

COMMUNITY LEGAL CENTRES TASMANIA

2 June 2025

Department of Justice
Office of the Secretary
GPO Box 825
Hobart TAS 7001

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

To the Department of Justice,

Re: *Family Violence (Miscellaneous Reforms) Bill 2025*

Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to provide comment on the *Family Violence (Miscellaneous Reforms) Bill 2025*.¹

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located throughout Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

Section 14 of the *Family Violence Act 2004* (Tas) allows police officers of the rank of sergeant or above, or authorised by the Commissioner of Police, to make a Police Family Violence Order (PFVO) if the police officer is satisfied that the person has committed, or is likely to commit, a Family Violence offence. The powers granted under a PFVO are significant including the person having to vacate their home.²

Currently, a PFVO is only able to be varied by a police officer with the rank of inspector or above where the affected person and the person against whom it is made consent to variation, and the variation will not adversely affect the safety and interests of the affected person or any affected child.³ In circumstances where one of the parties does not consent, the order can only be varied or revoked after a court hearing.⁴

Misidentification

Misidentification occurs when a victim-survivor is inaccurately assessed as the predominant aggressor in a family violence situation. Misidentification is particularly significant in Tasmania because Police Family Violence Orders are able to be in place for up to 12 months,⁵ compared to other States and Territories “where the notices are temporary, with most

¹ CLC Tas would like to acknowledge those persons and organisations who gave freely of their time in assisting with our submission.

² Section 14(3)(a) of the *Family Violence Act 2004* (Tas).

³ Section 14(7) of the *Family Violence Act 2004* (Tas).

⁴ Section 14(9) of the *Family Violence Act 2004* (Tas).

⁵ Section 14(6) of the *Family Violence Act 2004* (Tas).

ranging from 24 hours to 28 days (except in New South Wales and the Northern Territory where notices are in place until the case is heard in court)".⁶ Misidentification absolves the genuine perpetrator of responsibility and can also have serious consequences for the victim-survivor including criminal charges being laid, children being removed, a denial of employment or education opportunities and lost reputation.⁷ It is also worth noting that the issuing of PFVOs may increase as a result of recent amendments made at a commonwealth level. These amendments, which come into effect from June 2025, will more clearly recognise economic and financial abuse as family violence.⁸

In December 2022, Engender Equality released a discussion paper entitled 'Misidentification of the Predominant Aggressor in Tasmania'.⁹ The report cited research from the Women's Legal Service in Victoria which found that one in ten women who were victim-survivors had been misidentified as predominant aggressors.¹⁰ Misidentification can be attributed to a number of factors including a lack of police training, 'systems abuse' in which the perpetrator is the first to call the police leading to an assumption that they are the victim, and assessing self-defence or retaliation as family violence.¹¹

Importantly, the Engender Equality report found that one of the most significant impacts on victim-survivors in being misidentified is the loss of trust in police leading to some victim-survivors being fearful or apprehensive about calling the police for assistance.¹²

We welcome the Government's commitment to make it easier to vary or revoke a Police Family Violence Order with the proposed amendment reading:

(7) The Commissioner of Police, or a police officer of the rank of inspector or above who is authorised by the Commissioner of Police, may review a PFVO and may vary, or revoke, the PFVO if the Commissioner of Police or authorised police officer is satisfied that the variation or revocation –

(a) is in the interests of justice; and

(b) promotes the objects of the Act; and

(c) will not adversely affect the safety and interests of an affected person or affected child.

However, rather than misidentification being reviewed or revoked by a senior police officer, we endorse the Women's Legal Submission recommendation that an expert panel instead be appointed to review and revoke PFVO orders. The expert panel should be composed of

⁶ 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.

⁷ Engender Equality, 'Misidentification of the Predominant Aggressor in Tasmania' (December 2022) at 4-5.

⁸ *Family Violence Amendment Act 2024* (Cth).

⁹ Engender Equality, 'Misidentification of the Predominant Aggressor in Tasmania' (December 2022).

¹⁰ Madeleine Ulbrick and Marianne Jago, "'Officer she's psychotic and I need protection": Police misidentification of the 'primary aggressor in family violence incidents in Victoria' (Women's Legal Service Victoria: July 2018). As found at <https://womenslegal.org.au/files/file/WLSV%20Policy%20Brief%201%20MisID%20July%202018.pdf> (accessed 20 May 2025).

¹¹ 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.

¹² Engender Equality, 'Misidentification of the Predominant Aggressor in Tasmania' (December 2022) at 10.

representatives from a number of organisations including Tasmania Police, specialist family violence community service providers and the Aboriginal and CALD communities. As the WLS submission notes, “having a diversity of lens in the review process would strengthen the integrity of decision-making, decrease the errors made and avoid matters requiring judicial review before the courts”.¹³

Whilst it is important that perpetrators of family violence are correctly identified, preventing family violence is a higher priority. Sadly, the data highlights that the number of victim-survivors reporting family violence in Tasmania has increased. According to data provided by Tasmania Police, the number of reportable family violence incidents has increased by 50 per cent over the last six years, with Tasmania Police being called to 14 family violence incidents every day. Over the same time frame, family violence applications have increased by 36 per cent and breaches have increased by 22 per cent. As well, the number of Police Family Violence Orders (PFVOs) has increased by 18 per cent and breaches of PFVOs have increased by 14 per cent.

Family Violence Incidents

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
No. of Family Violence Incidents	3573	3566	3817	4042	4669	5353

Source: Department of Police, Fire and Emergency Management, *Annual Reports 2018/19 - 2023-2024*

Family Violence Order Application

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
No. of Family Violence Orders Issued	299	326	287	325	354	408

Source: Department of Police, Fire and Emergency Management, *Annual Reports 2018/19 - 2023-2024*

Breach of Family Violence Orders

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Breach of Family Violence Orders	912	956	710	809	1026	1117

Source: Department of Police, Fire and Emergency Management, *Annual Reports 2018/19 - 2023-2024*

Police Family Violence Orders Issued

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Police Family Violence Orders Issued	1845	1775	1969	1898	2095	2175

Source: Department of Police, Fire and Emergency Management, *Annual Reports 2018/19 - 2023-2024*

¹³ Women’s Legal Service Tasmania Submission on the Family Violence (Miscellaneous Reforms) Bill 2025 (May 2025).

Breach of Police Family Violence Orders

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Breach of Family Violence Orders	1011	949	847	945	945	1157

Source: Department of Police, Fire and Emergency Management, *Annual Reports 2018/19 - 2023-2024*

It would be expected that an increase in reportable family violence incidents has seen a concomitant increase in rehabilitation programs. However, the data highlights that a 50 per cent increase in reported family violence incidents over the last six years has been accompanied by a 72 per cent decline in perpetrators commencing the family violence rehabilitation programs currently offered (FVOIP + EQUIPS) and a 68 per cent reduction in completions. A failure to invest in rehabilitation means that family violence will continue to be perpetrated.

Family Violence Offender Intervention Program (FVOIP)

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Commenced	90	44	85	115	62	54
Completed	56	22	41	73	35	39

Source: Department of Justice, *Annual Reports 2021/22 - 2023-2024*

EQUIPS programs suite (including addiction, aggression, and domestic and family violence Program)

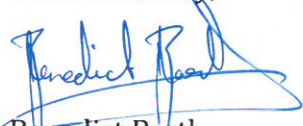
	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Commenced	181	62	97	65	52	22
Completed	102	36	60	38	29	11

Source: Department of Justice, *Annual Reports 2021/22 - 2023-2024*

We support the Government's intention to amend the *Family Violence Act 2004* (Tas) to make it easier to vary or revoke a PFVO but recommend that an expert panel be appointed instead of senior police officers solely. We also urge greater investment in addressing the causes of family violence.

If you have any queries, please do not hesitate to contact us.

Yours faithfully,



Benedict Bartl

Policy Officer

Community Legal Centres Tasmania