entrapment'
- doubt they will be believed or taken seriously
- have an ongoing emotional attachment to the person using violence, especially a parent
- fear that taking legal action may escalate the risk and that the legal system will be used to continue the abuse
- do not realise that the conduct they have experienced amounts to family violence, or are not aware of the relevant offence provisions
- are or were dependent on the person using violence for housing and/or financial support
- are under surveillance, making it difficult to take action.

With this in mind, I note recent advocacy by community groups in Tasmania calling for the limitation period to be changed.¹⁵⁸ Increasing the limitation period would promote access to justice for victim-survivors, including but not limited to those subjected to these forms of abuse as children, and would help hold people accountable for their harmful conduct. The above line of reasoning may also be relevant to the Discussion Paper's proposal to allow a trial judge to direct a jury that there is no typical, proper, or normal response to family violence, and that a unique response could be due to cultural, social, economic, and personal factors. However, I provide no further comment at this time in relation to the proposed wording of a new s.371B of the Criminal Code as provided in Attachment 3 of the Discussion Paper.

7.3 Child participation, including in Court proceedings

Listening to children's views and taking them seriously

To align with a child-rights approach and to facilitate responses that are more likely to meet children's needs, it is crucial that children and young people are supported to participate in decisions about family violence interventions that will impact them.¹⁵⁹

While the CYPTF Act includes child participation requirements,¹⁶⁰ these do not apply to processes under the FVA, and it seems the FVA itself does not include any child participation provisions, apart from the requirement for child applicants to have formal representation.¹⁶¹ This contrasts to provisions governing parenting order proceedings under the FLA, which generally require a Court to consider any views expressed by the child when determining their best interests.¹⁶² And, in certain cases, a Court may order that an Independent Children's Lawyer be appointed to represent a child's interests in parenting order matters.¹⁶³

Independent Children's Lawyers are generally required to meet with the child and give them an opportunity to express their views on matters relevant to the proceedings.¹⁶⁴ This was a recent amendment informed by the Australian Law Reform Commission's *Inquiry into the Family Law*

¹⁵⁸ [Owen Sinclair, 'Push to Remove Limitation Period on Abuse Complaints Gains Momentum', *The Examiner* \(13 January 2026\).](#)

¹⁵⁹ [Commissioner for Children and Young People \(Tas\), *Children and Young People's Unique Experiences of Family Violence: Family Violence and Children and Young People in Tasmania* \(Report, September 2016\).](#)

¹⁶⁰ [CYPTF Act see, among others, ss 10F, 32\(3\), 35, 56, 58, 59.](#)

¹⁶¹ [FVA s.31\(3\).](#)

¹⁶² [Family Law Act 1975 \(Cth\) s.60CC\(2\)\(b\).](#) A limited exception in s.60CC(4). Further, while the Act outlines how a child's views can be expressed, it does not require a child to express their views: ss 60CD and 60CE.

¹⁶³ [Family Law Act 1975 \(Cth\) s.68L.](#) This is best-interest representation of the child, not direct representation.

¹⁶⁴ [Family Law Act 1975 \(Cth\) s.68LA\(5A\).](#)



System.¹⁶⁵ In its response to this inquiry, Anglicare WA noted, '[w]e need to ensure [children's] views are taken into account when decisions are made that affect their future. This includes listening and acting on any safety concerns they have. Children should be seen as reliable witnesses and have their experiences listened to and believed'.¹⁶⁶ These sentiments are equally applicable to service responses for children and young people experiencing family violence, including responses by police, therapeutic and accommodation services, and courts. With this in mind, the FVA could provide clearer guidance on how children's developmental needs, rights and participation should be taken into account in decision-making.

Direct representation for child participants – applicants and respondents

As noted above, a child applicant must have formal representation in proceedings under the FVA.¹⁶⁷ However, the FVA does not require a child respondent aged between 16 and 18 to have representation. In my view, representation for child respondents to proceedings under the FVA should be mandatory and dedicated funding should be provided for this purpose, noting again my comments at 7.1 regarding child applicants. As the Australian Law Reform Commission has noted, children should 'be provided with adequate representation, particularly in family law, care and protection and juvenile justice matters'.¹⁶⁸ While FVO proceedings are not criminal matters, considering that breach of an FVO could expose a child to the youth justice system, representation of child respondents in FVO proceedings is vital.

Children giving evidence

The *Evidence (Children and Special Witnesses) Act 2001* (ECSW Act) has a range of special measures relevant to children,¹⁶⁹ affected persons,¹⁷⁰ and other specified witnesses¹⁷¹ giving evidence in proceedings, and a judge is authorised under s.8 to declare that a person giving evidence is a 'special witness' if, among other things, by reason of age, the person is likely to suffer severe emotional trauma or be so intimidated or distressed they are unable to give evidence or to give evidence satisfactorily. However, the power under s.8 is discretionary and does not guarantee a child access to the full range of special measures under the ECSW Act. Importantly, the Discussion Paper notes that because of the restricted scope of the FVA, a child victim-survivor of family violence may not be able to access these safeguards.¹⁷² As such, it asks whether the ECSW Act should be amended to ensure special measures are accessible to child victim-survivors of *physical* violence by a parent or carer.

In my view, a more straightforward and rights-based solution would be to ensure children are recognised as 'affected persons' under the FVA. This would likely help to address the above legislative gaps, however further amendments to the ECSW Act may also be required in some cases. In any event, a detailed analysis of each ECSW measure is needed to determine whether the FVA amendments proposed in this submission would ensure child victim-survivors can access special measures where required. If the scope of the FVA is not expanded, the ECSW Act should be amended to ensure special measures are available in all cases where a child witness is a victim-

¹⁶⁵ [Family Law Amendment Act 2023 \(Cth\)](#); Australian Law Reform Commission, *Family Law for the Future – An Inquiry into the Family Law System* (Final Report, 2019).

¹⁶⁶ Anglicare WA cited in Australian Law Reform Commission, *Family Law for the Future – An Inquiry into the Family Law System* (Final Report, 2019).

¹⁶⁷ [FVA s.31\(3\)](#).

¹⁶⁸ Australian Law Reform Commission, *Seen and Heard: Priority for Children in the Legal Process* (Report No 84, 2010).

¹⁶⁸ Australian Law Reform Commission, *Seen and Heard: Priority for Children in the Legal Process* (Report No 84, 2010).

¹⁶⁹ See, for example, [Evidence \(Children and Special Witnesses\) Act 2001 \(Tas\)](#) ('ECSW Act') ss 6B, 7I-7J.

¹⁷⁰ An 'affected person' includes an 'affected child' as defined in section 3 of the ECSW Act. Affected persons have various protections under the ECSW Act, including pursuant to ss 7AA and 7A.

¹⁷¹ There are other provisions for witnesses who are the alleged victim – see, for example, [ECSW Act s.8A](#).

¹⁷² In particular ss 6B, 7AA, 7A-7B, 7J and 8A of the ECSW Act are mentioned.



survivor of family violence perpetrated by the respondent or accused, not just in cases of physical abuse. Further, any reforms to expand access to special measures for child victim-survivors should be accompanied by broader policy and practice changes that strengthen trauma-informed, child-centred and developmentally appropriate approaches.

Finally, in addition to special measures for child victim-survivors giving evidence in family violence proceedings, consideration should be given to expanding supports for young people under investigation for, or charged with, a sexual offence, through use of witness intermediaries, as recommended by the TLRI and Commission of Inquiry.¹⁷³ A 2024 review of Tasmania's Witness Intermediary Scheme Pilot recommended incremental expansion of the scheme, giving priority to witness intermediaries in family violence matters.¹⁷⁴ This will be particularly important if children and young people are the subject of proceedings where it is alleged they have engaged in family violence conduct.

Non-publication orders

Finally, as regards non-publication orders under s.32(3) of the FVA, if the Act is amended to cover a broader range of family and family-like relationships, noting that children may be a respondent to an FVO application, expanding the application of s.32 to cover this group should undoubtedly occur.

8 Prevention, early intervention and family violence responses

8.1 Prevention and early intervention

Legislative reform is crucial to ensure that all forms of family violence are captured, all victim-survivors are recognised, safeguarding measures are appropriately framed to prevent further harm, and family violence responses hold people accountable for their harmful conduct. However, legislation can be a blunt tool and will be insufficient in and of itself to achieve the broader societal, cultural and systemic changes needed to end family violence in Tasmania. Evidence-based prevention and early intervention measures, particularly for children and young people, need to be properly funded and available statewide to address the underlying factors that contribute to violence in the home, including gender inequality, harmful societal norms, exposure to family violence, substance misuse, unaddressed trauma and untreated mental health conditions.¹⁷⁵

With this in mind, I note that 'prevention and early intervention' is recognised as one of the four key principles in *Survivors at the Centre: Tasmania's Third Family and Sexual Violence Action Plan 2022– 2027*, which outlines a range of new and continuing actions in this space. Several of these actions are pertinent to children and young people, including Respectful Relationships and Consent Education (RRCE), the Step Up Adolescent Early Intervention Program and the Harmful Sexual Behaviours program. While I commend this focus on prevention and early intervention for children and young people, there is still much more to be done. Increased Government investment is needed to expand the range and availability of prevention and early intervention programs statewide (particularly noting the uptake and success of programs like Step Up), and RRCE should be made compulsory in Tasmanian schools and available in youth justice detention. Consideration should

¹⁷³ [Tasmania Law Reform Institute, *An Evaluation of Youth Justice Responses to Allegations of Sexual Offending by Young People* \(Research Paper No 10, January 2026\)](#). See Recommendation 13. [Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, *Who Was Looking After Me? Prioritising the Safety of Tasmanian Children* \(Report, Volume One – Summary, Recommendations and Findings, August 2023\)](#). See Recommendation 16.10.

¹⁷⁴ [Penny Cooper, *Building on Solid Foundations: The 2024 Review of Tasmania's Witness Intermediary Pilot Scheme* \(Report for the Tasmanian Department of Justice, August 2024\)](#).

¹⁷⁵ [World Health Organization, *World Health Organization Violence Prevention Unit: Approach, Objectives and Activities 2022-2026*](#).



also be given to effectively training and mobilising school staff who can deliver RRCE. For further detail on how RRCE can be improved, I refer you to the views of children and young people in the 2022 report of this Office on these matters.¹⁷⁶

Investment in these prevention and early intervention programs is vital from a public health perspective and is also more fiscally responsible, noting that in 2021 it was estimated that if adequate action was not taken to prevent family violence, the economic cost would rise to \$323.4 billion by 2044–45.¹⁷⁷

8.2 Family violence information-sharing

I note that the Discussion Paper refers to work being progressed to improve information-sharing practices related to family violence to enable, among other things, timely access to information for risk assessment and management purposes. It is important for Tasmania to adopt a more rigorous and comprehensive approach, which clearly articulates information-sharing principles and provides practical guidance for decision-making, including specific Child Information Sharing guidance, similar to Victoria, which supports the participation of children in decisions that affect them.¹⁷⁸

With this in mind I note work being progressed in relation to Commission of Inquiry recommendations 19.7 and 19.8, and look forward to the completion of the national guidance on best-practice approaches to information-sharing being drafted by the Data and Digital Ministers Meeting¹⁷⁹ and the Child and Young Person MARAM (Multi-Agency Risk Assessment and Management Framework) Practice Guides being developed under the *First Action Plan 2023–2027* of the *National Plan to End Violence Against Women and Children*.¹⁸⁰ These important pieces of work at the Federal level should be properly considered and applied, as appropriate, to support improved information-sharing and child-centred risk assessment and management in Tasmania.

8.3 Child-centred supports and services for victim-survivors

Family violence services and supports tend to focus primarily on the needs of women victim-survivors, with children and young people's needs treated as secondary considerations at best.¹⁸¹ While programs are generally designed for adult women, research shows that child victim-survivors 'have specific needs that are separate from the needs of adult/parent victims and require specialised knowledge and skills to appropriately respond'.¹⁸² For this reason, advocates recommend child-centred interventions.¹⁸³ For further detail on how to implement a child-centred approach, I refer you to recommendations of the ACT's Domestic Violence Prevention Council's Extraordinary Meeting on

¹⁷⁶ [Commissioner for Children and Young People \(Tas\), 'I Think Adults Play a Big Role in This': Listening to the Views of Children and Young People on 'Acceptance, Belonging and Feeling Safe' and the Importance of Respectful Relationships and Consent Education \(Report, April 2022\).](#)

¹⁷⁷ [Our Watch, *Change the Story: A Shared Framework for the Primary Prevention of Violence Against Women in Australia* \(Second Edition, 2021\).](#)

¹⁷⁸ [Victorian Government, *Child Information Sharing Scheme Ministerial Guidelines: Guidance for Information Sharing Entities* \(Updated Guidelines, January 2026\).](#)

¹⁷⁹ [Department of Social Services \(Australian Government\), *National Best-Practice Family and Domestic Violence Risk Assessment Principles and National Risk Assessment Framework*.](#)

¹⁸⁰ [Department of Social Services \(Australian Government\), *New Child and Young Person-focused Multi-Agency Risk Assessment and Management Framework Practice Guides*.](#)

¹⁸¹ [Commissioner for Children and Young People \(Tas\), *Children and Young People's Unique Experiences of Family Violence: Family Violence and Children and Young People in Tasmania* \(Report, September 2016\).](#)

¹⁸² [Laurie Glanfield AM, *Report of the Inquiry: Review into the System Level Responses to Family Violence in the ACT* \(Report for the ACT Government, April 2016\).](#)

¹⁸³ [Kate Fitz-Gibbon, *Seeking Help in Their Own Right: Young Victim-Survivors' Experiences of Family Violence Crisis Responses in Victoria* \(Sequire Consulting and Safe Steps, 2025\).](#)



Children and Young People,¹⁸⁴ as well as recent research reports, including *Seeking Help in Their Own Right*¹⁸⁵ and *In Their Own Right: Actions to Improve Children and Young People's Safety from Domestic, Family and Sexual Violence*.¹⁸⁶ The latter helpfully outlines principles to underpin reform in this space, including ensuring a rights-based approach that upholds the dignity of children and young people.

In applying these principles, one key service area that requires immediate attention in Tasmania is crisis and supported accommodation options for children and young people escaping violence, particularly children and young people presenting alone and women accompanied by teenage boys. In 2024-25, there were 387 Tasmanians aged 12-17 who presented alone to a Specialist Homelessness Service.¹⁸⁷ Where children and young people are experiencing family violence, insufficient crisis and supported accommodation options can leave them with an agonising choice between abuse or homelessness.¹⁸⁸ The need, of course, is much broader than ensuring safe and appropriate accommodation for individual victim-survivors and families. For insight into what children and young people are saying about the kinds of supports and services they need, I refer you to the report of this Office, *'Kids That Have Fallen Through the Cracks': Young People's Views on Supporting Children, Young People and Their Families*.¹⁸⁹

Finally, I note that the criteria for accessing the Federal Government's Leaving Family Violence Program require an applicant to be 18 years or older.¹⁹⁰ This excludes young people under 18 who are experiencing family violence perpetrated by a parent or an intimate partner. Many of these unaccompanied children and young people will not be receiving any form of income support. They need help with a range of essentials critical to their safety and recovery – such as transport, emergency accommodation, phone credit and SIM cards, food, clothing, medication, replacement IDs and items for school or training, to name just a few.¹⁹¹ To support children and young people to leave family violence situations, these payments need to be available to people under 18 years.

9 Recommendations

1	Before legislative amendments to the <i>Family Violence Act 2004</i> (FVA) or related legislation are drafted, deliberative consultation with children and young people, including child victim-survivors of family violence, should be undertaken – (see Introduction section).
2	Ensure any amendments to the FVA align with child-rights based reforms to the <i>Youth Justice Act 1997</i> , the <i>Bail Act 1994</i> and the <i>Children, Young Persons and Their Families Act 1997</i> (and other relevant legislation) and advance implementation of the recommendations of the <i>Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings</i> – (see Introduction section).

¹⁸⁴ [Community Services Directorate \(ACT\), ACT Government Response to the Final Report of the Domestic Violence Prevention Council Extraordinary Meeting Regarding Children and Young People \(Government Response, 6 June 2019\).](#)

¹⁸⁵ [Kate Fitz-Gibbon, Seeking Help in Their Own Right: Young Victim-Survivors' Experiences of Family Violence Crisis Responses in Victoria \(Sequire Consulting and Safe Steps, 2025\).](#) While Fitz-Gibbon's research focuses on the family violence service system in Victoria, there are lessons that can be applied to the Tasmanian context, including lessons related to youth-centred system design.

¹⁸⁶ [Sophie Gillfeather-Spetere and Amy Watson, In Their Own Right: Actions to Improve Children and Young People's Safety from Domestic, Family and Sexual Violence \(ANROWS Insights, 01/2024\).](#)

¹⁸⁷ [Australian Institute of Health and Welfare, Specialist Homelessness services 2024-25 Annual Report.](#)

¹⁸⁸ [Carmel Hobbs, Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania \(Report for Anglicare – Social Action Research Centre, November 2022\).](#)

¹⁸⁹ [Commissioner for Children and Young People \(Tas\), 'Kids That Have Fallen Through the Cracks': Young People's Views on Supporting Children, Young People and Their Families \(Report, 2024\).](#)

¹⁹⁰ [Australian Government, Department of Social Services, Leaving Violence Payment.](#)

¹⁹¹ Examples drawn from Melbourne City Mission's Amplify Program – a family violence case-management program for unaccompanied 15-19-year-olds escaping family violence funded under the National Partnership Agreement (2023-25).



3	Ensure the approach under the <i>Youth Justice Blueprint 2024–2034</i> informs any interventions for children and young people using harmful behaviours in family and family-like settings – (see Introduction section).
4	Incorporate a child rights-based approach into the FVA and related legislation to ensure reforms recognise the dignity of children as rights-holders in their own capacity. This may be done by conducting a Child Rights Impact Assessment (CRIA) to inform the family violence reforms – (see Introduction section).
5	Ensure children are recognised by the FVA as ‘affected persons’ in their own right. Amend the FVA to cover the broad range of family and family-like relationships that children and young people experience, as well as covering any person with whom a child normally or regularly resides – (see Section 2.1).
6	Implement definitional changes recommended by the <i>Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability</i> (Recommendation 8.24) and consult with Tasmanian Aboriginal people and organisations about the sorts of family and kinship relationships that should be covered by the FVA – (see Section 2.1).
7	Make appropriate legislative amendments to ensure children aged between 16 and 18 in an intimate partner relationship are covered by the FVA, including where they do not live together. In doing so, consider the definition of ‘intimate partner’ in the <i>Family Violence Act 2016</i> (ACT) – (see Section 2.3).
8	Consider repealing the definition of ‘harassing’ in the FVA and replacing reference to ‘harassing’ in s.14 with the term ‘stalking’ as defined by a new provision (see Recommendation 14) similar to s.8 of the <i>Crimes (Domestic and Personal Violence) Act 2007</i> (NSW) – (see Section 2.3).
9	Consider incorporating the concepts of ‘harassment’ and ‘relational isolation’ into the definition of ‘emotional abuse or intimidation’ – (see Section 2.3).
10	Review approaches to children using harmful behaviours in other jurisdictions and develop tailored provisions for this cohort, and prohibit PFVOs for persons under 18. In addition, where the FVA is amended to cover children using family violence (in addition to people aged between 16 and 18 in a significant relationship), include a minimum age of 14 for an FVO respondent, a maximum duration for FVOs against a child respondent, and other measures to ensure FVOs against child respondents are the last resort – (see Sections 2.4 and 7.1).
11	Implement a nuanced and child-centred approach to prevent and respond to harmful sexual behaviours among children and young people, in line with recommendations of the Commission of Inquiry – (see Section 2.4).
12	Incorporate into the definition of ‘family violence’ a broad provision covering harmful use of or interference with technology. In doing so, consider the approach in s.8(2)(f) of the <i>Family Violence Act 2016</i> (ACT) – (see Section 3.1).
13	Make it clearer in the FVA that family violence is characterised by a pattern of coercive control by combining different types of family violence into a single definition and by noting, like Queensland, that coercive control consists of multiple acts over time and needs to be considered in the context of the relationship as a whole – (see Section 4.4).
14	If the FVA is amended to strengthen laws related to aiding or abetting a family violence offence, ensure these provisions only apply to adults. In addition, consider whether s.13C of



	the FVA currently protects an ‘affected child’ (or any child) from liability, and amend the provision as required – (see Section 3.1).
15	Consider removing the reference to s.192 of the Criminal Code in s.7 of the FVA and adopting an approach like NSW, where ‘stalking’ for the purposes of the definition of ‘family violence’ has no intention element while the stalking offence retains an intention requirement. Consider the approach in ss 6A, 8 and 13 of the <i>Crimes (Domestic and Personal Violence) Act 2007</i> (NSW) – (see Section 3.2).
16	Implement legislative reforms recommended by the TLRI to protect children and young people from actual or threatened image-based abuse, and the TLRI’s recommended changes to State law to prevent potential criminalisation of young Tasmanians engaging in consensual recording and sharing of intimate images ¹⁹² – (see Section 3.3).
17	Advocate for amendments to Federal legislation to ensure young people consensually sharing age-appropriate intimate images are protected from liability under child abuse material laws – (see Section 3.3).
18	Incorporate ‘systems abuse’ into the definition of ‘family violence’ in the FVA. In doing so, consider the approach in the <i>Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026</i> (Vic) – (see Section 4.3).
19	Repeal the domestic discipline defence in s.50 of the Criminal Code and enact legislation to over-ride the common law defence of lawful chastisement. In doing so, consider the approach in the <i>Children (Equal Protection from Assault) (Scotland) Act 2019</i> (UK) – (see Section 5.1).
20	Enact amendments to make it easier to vary or revoke a PFVO where appropriate and consider reducing the maximum duration of PFVOs to promote prompt judicial oversight – (see Section 6.1).
21	Consider adopting legislative measures to reduce the risk of misidentification, including measures like those in the <i>Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026</i> (Vic) and <i>Domestic and Family Violence Protection Act 2012</i> (Qld) – (see Section 6.1).
22	Consider further non-legislative means to reduce the risk of misidentification, including a co-responder model and/or real-time access to family law and child protection records – (see Section 6.1).
23	Enact amendments that allow a child to apply for an FVO as an ‘affected person’ with the Court’s leave. In drafting this provision, consider approaches in other jurisdictions. If these changes are not made to the FVA, consider amending s.106B of the <i>Justices Act 1959</i> to allow a child to seek the Court’s leave to apply for a restraint order – (see Section 7.1).
24	Consider measures in other jurisdictions aimed at ensuring the duration of FVOs for adult respondents is sufficient, such as provisions in the <i>Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026</i> (Vic) – (see Section 7.1).
25	Amend s.33 of the FVA, in line with the recommendation of the Federal <i>Inquiry into Family Violence Orders</i> , to require a Court making or varying an FVO to consider varying parenting orders under s.68R of the <i>Family Law Act 1975</i> (Cth). Consideration should be given to the approach in s.78 of the <i>Domestic and Family Violence Protection Act 2012</i> (Qld) and

¹⁹² [Tasmania Law Reform Institute, An Evaluation of Youth Justice Responses to Allegations of Sexual Offending by Young People \(Research Paper No 10, January 2026\).](#)



	additional training and capacity building provided to Magistrates where required – (see Section 7.1).
26	Amend s.20(3) of the FVA to remove the requirement for a ‘substantial change in circumstances’ in applications for leave to vary or revoke an FVO. In doing so, ensure there are other legislative and practical safeguards to address the risk of coerced applications, noting the approach in ss.90A and 91 of the <i>Domestic and Family Violence Protection Act 2012</i> (Qld) – (see Section 7.1).
27	Before amending the penalties associated with the contravention offence in s.35 of the FVA or introducing aggravated forms of the offence, consult with the Sentencing Advisory Council and/or consider its previous advice related to this provision. In particular, consider any potential impacts on child respondents and review approaches in other jurisdictions – (see Section 7.2).
28	In line with the Victorian Law Reform Commission’s recommendation, ‘ensure that criminal penalties, as the result of breaches of intervention orders, are applied as a last resort to a young person’s violent behaviour and that alternative services are initially provided’ ¹⁹³ – (see Section 7.2).
29	Increase the limitation period for offences related to ‘economic abuse’ and ‘emotional abuse or intimidation’ under s.9A of the FVA – (see Section 7.2).
30	Implement the additional jury directions proposed in the Discussion Paper (to supplement s.371A of the Criminal Code) to allow a trial judge to direct a jury that ‘there is no typical, proper, or normal response to family violence, and that a unique response could be due to cultural, social, economic, and personal factors’ – (see Section 7.2).
31	Make appropriate amendments to the FVA to ensure that children’s views and interests are taken into account in all family violence matters that affect them – (see Section 7.3).
32	Ensure that access to legal advice and representation for child respondents to proceedings under the FVA is mandated and dedicated funding provided for this purpose – (see Section 7.3).
33	If the FVA is amended to recognise children as ‘affected persons’, review the application of special measures in the ECSW Act to ensure they are available to child victim-survivors of family violence. If children are not recognised as ‘affected persons’ in the FVA, conduct a comprehensive review of ECSW Act safeguards to identify gaps where child victim-survivors of family violence would be unable to access special measures, and address these legislative gaps (not only for physical abuse by a family member but for all forms of family violence conduct) – (see Section 7.3).
34	Expand communication supports for young people under investigation for, or charged with, a sexual offence, through use of witness intermediaries, as recommended by the TLRI and Commission of Inquiry ¹⁹⁴ – (see Section 7.3).

¹⁹³ [Victorian Law Reform Commission, Review of Family Violence Laws \(Report, 2006\).](#)

¹⁹⁴ [Tasmania Law Reform Institute, An Evaluation of Youth Justice Responses to Allegations of Sexual Offending by Young People \(Research Paper No 10, January 2026\).](#) See Recommendation 13; [Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings, Who Was Looking After Me? Prioritising the Safety of Tasmanian Children \(Report, Volume One – Summary, Recommendations and Findings, August 2023\).](#) See Recommendation 16.10.



35	Incrementally expand the Witness Intermediary Pilot Scheme to include witness intermediaries in family violence matters, including where a young person is the subject of proceedings ¹⁹⁵ – (see Section 7.3).
36	Regarding non-publication orders under s.32(3) of the FVA, if the Act is amended to cover a broader range of family and family-like relationships, noting that children may be a respondent to an FVO application, s.32 should be amended to apply to this group – (see Section 7.3).
37	Increase government funding to expand the range and availability of family violence prevention and early intervention programs statewide, including programs for children and young people, and make RRCE compulsory in Tasmanian schools and available in youth justice detention – (see Section 8.1).
38	Continue to progress child safety information-sharing recommendations made by the Commission of Inquiry (including recommendations 19.7 and 19.8) and, when available, consider and apply to the Tasmanian context national guidance on best-practice approaches to information-sharing and the Child and Young Person MARAM being developed under <i>First Action Plan 2023–2027</i> of the <i>National Plan to End Violence Against Women and Children</i> – (see Section 8.2).
39	Take immediate action to increase crisis and supported accommodation options for children and young people escaping family violence, including children and young people presenting alone and women accompanied by teenage boys – (see Section 8.3).
40	The Tasmanian Government should advocate for the Federal Government to amend the eligibility criteria for the Leaving Violence Program to ensure people under the age of 18 can access support payments – (see Section 8.3).

Concluding statement

Thank you again for taking the time to properly consult on this important law reform project. It is my sincere hope that comprehensive reforms to Tasmania’s family violence legislation and service system will address the scourge of family violence in this State and allow children and young people and their families to be safe and thrive.

Yours sincerely,

Isabelle Crompton

Interim Commissioner for Children and Young People

cc: The Hon Guy Barnett MP, Attorney-General

cc: The Hon Jane Howlett MP, Minister for Women and the Prevention of Family Violence

cc: The Hon Jo Palmer MLC, Minister for Children and Youth

cc: The Hon Felix Ellis MP, Minister for Police, Fire and Emergency Management

¹⁹⁵ [Penny Cooper, Building on Solid Foundations: The 2024 Review of Tasmania’s Witness Intermediary Pilot Scheme \(Report for the Tasmanian Department of Justice, August 2024\).](#)