



9 October 2026

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Secretary
Department of Justice
By email: legislation.development@justice.tas.gov.au

Dear Secretary

This submission discusses family violence and other violent offences. Readers might find the content of this submission distressing.

Re: Family Violence Reforms Bill 2026

Thank you for the extension granted to provide feedback on the Family Violence Reforms Bill 2026 (the Bill), which represents the first stage of reforms arising from consultation on the *Strengthening our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper* (Discussion Paper).

I was pleased to see amendments which seek to address some key issues, including but not limited to prohibiting a coercive or controlling course of conduct, expanding the types of property damage that meet the definition of 'family violence' and making it an offence to fail to report suspected choking, suffocation or strangulation of a child. However, I am concerned that no roadmap has been provided to outline the reforms to be progressed at later stages.

Without a roadmap, it is challenging to provide feedback on the first stage of reforms as it is unclear, for one thing, whether there is an intention to expand the range of relationships covered by the *Family Violence Act 2004* (FV Act). It seems that stakeholders are being asked to provide feedback on ad hoc amendments with no visibility of the complete package of reforms and their staged rollout, which has direct implications for service delivery, funding and information-sharing arrangements.

To ensure that sector expertise can properly inform this important project, I strongly recommend that the Department of Justice develop and consult on a comprehensive family violence reform roadmap, which outlines the amendments being considered for each stage of the reform, how the various stages will relate to one another, the rationale for their sequencing, and how they connect to priorities identified by the sector.

In addition to the absence of a reform roadmap, I have some specific concerns about the framing of provisions in the Bill itself, as discussed in detail below. As the Commissioner for Children and Young People (Commissioner), my feedback necessarily focuses on the relevance of the proposed provisions to children and young people and is not intended to be exhaustive.

Role of the Commissioner

The functions of the Commission for Children and Young People under the *Commission for Children and Young People Act 2025* (CCYP Act) include, among other things, to:

- advocate for children and young people;
- promote and uphold the rights of children and young people;
- promote, monitor and review the safety and wellbeing of children and young people;

- review, research, investigate and influence systemic policy development on matters relating to children and young people;
- advise and make recommendations to Ministers, Government agencies and other organisations in relation to the rights and wellbeing of children and young people; and
- make recommendations to Government Ministers to improve services for children and young people and ensure Tasmania satisfies its national and international obligations with respect to children and young people.

Any person performing these and other functions under the CCYP Act must ensure that:

- the wellbeing and best interests of children and young people are the paramount consideration;
- the views of children and young people on matters that affect them are taken into account, and their contributions to the community recognised, respected and valued;
- the interests and needs of children and young people who are disadvantaged or vulnerable are given special consideration;
- children and young people's right to be protected from harm and exploitation is respected, together with their right to live in a caring and nurturing environment;
- the significant role of parents, families, caregivers and communities in safeguarding and promoting the wellbeing of children and young people is recognised and supported; and
- relevant provisions in the United Nations Convention on the Rights of the Child (UNCRC), the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Convention on the Rights of Persons with Disabilities are taken into account.

In line with this statutory remit, my perspective on the Bill is informed by a child rights framework, noting that family violence directly undermines children's rights under the UNCRC, particularly Article 19 (protection from all forms of violence)¹ and Article 27 (an adequate standard of living and development).² Incorporating a child rights-based³ approach into family violence and related legislation is crucial to recognising and upholding the inherent dignity of children as rights-holders.

Relationships covered by the *Family Violence Act 2004*

My primary concern with the drafting in Part 3 of the Bill is that no change is proposed to the very limited range of relationships currently covered by the FV Act, with protections only available where a victim-survivor is the current or former spouse or partner of the person using violence. As such, the status quo is maintained where children are only protected if they are an 'affected child' within the context of spousal or partner violence, or where they experience family violence in a 'significant relationship' between the ages of 16 and 18. As former Interim Commissioner Isabelle Crompton made clear in her submission on the Discussion Paper, this limitation fails to recognise and sufficiently protect children as victim-survivors of family violence in their own right.⁴

While I acknowledge that the Bill is only the first in a series of family violence amendments to be progressed, and that a subsequent Bill could potentially replace any reference to 'spouse or partner'

¹ [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 13.](#)

² [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 15\(a\)-\(c\).](#)

³ [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.](#)

⁴ [Commissioner for Children and Young People \(Tas\), Submission to the Department of Justice \(Tas\), *Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper* \(31 March 2026\).](#)

with a more general term such as ‘family member’, I am very concerned that Tasmania may miss an important opportunity to expand the application of the FV Act to other family relationships. Children should be *legally* recognised as victim-survivors of family violence, just as they are recognised as victim-survivors in key policy documents like *Survivors at the Centre: Tasmania’s Third Family and Sexual Violence Action Plan 2022–2027*.

While there are some protections for children under the *Children, Young Persons and Their Families Act 1997* (Tas) and the *Justices Act 1959* (Tas), these Acts only apply in limited circumstances and over-reliance on the statutory child protection system as the main entry point for children experiencing family violence is highly problematic.⁵ Children may experience a wide range of family violence behaviours beyond physical abuse or neglect, including coercive control, economic abuse and systems abuse, and have specific needs which require a specialised, child-centred response to protect their rights, safety and wellbeing.⁶ Further, children who witness abuse of other family members are not merely ‘exposed to’ family violence, but directly experience family violence and, as noted by previous Commissioners, may remain present to protect a family member, intervene during physical violence and/or provide emotional support.⁷ On this issue, it is worth noting research from Queensland that found children were present in 50 per cent of cases where strangulation occurred.⁸ The primary target of choking, strangulation or suffocation in a family violence context may be protected under proposed changes to the *Criminal Code Act 1924* (Tas), as well as provisions under the FV Act. However, there are limited protections for an ‘affected child’ under the FV Act,⁹ and a lack of child-centred family violence supports and services in Tasmania to address the trauma that these young victim-survivors experience.

Recognising children as victim-survivors in their own right under the FV Act will, of course, bring new challenges associated with extending family violence services and supports to a broader range of people. However, it is wholly unacceptable that Tasmania is the only jurisdiction in Australia which fails to legally recognise and protect child victim-survivors of family violence. If this urgent legislative change is not progressed now, at the outset of the family violence reform project, Tasmania risks further entrenching a legislative gap that leaves children without the recognition and protections afforded to their counterparts in every other Australian jurisdiction.

Revised definitions in clause 6

Definitions of ‘economic abuse’ and ‘emotional or psychological abuse’

As noted above, it is unclear whether there are plans to amend the FV Act to protect children and other family members who are not a spouse or partner of the person using violence. As such, there is a risk that the proposed definition of ‘economic abuse’ in clause 6 of the Bill, which focuses exclusively on spouse or partner relationships, will need to be further amended at a later date to ensure it captures forms of economic abuse that may be unique to, or predominantly perpetrated against, other cohorts.

For example, where children are recognised as victim-survivors of family violence in their own right, in line with a child rights-based approach, the definition of ‘economic abuse’ would need to ensure that withholding child support payments is recognised as abuse of the child themselves and not just

⁵ [Laurie Glanfield AM, *Report of the Inquiry: Review into the System Level Responses to Family Violence in the ACT* \(Report for the ACT Government, April 2016\).](#)

⁶ [Laurie Glanfield AM, *Report of the Inquiry: Review into the System Level Responses to Family Violence in the ACT* \(Report for the ACT Government, April 2016\).](#)

⁷ [Commissioner for Children and Young People \(Tas\), *Submission to the Department of Justice \(Tas\), Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper* \(31 March 2026\).](#)

⁸ [Selina Bryan, ‘Non-fatal Strangulation Forum Calls for Greater Recognition and Support’, *ABC News* \(online, 8 October 2026\).](#)

⁹ Noting, among other things, the considerations and requirements under [ss.14 and 18 of the FV Act](#).

abuse of their parent, as argued by former Interim Commissioner Crompton.¹⁰ Other forms of economic abuse in paragraphs (a) to (i) of the proposed definition are also highly relevant to children, including coercion to relinquish assets or income, forced transfer of social security payments, and preventing engagement in education or employment. A child's right to protection from these forms of abuse, maltreatment and exploitation in a family context must be recognised in the FV Act.

Further, additional forms of economic abuse specific to children may need to be added once children are recognised as victim-survivors in their own right, such as forced and/or unremunerated participation in family vlogging or 'kidfluencing' activities.¹¹ With these things in mind, it may be preferable to use the phrase 'includes but is not limited to' before listing the various forms of economic abuse, instead of the term 'includes', to make it clear that the examples in paragraphs (a) to (i) are non-exhaustive.¹² I note that similar drafting is adopted in other jurisdictions where specific forms of economic abuse are typically listed as non-exhaustive examples underneath a broadly framed provision.¹³ This approach would provide the definitional flexibility needed to accommodate a wider range of relationships under the FV Act.

In contrast to 'economic abuse', the proposed definition of 'emotional or psychological abuse' in clause 6 does not include an explicit reference to spouse or partner relationships and, therefore, would not need to be amended once children are properly recognised as rights-holders under the FV Act. Regarding the proposed wording of the definition, I support the removal of the intention element (knows or ought to know) which features in the current definition of 'emotional abuse or intimidation' and also support diverging from the approach in some other jurisdictions, which include reference to behaviour that is 'offensive' – an ambiguous term which is inherently subjective.¹⁴ However, it is unclear whether the term 'serious' in the phrase 'serious distress, fear or mental harm' applies only to the term 'distress' or to all three consequences. I would respectfully suggest that *any* mental harm should satisfy the definition and that it should be clearer that *serious* mental harm is not required. Mindful that children should be properly recognised as victim-survivors under the FV Act, it is important to note that any mental injury, abuse, maltreatment or exploitation is a violation of children's rights (Article 19, UNCRC).

Definition of 'Family Court Order'

Clause 6 of the Bill also proposes to amend the definition of 'Family Court Order' to cover orders under Part VIII and VIIIAB of the *Family Law Act 1975* (Cth)(FLA), in addition to orders under Part VII of that Act. Notably, this affects the interpretation of section 33 of the FV Act, which provides that Family Violence Orders (FVOs) and Police Family Violence Orders (PFVOs) operate subject to any 'Family Court Order', as defined in section 4.

However, as highlighted by previous Commissioners,¹⁵ state or territory courts, in proceedings to make or vary an FVO have power under s.68R of the FLA to revive, vary, discharge or suspend specified orders under Part VII of the FLA. With this in mind, I refer you again to the Commonwealth

¹⁰ [Commissioner for Children and Young People \(Tas\), Submission to the Department of Justice \(Tas\), *Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper* \(31 March 2026\).](#)

¹¹ [Davis Gilbert, *New Laws Protecting Child Influencers: What Marketers and Influencers Need to Know* \(Online brief, 6 September 2024\).](#) This issue has been addressed in several United States jurisdictions.

¹² I note, for example, there is no specific mention or forcing a family member to sign a power of attorney document which enables their financial assets to be managed by another person. This example is included in the [Family Violence Protection Act 2008 \(Vic\) s.6](#); [Family Violence Act 2016 \(ACT\) s.8\(3\)](#); and [Domestic and Family Violence Protection Act 2012 \(Qld\) s.12](#).

¹³ [Family Violence Protection Act 2008 \(Vic\) s.6](#); [Family Violence Act 2016 \(ACT\) s.8\(3\)](#); [Domestic and Family Violence Protection Act 2012 \(Qld\) s.12](#).

¹⁴ [Magistrates Court of Queensland, *Domestic and Family Violence Protection Act 2012* \(Benchbook, May 2025\) \[1.3.4\].](#)

¹⁵ [Commissioner for Children and Young People \(Tas\), Submission to the Department of Justice \(Tas\), *Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper* \(31 March 2026\).](#)

Inquiry into Family Violence Orders, which 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'.¹⁶ This recommendation was made because state courts have been reluctant to use their power under s.68R, which has meant FVO applicants have typically been referred to the family law courts and have ended up being 'kicked between the two courts'.¹⁷ This issue was also raised by South Australia's Royal Commission into Domestic, Family and Sexual Violence, which noted that where parenting orders are inconsistent with FVOs it can put children at risk.¹⁸

The proposal to amend the definition of 'Family Court Order' in the FV Act to cover orders under Part VIII and VIIIAB of the FLA seems to indicate an intention to maintain the status quo and not require Tasmanian Magistrates to consider varying parenting orders (and other s.68R orders) as they are authorised to do under Federal law. I respectfully suggest this approach should be reconsidered and reiterate previous advice that additional training and capacity-building should be provided so that Magistrates are comfortable amending s.68R orders.¹⁹

Coercive or controlling course of conduct

Duplication in clauses 7 and 8

I was pleased to see that the Bill proposed new provisions related to a coercive or controlling course of conduct in clauses 7 and 8, noting that former Interim Commissioner Crompton suggested the law should make it clearer that 'family violence is characterised by a pattern of coercive control' which consists of 'multiple acts over time'.²⁰ While this Bill does not propose to recognise children as victim-survivors in their own right, coercive and controlling behaviour by family members directly undermines children's rights and wellbeing. As previously advised, children and young people may be directly coerced in various ways, including through threats to harm their pets, to disclose their sexual orientation or to publish intimate images online.²¹

Mindful that the relationships covered by the FV Act should be expanded to recognise children as victim-survivors in their own right, I wish to raise some concerns about the proposed s.7(3)-(4) and s.8. Both provisions essentially refer to a course of conduct that is coercive or controlling and is reasonably likely to cause harm to the victim-survivor, with both defining 'course of conduct' in similar terms, through the proposed s.7(4) and s.8(5). I question, then, whether this duplication is strictly necessary and whether it may potentially be confusing for a non-legal audience, including children and young people. In my view, a simpler approach should be adopted wherever possible to ensure that all Tasmanians can readily understand what behaviour is unlawful under the FV Act.

Elements of the section 8 offence

¹⁶ [House of Representatives Standing Committee on Social Policy and Legal Affairs, Parliament of Australia, *Inquiry into Family Violence Orders* \(Final Report, 13 February 2025\).](#)

¹⁷ [House of Representatives Standing Committee on Social Policy and Legal Affairs, Parliament of Australia, *Inquiry into Family Violence Orders* \(Final Report, 13 February 2025\).](#)

¹⁸ [Royal Commission into Domestic, Family and Sexual Violence, *With Courage: South Australia's Vision Beyond Violence* \(Report, South Australia, August 2025\).](#)

¹⁹ [Commissioner for Children and Young People \(Tas\), Submission to the Department of Justice \(Tas\), *Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper* \(31 March 2026\).](#)

²⁰ [Commissioner for Children and Young People \(Tas\), Submission to the Department of Justice \(Tas\), *Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper* \(31 March 2026\).](#)

²¹ [Commissioner for Children and Young People \(Tas\), Submission to the Department of Justice \(Tas\), *Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper* \(31 March 2026\).](#)

Focusing on the more comprehensive provision in clause 8, the intention threshold in the proposed s.8(2)(a) is that a person using violence must have known or ought to have known that the behaviour would have a coercive or controlling impact. I recognise that s.8 likely adopts this wording to avoid having to prove that an accused person clearly *intended* the course of conduct to coerce or control,²² which may be difficult when a different motivation is alleged, such as care and concern for their family member. Indeed, as highlighted by former Interim Commissioner Crompton, young people in a 'significant relationship' may act in coercive ways, including through the use of relational isolation, more out of jealousy and insecurity than an intent to harm.²³ However, the impact on the victim-survivor's rights and wellbeing is not diminished just because their partner considered the conduct to be a 'sign of love'.²⁴

As such, while I appreciate the likely reason for lowering the intention threshold, the approach taken has nonetheless resulted in a very complex and convoluted provision. Under the proposed s.8, it would not be enough to prove that the person using violence knew or ought to have known that their behaviour would have a coercive or controlling impact, one would also need to prove that a reasonable person would consider such an impact likely, and that a reasonable person would also consider the behaviour likely to cause harm or fear of harm. Noting that young people in a 'significant relationship' are already covered by the FV Act, including children between the ages of 16 and 18, this complex formulation may make it difficult for them to understand and assert their legal rights.

More specifically, regarding the second requirement listed above, I question whether reference to a reasonable person's views in s.8(2)(b) is strictly necessary, particularly given the reference to what a person using violence 'ought' to have known in s.8(2)(a), which presumably refers to what they should know when functioning as a reasonable person. Western Australia, unlike NSW and Queensland,²⁵ avoids the need to prove an intention to coerce, but their provision on coercive patterns of behaviour is framed in very straightforward terms, simply requiring more than one act, or a series of acts, that when considered cumulatively coerces or controls the family member or causes the member to be fearful.²⁶ Of course, the victim-survivor in Western Australia must, in fact, be coerced, controlled or made to be fearful. Similarly, the Northern Territory does not require an intention to coerce but does require the victim-survivor to fear for their own or another person's safety, and for some other form of harm to result.²⁷

Requiring a coercive or controlling impact

In contrast to the straightforward wording in Western Australia and the Northern Territory, it is not entirely clear from the proposed s.8 whether a coercive or controlling impact must in fact result. The proposed s.8(4) confirms that the 'harm' referred to in s.8(2)(c) need not eventuate, but it does not clarify whether an actual 'coercive or controlling impact', referred to in s.8(2)(a), is required.²⁸ In my view, it would be appropriate to require an actual 'coercive or controlling impact' but only if the proposed definition in s.8(1) is reframed. That is, the definition currently focuses solely on some form of 'restriction' on the victim-survivor.

²² I note that the threshold of 'intended to coerce' is found in the [Criminal Code Act 1899 \(Qld\) s.334C\(1\)\(c\)](#) and the [Crimes Act 1900 \(NSW\) s.54D\(1\)\(c\)](#). This contrasts to [s.5A\(1A\) of the Restraining Orders Act 1997 \(WA\)](#) introduced in 2024 through the [Family Violence Reform Act 2024 \(WA\)](#).

²³ [Commissioner for Children and Young People \(Tas\), Submission to the Department of Justice \(Tas\), Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper \(31 March 2026\)](#).

²⁴ [Carmel Hobbs, Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania \(Report for Anglicare Social Action Research Centre, November 2022\)](#).

²⁵ [Crimes Act 1900 \(NSW\) s.54D\(1\)\(c\)](#); [Criminal Code Act 1899 \(Qld\) s.334C\(1\)\(c\)](#); [Restraining Orders Act 1997 \(WA\) s.5A\(1A\)](#).

²⁶ [Restraining Orders Act 1997 \(WA\) s.5A\(1A\)\(b\)](#).

²⁷ [Domestic and Family Violence Act 2007 \(NT\) s.5B\(1\)\(a\)-\(e\)](#).

²⁸ I note the wording used is 'would have a coercive or controlling impact' not 'would *likely* have a coercive or controlling impact'.

Consideration should be given to whether coercive or controlling conduct is always restrictive. The inclusion of alternative impacts, such as being frightened or humiliated,²⁹ would account for the fact that a victim-survivor may resist a person's attempts to restrict and control their life, while recognising that doing so will invariably be frightening and may increase the risk of other harm. For example, a young person in a significant relationship may consistently be instructed by their partner to keep them informed of their whereabouts and who they spend time with, but the victim-survivor may dare to refuse these limitations.

Establishing a 'course of conduct'

Regarding the requirements to establish a 'course of conduct', outlined in the proposed s.7(4) and s.8(5), I note that the wording is very similar to s.54G(2) of the *Crimes Act 1900* (NSW). However, the wording in the Bill seems to have resulted in the opposite meaning. In the NSW provision, the behaviours do not have to occur in immediate succession or be an unbroken series of incidents. In contrast, the Bill suggests that the series of incidents must not occur in immediate succession or form an unbroken series. While this may simply be a drafting error, it is nonetheless worth highlighting that coercive conduct is often intermittent. Lynch et al note that '[u]npredictability and incongruent kindness are key patterns of coercive control'.³⁰ Indeed, '[d]eprivation as a technique used to control is most effective when not constant and victims experience reprieve or the illusion of safety or connection that is then unpredictably rescinded'.³¹ The wording in clauses 7 and 8 should be revised to account for this reality.

Behaviours that make up a coercive or controlling course of conduct

After the proposed s.8(5), a non-exhaustive list of behaviours that may comprise a coercive or controlling course of conduct is provided in s.8(6). As a drafting issue, I firstly note that paragraphs (m) and (n) cover conduct that already seems to be covered by paragraph (a).³² Similarly, noting that emotional or psychological abuse will be covered by paragraph (a), there may be overlap with the proposed paragraph (g), which refers to 'frightening, humiliating, degrading or punishing the spouse or partner'. In my view, this duplication has the potential to cause confusion and may hinder the application of the law in practice.

Consideration should be given to whether it would be preferable for some (or potentially all) of the behaviours listed in paragraphs (b) to (l) of the proposed s.8(6) to be incorporated into the definition of 'family violence' itself in s.7. In particular, it would be appropriate to include in s.7 a reference to unauthorised or unreasonable surveillance including through the use of technology, noting that other jurisdictions tend to incorporate the concepts of monitoring or surveillance, or technology-mediated abuse, into the definition of 'family violence'.³³ This issue is especially relevant to young people in a 'significant relationship'. As the eSafety Commissioner has highlighted, young people are 'especially vulnerable' to technology-mediated abuse and may even be unaware that their rights are being violated as digital abuse is 'often invisible'.³⁴ With this in mind, and in line with recommendations made by former Interim Commissioner Crompton, additional behaviours, including harmful use of or interference with technology, relational isolation, and systems abuse, should be legally recognised as forms of 'family violence' in Tasmania.³⁵

²⁹ [Restraining Orders Act 1997 \(WA\) s.5A\(1A\)\(b\)](#); [Domestic and Family Violence Act 2007 \(NT\) s.5B\(1\)\(e\)](#).

³⁰ [Johanna M Lynch et al, 'Coercive Control: Recognising Relational Patterns that Affect Patient Wellbeing' \(2025\) 54\(12\) Australian Journal of General Practice 855.](#)

³¹ [Johanna M Lynch et al, 'Coercive Control: Recognising Relational Patterns that Affect Patient Wellbeing' \(2025\) 54\(12\) Australian Journal of General Practice 855.](#)

³² Since the conduct in (m) and (n) features (or will feature following the amendments) in s.7(1)(a)-(f).

³³ [Crimes \(Domestic and Personal Violence\) Act 2007 \(NSW\) s.6A\(2\)\(g\)](#); [Domestic and Family Violence Protection Act 2012 \(Qld\) s.8\(3\)\(h\)](#); [Family Violence Act 2016 \(ACT\) s.8\(2\)\(f\)](#); [Restraining Orders Act 1997 \(WA\) s.5A\(2\)\(c\)](#).

³⁴ [eSafety Commissioner, When Love Becomes Control \(Online article, 15 May 2025\).](#)

³⁵ [Commissioner for Children and Young People \(Tas\), Submission to the Department of Justice \(Tas\), Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper \(31 March 2026\), Recommendations 9, 12 and 18.](#)

Review of coercive control provisions

Finally, to ensure that the proposed s.8 is meeting its intended purpose, and to identify any issues or unintended consequences, the Bill should require an initial review of the operation of ss.8 and 9 after two years. The review should assess, among other things, the suitability of the limitation period in the proposed s.9 and identify the proportion of incidents where police misidentify the person most in need of protection when pressing charges under s.8. Moreover, implementation of the new provision should be informed by lessons learnt in other jurisdictions.³⁶

Choking, suffocation or strangulation

Sexual strangulation

The proposed changes to the offence in s.170B of the *Criminal Code Act 1924* (Criminal Code), which relate to choking, suffocation or strangulation (hereinafter 'strangulation'), are highly relevant to young people, as research shows significant rates of strangulation as part of young people's sexual activity.³⁷ Noting, however, that the proposed s.170B is not limited to sexual strangulation and that different considerations come into play regarding consent in the context of sexual activity compared to non-sexual contexts, it may be preferable to draft separate provisions to account for these differences.

Research shows that consent to sexual strangulation is a complex issue and '[a]ffirmative consent is incredibly hard to achieve in these contexts'.³⁸ Yet, sexual strangulation is becoming increasingly common among young people. A 2024 survey of Australians aged 18 to 35 found that 57 per cent reported ever being sexually strangled and 51 per cent reported ever strangling a partner.³⁹ Increasing rates of sexual strangulation have been associated with the normalisation of this activity in online pornography,⁴⁰ which young people may engage with intentionally or unintentionally.⁴¹ However, there is a lack of awareness among young people of the dangers associated with sexual strangulation.⁴² While more serious risks can include brain injury and death,⁴³ strangulation can also

³⁶ [Department of Communities and Justice \(NSW\), *Crimes Legislation Amendment \(Coercive Control\) Act 2022* \(Statutory Report, 1 July 2026\); Charlotte Barlow and Sandra Walklate, 'Learning Lessons from the Criminalisation of Coercive and Controlling Behaviour Ten Years On: The Implementation Journey in England and Wales \(2025\) 14\(4\) *International Journal for Crime, Justice and Social Democracy*.](#)

³⁷ [Carmel Hobbs, *Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania* \(Report for Anglicare Social Action Research Centre, November 2022\); Leah S Sharman, Robin Fitzgerald and Heather Douglas, 'Prevalence of Sexual Strangulation/Choking Among Australian 18–35 Year-Olds' \(2025\) 54 *Archives of Sexual Behaviour* 465.](#)

³⁸ [Hannah Ferguson, 'I Was Once Ashamed to Admit I'd Been Strangled Nonconsensually During Sex. Now I'm Speaking up to Save Women's Lives', *Guardian News* \(online, 3 September 2026\).](#)

³⁹ [Leah S Sharman, Robin Fitzgerald and Heather Douglas, 'Prevalence of Sexual Strangulation/Choking Among Australian 18–35 Year-Olds' \(2025\) 54 *Archives of Sexual Behaviour* 465.](#)

⁴⁰ [Legislative Council Standing Committee on Social Issues \(NSW\), *Impacts of Harmful Pornography on Mental, Emotional, and Physical Health* \(Report No. 66, October 2025\); Isabella Conte, Leah S Sharman and Heather Douglas, 'Choking/Strangulation During Sex: Understanding and Negotiating "Safety" Among 18–35 Year Old Australians' \(2025\) 54 *Archives of Sexual Behaviour* 483.](#)

⁴¹ [Legislative Council Standing Committee on Social Issues \(NSW\), *Impacts of Harmful Pornography on Mental, Emotional, and Physical Health* \(Report No. 66, October 2025\); Isabella Conte, Leah S Sharman and Heather Douglas, 'Choking/Strangulation During Sex: Understanding and Negotiating "Safety" Among 18–35 Year Old Australians' \(2025\) 54 *Archives of Sexual Behaviour* 483.](#) Young people may unintentionally be exposed to online pornography when searching for something else online, visiting gaming sites or through unsolicited messages.

⁴² [Isabella Conte, Leah S Sharman and Heather Douglas, 'Choking/Strangulation During Sex: Understanding and Negotiating "Safety" Among 18–35 Year Old Australians' \(2025\) 54 *Archives of Sexual Behaviour* 483.](#)

⁴³ [Hannah Ferguson, 'I Was Once Ashamed to Admit I'd Been Strangled Nonconsensually During Sex. Now I'm Speaking up to Save Women's Lives', *Guardian News* \(online, 3 September 2026\).](#) Strangulation is also a known risk factor for intimate partner homicide – see [Carmel Hobbs, *Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania* \(Report for Anglicare Social Action Research Centre, November 2022\).](#)

cause other injuries which may go unnoticed until much later.⁴⁴ Online pornography, however, downplays the risks associated with sexual strangulation, typically portraying it as normal and safe.⁴⁵ These risks are not only minimised but often romanticised.⁴⁶

The damaging impacts of violent pornography, including its influence on the prevalence of sexual strangulation, were clearly outlined in a recent report by the NSW Legislative Council Standing Committee on Social Issues.⁴⁷ This report suggested, in line with recommendations made following a review of the *Online Safety Act 2021* (Cth), that the NSW Government work with the Commonwealth to ‘classify and restrict sexually explicit material that includes violent and seriously injurious practices, such as choking, in the same manner as other illegal and seriously harmful online material’.⁴⁸ The report also recommended education measures to teach young people about pornography and its impacts.⁴⁹

Given that the amendments to s.170B of the Criminal Code propose to lower the intention threshold to cover reckless as well as intentional conduct (an issue discussed in more detail below), this may increase the risk of criminalising young people for conduct they have been led to believe is reasonably safe. With this in mind, consideration should be given to the highly nuanced approach to sexual strangulation in Victoria under the *Crimes Act 1958* (Vic). Like other jurisdictions,⁵⁰ Victoria’s Act includes two separate strangulation provisions – a less serious offence of ‘non-fatal strangulation’ and a more serious offence of ‘non-fatal strangulation intentionally causing injury’. For the more serious offence, where a person intends to cause injury and does in fact cause injury, consent is no defence.⁵¹ However, for the less serious offence, which does not require an injury or an intention to cause injury, a defence of consent to strangulation during sexual activity may only be relied on if it meets the requirements in ss. 34AF to 34AK of the *Crimes Act 1958* (Vic).

A similar approach was recently proposed by the Queensland Law Reform Commission (QLRC) which recommended changes to the *Criminal Code Act 1899* (Qld) to incorporate a defence of affirmative consent where non-fatal strangulation occurs in a sexual context.⁵² The QLRC specified that the consent defence should not be available for strangulation that occurs outside sexual contexts and that the defence should require free and voluntary agreement. In addition, the QLRC recommended that a rebuttable presumption should apply to all sexual offences, which states that ‘complete or partial restriction of the person’s respiration and/or blood circulation is evidence of lack of consent’. It would then be for the defence to prove that consent was nonetheless provided.

Noting that s.2A of Tasmania’s Criminal Code provides a definition of ‘consent’ based on the ‘affirmative consent’ model, consideration should nonetheless be given to issues recently raised by the Australian Law Reform Commission⁵³ when framing a consent defence for the purposes of

⁴⁴ [Isabella Conte, Leah S Sharman and Heather Douglas, ‘Choking/Strangulation During Sex: Understanding and Negotiating “Safety” Among 18–35 Year Old Australians’ \(2025\) 54 Archives of Sexual Behaviour 483; Victorian Law Reform Commission, *Recklessness Report* \(Final Report, February 2024\).](#)

⁴⁵ [Isabella Conte, Leah S Sharman and Heather Douglas, ‘Choking/Strangulation During Sex: Understanding and Negotiating “Safety” Among 18–35 Year Old Australians’ \(2025\) 54 Archives of Sexual Behaviour 483.](#)

⁴⁶ [Isabella Conte, Leah S Sharman and Heather Douglas, ‘Choking/Strangulation During Sex: Understanding and Negotiating “Safety” Among 18–35 Year Old Australians’ \(2025\) 54 Archives of Sexual Behaviour 483.](#)

⁴⁷ [Legislative Council Standing Committee on Social Issues \(NSW\), *Impacts of Harmful Pornography on Mental, Emotional, and Physical Health* \(Report No. 66, October 2025\).](#)

⁴⁸ [Legislative Council Standing Committee on Social Issues \(NSW\), *Impacts of Harmful Pornography on Mental, Emotional, and Physical Health* \(Report No. 66, October 2025\), Recommendation 16.](#)

⁴⁹ [Legislative Council Standing Committee on Social Issues \(NSW\), *Impacts of Harmful Pornography on Mental, Emotional, and Physical Health* \(Report No. 66, October 2025\), Recommendations 9 and 11.](#)

⁵⁰ [Crimes Act 1958 \(Vic\); Crimes Act 1900 \(ACT\); Crimes Act 1900 \(NSW\); Criminal Law Consolidation Act 1935 \(SA\).](#)

⁵¹ [Crimes Act 1958 \(Vic\) s.34AD\(2\).](#)

⁵² [Queensland Law Reform Commission, *Non-fatal Strangulation, Section 315A Review – Education, Accountability and Support: Improving Queensland’s Response to Non-fatal Strangulation* \(Final Report, September 2025\) Recommendation 2\(d\).](#)

⁵³ [Australian Law Reform Commission, *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence* \(ALRC Report 143, January 2025\).](#)

sexual strangulation. Moreover, careful consideration should be given to how sexual strangulation provisions would apply to young people, and the approach taken should align with a child rights-based approach and Tasmania's *Harmful Sexual Behaviours Framework*.⁵⁴ Legislative amendments should be accompanied by a range of prevention and education measures, such as those recommended by the NSW Legislative Council Standing Committee on Social Issues,⁵⁵ and consideration should be given to incorporating a statutory requirement to obtain approval of the Director of Public Prosecutions before instituting proceedings against a person under the age of 18 for a sexual strangulation offence.⁵⁶

Non-sexual strangulation

Noting that the proposed s.170B of the Criminal Code is not limited to sexual strangulation, it is important to remember that the lower threshold of recklessness would also apply to children as young as 10 engaged in non-sexual activity.⁵⁷

With this in mind, I have a number of concerns related to the definition of 'chokes, suffocates or strangles' in the proposed s.170B(2), which lists various options in paragraphs (a) to (e), each of which may satisfy the definition in and of itself. Considering the first standalone option in paragraph (a), it seems that a person would commit an offence if they unlawfully applied *any* pressure to *any* extent to a person's neck, where this action was performed either intentionally *or* recklessly. Applying the standard of recklessness to performance of the action itself (instead of applying it to the potential for harm) is a very low threshold and may have unintended consequences. Indeed, under current arrangements, a child as young as ten could conceivably be found guilty of such an offence despite having little or no meaningful understanding of the nature of the act or the potential harm arising from it. Such a perverse outcome is difficult to reconcile with a child's rights approach which recognises children's evolving capacities and entitlement to special safeguards within the justice system.

While there is reference to the somewhat ambiguous term 'unlawfully', it should be clearer that the provision does not apply, for instance, where children or young people are playing sports or roughhousing and recklessly apply pressure to someone's neck area. While Queensland does not use the standard of recklessness in its strangulation provision,⁵⁸ the QLRC recently discussed the need to consider strangulation in sports-related scenarios, and recommended amendments to Queensland's legislation to clarify that the strangulation offence does not apply where a person is engaged in a socially acceptable activity, such as a sporting activity (provided the conduct is reasonable in the circumstances).⁵⁹ The QLRC specifically mentioned martial arts which 'involve intentional use of certain chokeholds'.

In contrast to paragraph (a) in the proposed s.170B(2) of the Criminal Code, paragraphs (b) to (e) each refer to specific detrimental impacts on a victim-survivor. This focus on actual harm aligns with

⁵⁴ [Department of Premier and Cabinet \(Tas\), *Understanding Children and Young People's Sexual Behaviours: Tasmania's Harmful Sexual Behaviours Framework* \(2026\).](#)

⁵⁵ [Legislative Council Standing Committee on Social Issues \(NSW\), *Impacts of Harmful Pornography on Mental, Emotional, and Physical Health* \(Report No. 66, October 2025\).](#)

⁵⁶ I acknowledge the guidance at 2.4 of the [Director of Public Prosecutions \(Tas\), *Prosecution Policy and Guidelines* \(31 July 2026\)](#), but suggest consideration be given to s.91G(6) and s.91H(3) of the [Crimes Act 1900 \(NSW\)](#) which require DPP approval before instituting proceedings against a child for specified child abuse material offences, since the application of child abuse offences to children themselves is fraught.

⁵⁷ Notwithstanding the Tasmanian Government's commitment to raise the minimum age of criminal responsibility to 14, and the pending review of the *Youth Justice Act 1997* (Tas).

⁵⁸ [Criminal Code Act 1899 \(Qld\) s.315A.](#)

⁵⁹ [Queensland Law Reform Commission, *Non-fatal Strangulation, Section 315A Review – Education, Accountability and Support: Improving Queensland's Response to Non-fatal Strangulation* \(Final Report, September 2025\) Recommendation 4.](#)

the more serious strangulation offences in jurisdictions that adopt a tiered approach.⁶⁰ In revising Tasmania's strangulation offence, consideration should be given to the approaches in Victoria, the ACT and South Australia.

As noted earlier, Victoria has separate provisions for 'non-fatal strangulation' and 'non-fatal strangulation intentionally causing injury', however both provisions require that the person using violence explicitly *intended* to perform the action itself.⁶¹ Notably, the definition of 'chokes, suffocates or strangles' in Victoria includes, among other things, pressure to the front or sides of a person's neck.⁶² However, the less serious offence does not require actual harm,⁶³ which means, for example, that a person who intentionally and unlawfully applies pressure to the front or sides of a family member's neck (where 'family member' is broadly defined)⁶⁴ may be caught by the provision.

Similarly, there are two offences in the ACT which cover 'acts endangering health' and 'acts endangering life' but, like Victoria, the person must *intend* to perform the action itself in both cases.⁶⁵ While the lesser offences in the ACT and Victoria, like other jurisdictions that adopt a tiered approach,⁶⁶ do not require actual harm, this may be appropriate considering the connection between non-fatal strangulation and intimate partner homicide and the challenges associated with proving harm following strangulation.⁶⁷

In light of the above, the proposed s.170B should be revised so that it only applies where a person intended to perform the action itself, not where they recklessly applied pressure to a person's neck. However, noting the challenges associated with proving harm, it may be worth including in paragraph (a) of the definition of 'chokes, suffocates or strangles', a reference to applying pressure that is *capable of* affecting breathing or the flow of blood to the head. A similar approach has been adopted in South Australia,⁶⁸ and was recently recommended by the QLRC, which clarified that 'capable of' would refer to conduct that has 'a realistic possibility of restricting a person's respiration and/or blood circulation'.⁶⁹ That is to say, the conduct would not need to be 'likely to' restrict respiration or circulation.⁷⁰

Finally, mindful of the two tiers of offences in other jurisdictions, I note that clause 17 of the Bill proposes to introduce a summary offence of strangulation into the *Police Offences Act 1935* (Tas) in addition to s.170B of the Criminal Code. My concern, however, is that the proposed summary offence uses the exact same wording as the proposed indictable offence, making it unclear how these two offences will be distinguished. Further detail is needed on the criteria that police will use

⁶⁰ [Crimes Act 1958 \(Vic\) s.34AD](#) requires 'injury'; [Crimes Act 1900 \(ACT\) s.27\(3\)](#) requires a person be rendered 'insensible or unconscious'; [Crimes Act 1900 \(NSW\) s.37\(1\)](#) requires recklessness regarding whether a person will be rendered insensible or unconscious; [Criminal Law Consolidation Act 1935 \(SA\) s.20A\(a1\)](#) requires harm such that a person is rendered unconscious.

⁶¹ While Victoria's provisions only apply where the victim-survivor is a 'family member', this term is broadly defined in s.8 of the [Family Violence Protection Act 2008 \(Vic\)](#). Similarly, in South Australia, the provisions apply in a 'domestic context'.

⁶² [Crimes Act 1958 \(Vic\) s.34AB\(1\)](#).

⁶³ [Crimes Act 1958 \(Vic\) s.34AE](#).

⁶⁴ [Crimes Act 1958 \(Vic\) s.34AB\(1\)](#). This provision adopts the definition in s.8 of the [Family Violence Protection Act 2008 \(Vic\)](#) which includes, among others, someone with whom the person using violence is currently or was previously in an 'intimate personal relationship'.

⁶⁵ [Crimes Act 1900 \(ACT\) ss.27\(3\)\(a\) and s.28\(2\)](#).

⁶⁶ [Crimes Act 1900 \(NSW\) s.37\(1A\)](#); [Criminal Law Consolidation Act 1935 \(SA\) s.20A\(1\)](#).

⁶⁷ [Carmel Hobbs, Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania \(Report for Anglicare Social Action Research Centre, November 2022\)](#).

⁶⁸ [Criminal Law Consolidation Act 1935 \(SA\) s.20A\(4\)](#).

⁶⁹ [Queensland Law Reform Commission, Non-fatal Strangulation, Section 315A Review – Education, Accountability and Support: Improving Queensland's Response to Non-fatal Strangulation \(Final Report, September 2025\) Recommendation 2](#).

⁷⁰ [Queensland Law Reform Commission, Non-fatal Strangulation, Section 315A Review – Education, Accountability and Support: Improving Queensland's Response to Non-fatal Strangulation \(Final Report, September 2025\) Recommendation 2](#).

to determine which offence should apply, and a review should be conducted to scrutinise how police are screening for strangulation and what forensic processes are used to determine whether strangulation occurred (and what harm, in any, occurred). Education, training and procedural changes should be implemented where issues are identified following this review.

Jury directions

Regarding the proposed s.371B of the Criminal Code in clause 4 of the Bill, I have some concerns about how this provision would apply in practice alongside the current s.371A. Noting that there is, at present, no proposal to recognise children as victim-survivors of family violence in their own right, the limited application of the proposed s.371B to trials where the accused is charged with a 'family violence offence' suggests that the additional jury directions under s.371B would not be available in cases of alleged child sexual abuse even where this occurs in a family context. This contrasts to the jury directions under the current s.371A which *must* be given where there is evidence of delay or absence of a complaint in proceedings related to 'family violence' as well as other specified Criminal Code offences, including child sexual abuse offences in Chapter XIV and offences in Chapter XX.

Firstly, consideration should be given to whether the proposed directions in s.371B(4) should also be available in proceedings related to Chapter XIV and Chapter XX crimes, including child sexual abuse. Indeed, even where the definition of 'family violence' is expanded to recognise children as victim-survivors in their own right, the limited application of the proposed s.371B to 'family violence' proceedings would mean that where child sexual abuse has allegedly occurred outside a family context, the jury directions would not be available. Secondly, consideration should be given to making the proposed directions mandatory, as they are under the current s.371A of the Criminal Code. And, finally, consideration should be given to whether it would be more straightforward to simply amend s.371A to expand the jury directions under this section, instead of introducing a completely new provision.

Recommendations

Recommendation 1:

Develop and consult on a comprehensive family violence reform roadmap, which outlines the amendments being considered for each stage of the reform, how the various stages will relate to one another, the rationale for their sequencing, and how they connect to priorities identified by the sector.

Recommendation 2:

Ensure that the family violence reform roadmap prioritises, as a matter of urgency, amending the definition of 'family violence' so that children are legally recognised as victim-survivors of family violence in their own right.

Recommendation 3:

Identify how the capacity and capability of Tasmania's family violence sector will need to be expanded to deliver an appropriate therapeutic response for child victim-survivors of family violence and carefully plan, in consultation with the sector, how to roll out child-centred family violence services.

Recommendation 4:

Revise the definition of 'economic abuse' in clause 6 of the Bill by replacing the word 'includes' with the phrase 'includes but is not limited to', to clarify that the list of behaviours in paragraphs (a) to (i) is non-exhaustive.

Recommendation 5:

Revise the definition of 'emotional or psychological abuse' in clause 6 to make it clear that the term 'serious' does not apply to 'mental harm'.

Recommendation 6:

Give due consideration to advice of previous Commissioners, which recommended that legislative amendments be progressed to require Tasmanian courts making or varying an FVO to consider

varying parenting orders (as they are authorised to do under s.68R of the FLA) in line with recommendations in the Commonwealth *Inquiry into Family Violence Orders*.⁷¹

Provide additional training and capacity-building so that Tasmanian Magistrates are comfortable amending s.68R orders.

Recommendation 7:

Consider whether the duplication in the proposed s.7(3)-(4) and s.8 of the FV Act (provisions which relate to a coercive or controlling course of conduct) is strictly necessary and/or potentially confusing for a non-legal audience, including children and young people.

Recommendation 8:

Revise and simplify the coercive control provision in clause 8, including by:

- removing the reasonable persons test in s.8(2)(b);
- amending the definition of 'coercive or controlling impact' to capture forms of harm beyond the specified list of 'restrictions', such as 'fear';
- clarifying that a 'coercive or controlling impact' is, in fact, required;
- removing the requirement that some other form of harm or fear of harm be likely;
- making it clear that behaviours constituting a 'course of conduct' do *not* have to occur in immediate succession or form an unbroken series; and
- revising the non-exhaustive list of behaviours in the proposed s.8(6) to avoid duplication (including, for example, by removing multiple references to 'economic abuse' and 'emotional or psychological abuse').

Recommendation 9:

Consider incorporating some (or potentially all) of the behaviours in paragraphs (b) to (l) of the proposed s.8(6) into the definition of 'family violence' itself in s.7, particularly:

- unauthorised or unreasonable surveillance, including through the use of technology;
- harmful use of, or interference with, technology or digital systems; and
- isolation from friends, relatives or other sources of support.

Recommendation 10:

Incorporate a statutory requirement for an initial review of the operation of ss.8 to 9 of the FV Act after two years to assess, among other things, the suitability of the limitation period for the coercive control offence and the extent to which the person most in need of protection is being misidentified.

Recommendation 11:

Include specialised consent provisions in the Criminal Code, which would only apply to strangulation during sexual activity. In drafting provisions, consider the approach in the *Crimes Act 1958* (Vic) and recent recommendations of the QLRC.⁷²

Recommendation 12:

Ensure that offence provisions related to sexual strangulation among young people align with a child rights-based approach and Tasmania's *Harmful Sexual Behaviours Framework*.

Recommendation 13:

In consultation with key stakeholders, develop and roll out a range of prevention and education measures that specifically address the harmful impacts of violent pornography and misconceptions about the safety of strangulation during sexual activity.

Recommendation 14:

⁷¹ [House of Representatives Standing Committee on Social Policy and Legal Affairs, Parliament of Australia, *Inquiry into Family Violence Orders* \(Final Report, 13 February 2025\).](#)

⁷² [Queensland Law Reform Commission, *Non-fatal Strangulation, Section 315A Review – Education, Accountability and Support: Improving Queensland's Response to Non-fatal Strangulation* \(Final Report, September 2025\) Recommendation 2.](#)

Work with the Commonwealth Government to classify and restrict sexually explicit material that includes violent and seriously injurious practices, such as choking, in the same manner as other illegal and seriously harmful online material, in line with interstate recommendations.⁷³

Recommendation 15:

Consider incorporating a statutory requirement to obtain the approval of the Director of Public Prosecutions before instituting proceedings against a person under 18 years for a sexual strangulation offence.⁷⁴

Recommendation 16:

Amend the proposed s.170B of the Criminal Code to ensure that the standard of 'recklessness' does not apply in relation to performing the action of strangulation itself. The intention threshold for the action itself should be clearly distinguished from the intention threshold for the consequences of the action. The former should require an explicit intention to perform the action.

Recommendation 17:

Consider adopting the QLRC's recent recommendation to clarify that the strangulation offence does not apply where a person is engaged in a socially acceptable activity, such as a sporting activity (provided the conduct is reasonable in the circumstances).⁷⁵

Recommendation 18:

Consider incorporating a tiered approach to strangulation offences into the Criminal Code in line with other jurisdictions, with a more serious offence requiring an unlawful and intentional action that results in harm, and a less serious offence which requires an unlawful and intentional action without requiring harm,⁷⁶ such as an action that is 'capable of' restricting respiration or blood flow to the head,⁷⁷ as recently recommended by the QLRC.⁷⁸

Recommendation 19:

If the indicatable and summary strangulation offences in clauses 4 and 17 of the Bill are retained, instead of adopting a tiered approach to strangulation in the Criminal Code itself, revise the proposed amendments to make it clearer how these two offences will be distinguished in practice.

Recommendation 20:

Conduct a review to scrutinise how police are screening for strangulation and what forensic processes are used to determine whether strangulation occurred (and what harm, in any, occurred). Implement appropriate education, training and procedural changes to address identified issues.

Recommendation 21:

Consider whether jury directions in the proposed s.371B(4) of the Criminal Code should also be available in proceedings related to sexual crimes, including sexual abuse of a child (noting children are generally not recognised as victim-survivors under the FV Act).

Recommendation 22:

⁷³ [Legislative Council Standing Committee on Social Issues \(NSW\), *Impacts of Harmful Pornography on Mental, Emotional, and Physical Health* \(Report No. 66, October 2025\).](#)

⁷⁴ I acknowledge the guidance at 2.4 of the [Director of Public Prosecutions \(Tas\), *Prosecution Policy and Guidelines* \(31 July 2026\)](#), but suggest consideration be given to s.91G(6) and s.91H(3) of the [Crimes Act 1900 \(NSW\)](#) which require DPP approval before instituting proceedings against a child for specified child abuse material offences, since the application of child abuse offences to children themselves is fraught.

⁷⁵ [Queensland Law Reform Commission, *Non-fatal Strangulation, Section 315A Review – Education, Accountability and Support: Improving Queensland's Response to Non-fatal Strangulation* \(Final Report, September 2025\) Recommendation 4.](#)

⁷⁶ [Crimes Act 1958 \(Vic\) s.34AD](#) requires 'injury'; [Crimes Act 1900 \(ACT\) s.27\(3\)](#) requires a person be rendered 'insensible or unconscious'; [Crimes Act 1900 \(NSW\) s.37\(1\)](#) requires recklessness regarding whether a person will be rendered insensible or unconscious; [Criminal Law Consolidation Act 1935 \(SA\) s.20A\(a1\)](#) requires harm such that a person is rendered unconscious.

⁷⁷ [Criminal Law Consolidation Act 1935 \(SA\) s.20A\(4\).](#)

⁷⁸ [Queensland Law Reform Commission, *Non-fatal Strangulation, Section 315A Review – Education, Accountability and Support: Improving Queensland's Response to Non-fatal Strangulation* \(Final Report, September 2025\) Recommendation 2.](#)

Consider making s.371B directions mandatory or incorporating the proposed changes in clause 17 into the current s.371A of the Criminal Code to avoid potential confusion that may result from two partially overlapping provisions.

Concluding statement

I am mindful that the significant changes currently underway within the Commission for Children and Young People have constrained our capacity to engage directly with children and young people in the preparation of this submission. The importance of hearing directly from children and young people about family violence is not new to the Commission. Earlier work of this Office⁷⁹ provides an important foundation for recognising and elevating children's perspectives in discussions about family violence.

As reflected throughout this submission, children and young people experience family violence in their own right, not merely as witnesses or bystanders to violence experienced by others. Their experiences, needs and views must therefore be understood in their own right. It is critical that meaningful engagement with children and young people informs the design, implementation and ongoing evaluation of the recommended family violence reform roadmap. Their voices should not simply inform the development of reform at a single point in time but continue to shape decisions about the systems and services intended to support their safety, recovery and wellbeing.

Thank you again for the opportunity to provide feedback on the Bill. Should you have any questions about the feedback provided, you are welcome to contact this Office for more detail.

Yours sincerely,



Sonya Pringle-Jones

Commissioner for Children and Young People

cc: The Hon Guy Barnett MP, Attorney-General

cc: The Hon Jo Palmer MLC, Minister for Women and the Prevention of Family and Sexual Violence, Minister for Children and Youth

⁷⁹ See for example [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* \(Report, Tasmania, 2016\).](#)