

**Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation
Amendment Bill 2022**

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QUEENSLAND INDIGENOUS FAMILY VIOLENCE LEGAL SERVICE

Submission to the Community Support and Services
Committee regarding the *Child Protection (Offender
Reporting and Offender Prohibition Order) and Other
Legislation Amendment Bill 2022*

17 November 2022

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The Queensland Indigenous Family Violence Legal Service (QIFVLS) Submission to the 57th Queensland Parliament Community Support and Services Committee regarding the Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Bill 2022

Executive Summary

Queensland Indigenous Family Violence Legal Service (QIFVLS) Aboriginal Corporation ('QIFVLS') welcomes the opportunity to provide submissions on the recently tabled Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Bill 2022 (the Bill).

As a member of the Coalition of Peak Aboriginal and Torres Strait Islander peak organisations (Coalition of Peaks), QIFVLS is dedicated to achieving the priority reforms and socio-economic targets outlined in the [National Agreement on Closing The Gap](#). In this context, QIFVLS is particularly dedicated to achieving Target 13 (reducing family violence against women and children by at least 50%, towards zero by 2031), in conjunction with the remaining targets and priority reforms. In that regard we support any measures which will achieve the safety of families, particularly children through legislation that underpins the child protection registry scheme and provides for the protection of the lives of children and their sexual safety.

We understand that the broad purpose of the Bill is to:

1. Provide for the protection of the lives of children and their sexual safety; and
2. Require particular offenders who commit sexual, or particular other serious offences against children to keep police informed of the offender's whereabouts and other personal details for a period of time after their release into the community.

In that regard we are broadly supportive of the proposed amendments. Of particular note is the greater clarity and specificity we have witnessed in reference to offender reporting orders and prohibition orders included in the Bill together with the proposed addition of definitions in Schedule 5 which we believe will provide greater guidance for practitioners, the public and other stakeholders who refer to the amended legislation. This is an improvement on the current provisions in the legislation in force.

Our submissions raise points for you to consider, primarily regarding the impact on Aboriginal and Torres Strait Islander peoples and communities who will be affected by the proposed amendments.

We note that Cabinet is to review Her Honour Richards DCJ's findings resulting from the Commission of Inquiry into Queensland Police Service (QPS) responses to incidences of domestic and family violence. While not directly related to our submissions, it would be remiss of us not to underline that the success of the amendments will be inextricably intertwined with efficient and culturally appropriate services provided by government agencies, including the police, when dealing with Aboriginal and Torres Strait Islander victim-survivors of family and sexual violence, including their children and families.

Summary of QIFVLS submissions

QIFVLS offers the following feedback:

- The proposed amendments provide greater clarity and specificity regarding the prescribed criteria a court must consider before making an offender reporting order and how reports must be made are an improvement on the current legislative provisions.
- As the Bill progresses, we would be interested in an explanatory memorandum which details how the proposed amendments will affect young people who are reportable offenders. Some of these young people themselves have grown up in environments characterised by family and sexual violence and may also be victim-survivors themselves.
- We would like more information regarding the impacts on remote and rural communities where a reportable offender is released there.
- We understand that section 13E of CPOROPOA provides for a report to be prepared before a court considers an offender prohibition order for a child respondent. We ask whether the legislation could specifically require that a report be prepared by an Elder or Community Justice Group or recognised person with culturally appropriate standing in circumstances where the child respondent identifies as an Aboriginal and/or Torres Strait Islander young person.

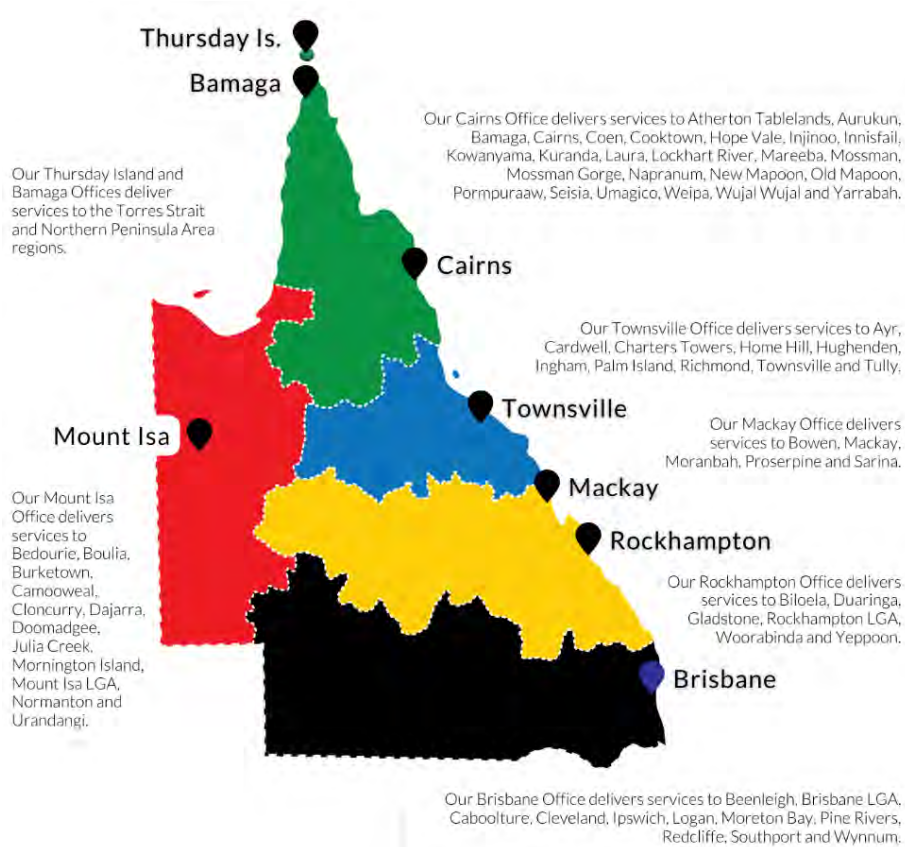
About QIFVLS

QIFVLS is a not-for-profit legal service formed under the Family Violence Prevention Legal Services Program ('FVPLSP') through the Department of Prime Minister and Cabinet's Indigenous Advancement Strategy ('IAS'). FVPLSP fills a recognised gap in access to culturally appropriate legal services for Aboriginal and Torres Strait Islander victims of family and domestic violence and sexual assault.

QIFVLS is one of fourteen (14) Family Violence Prevention Legal Services ('FVPLSs') across Australia and one of the thirteen (13) FVPLSs that are part of the National Family Violence Prevention Legal Service ('NFVPLS') Forum. We are one of two Aboriginal and Torres Strait Islander community-controlled family violence prevention legal service providers in Queensland.

QIFVLS is exclusively dedicated to providing legal and non-legal support services to assist Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault with a breadth and scope of services which stretch to the outer islands of the Torres Strait, neighbouring Papua New Guinea. Together with its legal services, QIFVLS can be distinguished from other legal assistance providers through its advantage in providing unique, specialised, culturally safe and holistic assistance from the front-end via a wrap-around model that embraces early intervention and prevention. We advocate this model in supporting access to justice and keeping victim-survivors of family violence safe.

QIFVLS services 80+ communities across Queensland including the Outer Islands of Papua New Guinea and provides services in the areas of domestic and family violence; family law; child protection; sexual assault and Victims Assist Queensland (VAQ) applications. QIFVLS supports its clients through all stages of the legal process: from legal advice to representation throughout court proceedings. In addition, QIFVLS responds and addresses our clients' non-legal needs through our integrated non-therapeutic case management process, which is addressed through the identified role of the Case Management Officer. QIFVLS as a practice, provides a holistic service response to our clients' needs: addressing legal need and addressing non-legal needs, that have in most cases, brought our clients into contact with the justice system in the first place.



As demonstrated by the above map QIFVLS is mainly an outreach service where our teams go into rural and remote communities to meet with clients. QIFVLS services over 80+ Aboriginal and Torres Strait Islander communities throughout Queensland. Recognising that Queensland is nearly five (5) times the size of Japan; seven (7) times the size of Great Britain and two and a half (2.5) times the size of Texas¹, QIFVLS has eight (8) offices in Queensland –

- (1) a service delivery office in addition to its Head Office located in Cairns, responsible for servicing Cape York communities, Cooktown; Atherton Tablelands, Innisfail and Yarrabah (and communities in between);
- (2) a service delivery office in Bamaga responsible for servicing Cape York communities as far north as Bamaga and Umagico;
- (3) a service delivery office on Thursday Island responsible for servicing communities stretching to the Outer Islands of the Torres Strait, neighbouring Papua New Guinea;
- (4) a service delivery office in Townsville responsible for servicing Townsville, Palm Island, Charters Towers, Richmond and Hughenden (and communities in between);
- (5) a service delivery office in Rockhampton responsible for servicing Rockhampton, Woorabinda, Mt Morgan, Biloela (and communities in between);
- (6) a service delivery office in Mount Isa responsible for servicing Mount Isa, the Gulf of Carpentaria communities, as far south as Bedourie and across to Julia Creek (and communities in between);
- (7) a service delivery office in Brisbane responsible for servicing the Brisbane local government area.

¹ <https://www.qld.gov.au/about/about-queensland/statistics-facts/facts>

HEAD OFFICE	FAR NORTH QLD	NORTH QLD	CENTRAL QLD	BRISBANE	GULF & WEST QLD
PO Box 4628	PO Box 4643	PO Box 2005	PO Box 690	PO Box 126	PO Box 3073
Lvl 1, Ste 5, 101-111 Spence St	Lvl 2, 101-111 Spence St	Lvl 2, 61-73 Sturt St	Lvl 2A 130 Victoria Pde	201 Wickham Tce	19 Isa St
Cairns QLD 4870	Cairns QLD 4870	Townsville QLD 4810	Rockhampton QLD 4700	Spring Hill QLD 4004	Mt Isa QLD 4825
P: 07 4045 7500	P: 07 4030 0400	P: 07 4721 0600	P: 07 4927 6453	P: 07 3839 6857	P: 07 4749 5944
F: 07 4027 1728	F: 07 4027 9430	F: 07 4764 5171	F: 07 4807 6162	F: 07 3319 6250	F: 07 4749 5955

Family violence as the cornerstone

QIFVLS' experience is that family violence is the cornerstone or intersection, that links an Aboriginal and Torres Strait Islander person's connection to the child protection system, the youth justice system, the adult criminal justice system and the family law system. These 'connectors' are further compounded or exacerbated for those living in regional, rural and remote parts of Australia, where there are restrictions on the availability of actual on the ground services to assist a victim escaping a violent relationship² (i.e., domestic violence support services and shelters; actual police presence within a community). This is why we are interested in the impacts on remote and rural communities in instances where a reportable offender is released to reside in one of these communities.

Through QIFVLS' provision of legal advice, legal casework, and non-legal supports, QIFVLS has witnessed the multi-faceted impacts of family violence daily, including the intersection between family violence, family law, child protection, and the criminal justice system. Our observations on the ground have been that instances of sexual violence towards children have taken place amidst a backdrop of family violence.

In contrast to siloed government responses, QIFVLS advocates for uniform and consistent strategies that improve responses in the policing and criminal justice system, corrective services and the child protection system. Where a reportable offender is released and resides in a remote or rural community, our submission will highlight the need for the affected family and community to be provided with appropriate wraparound supports.

Greater clarity and specificity in the Bill

Upon reading the Bill and comparing it with the current legislation, we note that the proposed amendments will legislate for greater clarity, particularly around the following:

- The criteria a court must consider when making an offender reporting order.
- A clear definition of *offender reporting order*, unlike the current Act (proposed s12A).
- Specificity in using the term, '*reporting obligations notice*' instead of '*written notice*' - (proposed s19(3)).
- Updated definitions in schedule 5 of CPOROPOA for terms such as '*anonymising software*' and '*media access control (MAC) address*'.
- Updating required personal details under Schedule 2, item 9, regarding media access control address.
- Adding powers to require production and inspection of a digital device under proposed s21B of the PPRA. We note there are provisions which modernise the legislation in an attempt to keep pace with technological advances.

Impacts on remote and rural communities

QIFVLS operates daily in the difficult space of interacting social problems and their legal consequences. We note that the Women's Safety and Justice Taskforce's second report, *Hear Her Voice: Report Two*, highlighted that the highest rates of reported sexual violence against women and girls in Queensland are recorded in rural, regional and remote areas³. Focusing on sexual violence against children, QIFVLS is

² Australian Institute of Health and Welfare (AIHW), Alcohol and other drug use in regional; and remote Australia: consumption, harms and access to treatment 2016-17. Cat.no. HSE 212. Canberra.

³ Women's Safety and Justice Taskforce (2022), *Hear Her Voice Report Two, Volume One*, https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0008/723842/Hear-her-voice-Report-2-Volume-1.pdf, p42

interested in how the Bill may address the impacts on remote and rural communities where a reportable offender notifies the chief executive (corrective services) that they will be residing in one of these communities.

On the one hand, we understand that competing issues around the released reportable offender's right to privacy would restrict any information that could be provided to the community. On the other hand, we suggest that an evaluation is undertaken into the community support services that could be provided to an affected child/affected family. The Taskforce's report highlighted that victim-survivors of sexual violence are waiting for up to 12 months to obtain sexual violence counselling in certain regions. It was also identified that there are gaps in funded sexual violence counselling services in many rural, regional and remote areas⁴. Where gaps exist, we advocate for empowering community led groups to provide wraparound support programs, as an example of Priority Reform #2 of the [National Agreement on Closing The Gap](#). We note that this would require investment in recruiting, training and upskilling of staff to provide these services.

Indigenous child respondents to an offender prohibition order

We note that section 13E of the current CPOROPOA requires a report to be prepared before a court considers imposing an offender prohibition order on a child respondent.

13E Court must order report before making prohibition order for child respondent

- (1) This section applies if the court is satisfied of the matters mentioned in section 13C(1) in relation to a child respondent.
- (2) Before making a prohibition order for the child respondent, the court must direct the chief executive (communities) to give to the court a written report containing stated information, assessments and reports about—
- (a) the child respondent; or
 - (b) the child respondent's family; or
 - (c) other matters.
- (3) The report may contain the opinion of the chief executive (communities) on what impact a prohibition order may have on the child respondent in relation to the child respondent's accommodation, educational, health, cultural or social needs.
- (4) The report must be given to the court within the period stated by the court in the direction.
- (5) When the report is given to the court under subsection (4), the registrar of the court must give a copy of the report to each party to the proceeding.

Under section 13E(2), we see that the court must direct the chief executive (communities) to give to the court a written report containing information, assessments and reports about the child respondent, their family and other matters. Where Aboriginal and Torres Strait Islander young people are concerned, we ask for consideration for the legislation to specifically require that a report be prepared by an Elder / Community Justice Group as part of the chief executive's assessment. This could potentially be included in subsection 13E(2)(c), however our preference would be for the legislation to specifically reference a report that takes a young person's cultural background in consideration where appropriate. In doing so, QIFVLS also advocates for the Elder/Community Justice Group or report-writer to be remunerated for preparation of the report in the same way that other report-writers are remunerated.

⁴ Women's Safety and Justice Taskforce (2022) *Hear Her Voice Report Two, Volume One*, page 42

Conclusion

We take this opportunity to thank the Committee for considering our submissions regarding the Bill. We trust that the Committee appreciates our viewpoint as both an Aboriginal and Torres Strait Islander Community Controlled Organisation and a Family Violence Prevention Legal Service.

We look forward to being involved in future consultations that will contribute to informing the Bill as it progresses through Parliament, in a way that will contribute to enhancing the way in which the lives of children and their sexual safety can be protected.