Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025

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Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025

We thank the government for the opportunity to share our feedback on the *Domestic and Family Violence Protection and Other Legislation Bill 2025*.

Who we are:

We are the North Queensland Women's Legal Service - a community legal centre with offices in both Cairns and Townsville. We assist women in North Queensland from Mackay to the Cape and out to the NT border. We are a specialist domestic violence service and provide advice in the areas of family law, child protection, migration and domestic violence.

We are members of the Women's Legal Service Australia committee and are significantly involved in law reform work at a state and national level.

Our work in the community includes delivering community education programs and supervising legal students as volunteers and placement students. We also provide non-legal services to enable us to offer a wholistic service to our most vulnerable clients.

We provide an array of in-person and telephone advice services and duty lawyer services in the Specialist Domestic Violence Court and Federal Circuit and Family Court. In the 2023/24 year we assisted women and girls with almost 17,500 services. One in five of our clients identify as being Aboriginal or Torres Strait Islander and 15 per cent have a CALD background. All our clients identify as experiencing or having experienced domestic and family violence.

Our feedback:

Our submissions derive from our extensive experience providing duty lawyer services in the Specialist Domestic Violence Court and the FCFCOA, and hearing the voices of our clients.

We cannot comment comprehensively but we hope our feedback on the *Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025* raises awareness of potential consequences that we believe could adversely impact on the lives of women and children.

Overall feedback

We acknowledge and genuinely appreciate the incredible service provided by the Queensland Police Service (QPS) each day as they respond to the never-ending wave of domestic violence in Queensland.

Frontline services such as the QPS and specialist domestic violence agencies (like ours) know the reality behind the statistics and the faces of murdered women in the media. We know the real-world stories of the victims and perpetrators, and the wide-reaching impacts on children and families. We are acutely alive to the frustrations and limitations in the processes in our working days, as we collectively endeavour to secure safer lives for so many Queensland women and children.

We understand the need to find ways to improve productivity for operational police officers as they struggle under this significant strain. However, this cannot be at the expense of the safety and wellbeing of women and children experiencing domestic and family violence.

We cannot understand how the proposal to introduce power for officers to issue police protection directions will alleviate any strain on the existing system. Conversely, we believe the proposal has the potential to increase the demand on QPS resources.

Moreover, we believe placing such power into the hands of police officers without judicial scrutiny and determination is not constitutionally sound. It vests considerable power in the hands of the individual officer who (unless a court review is sought) is not subject to the oversight of the court.

We certainly do not disagree with the power of the State extending beyond the front door of a person's home to ensure all Queenslanders live safely and free from violence. However, the exercise of this highly intrusive power by State institutions against an individual must be administered with utmost caution and consideration. We must not concentrate power inappropriately, and it must be subject to all checks and balances of a fair and transparent democracy.

Under the Bill, officers of the QPS would be vested with power to oust a person from their home and prohibit contact between people for a 12-month period. We know this will result in potentially life-changing consequences for many families. For instance, the cancellation of a weapons license for effectively a minimum of a five-year period could mean the loss of employment. Similarly, there are potential effects on a person's ability to apply for or renew/hold a blue or yellow card. These consequences could lead to disastrous financial effects for individuals or families, such as loss of capacity to afford rent and contribute child support payments.

By removing the cornerstones of our democracy – judicial independence/ oversight and procedural fairness – crucial checks and balances vanish. Whilst a possibility exists to review the decision to issue a police protection direction (PPD), a review (whether by the QPS or through the courts) involves processes and actions that many of the people affected by a PPD simply cannot undertake. The majority of those affected by a PPD will not have the time, the understanding, or the resources to initiate a review, even if they are aware of their right to do so.

We predict those who are adversely affected by PPDs (including aggrieveds and named persons) who understand and do wish to seek a review, will turn to community legal centres such as ours for assistance. Is the government going to find additional funding to address the increased demand on our services?

Another criticism we have of the PPD proposal is the loss of opportunity for parties experiencing and using domestic violence to engage with legal services and other support agencies when they attend court.

In our years of experience providing duty lawyer services at the specialist domestic violence courts in Townsville and Cairns, we know many women attending court have never spoken to anyone about the dynamics of their relationships and their experience of family violence. By attending at court, these women are able to:

- Receive free confidential legal advice away from the perpetrator - including urgent family law; advice about contraventions of protection orders; and information about changes to the law about consent and the new coercive control offence.
- Learn about what is considered domestic and family violence.
- Learn about and connect with non-legal support for people who experience domestic violence – including domestic violence support services and First Nations justice groups.
- Discuss with a duty lawyer what conditions (and if appropriate, exceptions) would work best for the aggrieved and her family.
- Be empowered to have her view heard and considered by the Court.

People engaging in family violence also regularly attend court and have the opportunity to:

- Receive free confidential legal advice - including advice about contraventions of protection orders; information about changes to the law about consent and the new coercive control offence.
- Learn about what is considered domestic and family violence.
- Learn about and connect with non-legal support for people who use domestic violence – including providers of men's programs and First Nations justice groups.
- Learn about and agree to an intervention order being made by the court.
- Discuss with a duty lawyer what conditions/exceptions have been included on the order and what they can and cannot do whilst the order is in place.

It seems to us that the objective sought to be achieved by these amendments is to reduce the amount of time police spend on preparing for and giving evidence in contested hearings. We believe that other legislative reforms could be made to potentially reduce the number of matters being listed for hearing in the domestic violence courts. This would obviously reduce the amount of time police need to invest in the preparation of briefs of evidence, and attending court to be cross-examined. These suggestions include:

- Amendment of section 42 of the *Domestic and Family Violence Protection Act 2012* (DFVPA') (similar to s 359F of the *Criminal Code Act* 1899) to mandate a criminal court:
    - must consider making or varying a temporary protection order at the first mention of a domestic violence offence; and
    - must consider making or varying a protection order at the hearing of a domestic violence offence, regardless of how the prosecutions ends; and
    - must consider the offender's criminal history and domestic violence history.

- Amendment of section 43 of the DFVPA to mandate a child protection court:
    - must consider making or varying a temporary protection order at the first mention of an application for a child protection order; and
    - must consider making or varying a protection order at the hearing of an application for a child protection order, regardless of how the proceeding ends; and
    - must consider the respondent's criminal history and domestic violence history.

- Amendment of section 157 of the DFPVA to include discretional power for a DFV court to award costs against a respondent upon a finding that the respondent intentionally engaged in behaviour, or continued a pattern of behaviour, towards the aggrieved or a named person that is domestic violence (for example systems abuse); or a finding that the respondent provided sworn evidence that was malicious, deliberately false, or vexatious.

- Amendment of rule 22 of the *Domestic and Family Violence Protection Rules 2014* to include a direction that a DFV court may require a respondent to inform the court of the basis on which they are contesting an application for a protection order (i.e. do they contest on the basis of s 37(1)(a)(b) or (c).) This requirement could be the subject of a practice direction.

Amendment of the Domestic and Family Violence Protection Act

s37(3)(b) could mean that a person is charged with a contravention of a DVO *and* a contravention of a PPD offending the principle of not being punished twice for the same (or markedly similar) offence.

Subdivision 3 – Monitoring device conditions

We have no feedback regarding the insertion of the monitoring device conditions, other than to question why, under s66 G, evidence of the imposition or use of a monitoring device condition or the use of a safety device cannot be considered in another court considering risk to people (adults and children) such as a child protection court or a family law court. We would question why a device condition that is imposed to address and minimise risk would not be able to be considered by another court also considering risk.

Subdivision 2 – issue of PPD

S100B – this provision effectively lowers the standard of proof for issuing a PPD to what an individual police officer 'reasonably believes.' The officer does not need to adhere to the civil standard of proof required by a DFV court and the Briginshaw principle does not apply.

The 'reasonably believes' standard paves the way for subjective and unconsciously biased views of an individual officer who may be making determinations about untested

allegations. Any conclusions drawn by the attending officer are potentially tainted by personal beliefs such as how a (perfect) victim should behave, whether a victim should/should not have contact with a perpetrator ('why doesn't she just leave him…'), and who presents as a victim and as a perpetrator in the immediate incident (who is calm/hysterical/non-cooperative/'lippy').

An officer may not understand, and may be persuaded by, image management techniques used by some perpetrators and it is for all these reasons we believe there is an increased risk of misidentification of victim/perpetrators. Additionally, it could lead to conditions being included on a PPD that are not practical for the victim or are misunderstood by the parties leading to breaches and criminality.

Although we acknowledge that the issuing of a PPD must be approved by a more senior officer, that officer has not had the benefit of attending the scene and engaging with the parties directly.

Another consideration is that one or both of the parties will often be a non-English speaker or have limited English. Many of the women we work with are from non-English speaking backgrounds and we know interpreters are not sought when police attend at incidents. Often, police rely on the narrative of the English-speaking perpetrator - again leading to misidentification.

S100J – we are not privy to statistics pertaining to the use of police time under s108 *DFPVA* however, the introduction of this new provision places further demands on police resources to take 'any reasonable steps necessary' to ensure the respondent has access to temporary accommodation. Despite the provisions that state these sections do not create an 'obligation', it will likely be considered just that by respondents.

S100O and S100ZA(5) make no sense, in that if you know a person's address for service, then service may be made in any way. However, if you do not know the address for service then personal service is mandated?

S100Q and s110 place a positive onus on the police to not only explain the direction/ PPN, but to essentially provide legal advice that would be better placed being provided by a duty lawyer at a *DFV* court. It is our experience that police overstep the mark and routinely make comments about family law and other legal matters. Most times, this 'family law advice' is erroneous and can have disastrous consequences for women and children experiencing domestic violence. It is our strong view that parties should be encouraged to obtain legal advice about all relevant legal matters including domestic violence, breaches, family law consequences, child protection impacts, effects on weapons licences (particularly with respect to weapons used for employment), blue and yellow cards, security licences etc.

S100R - this provision regarding the duration of a PPD is extremely confusing and it took the writer several attempts to understand the intended effect of the provision. This whole section needs to be simplified and reconsidered. As it is currently drafted, the writer understands that a PPD will end if any of the following happens:

- The end of 12 months from the day the PPD takes effect i.e. when it is served on the respondent or a respondent is made aware of it by an officer. (It is unclear if the end date is to be indicated on the PPD or the respondent is to remember the date he was served/informed and count forward 12 months?); or

- If a temporary protection order or protection order made by a DFV court or an interstate order recognized by a DFV court, or a temporary protection order or protection order made by a criminal court at sentence is put in place and the respondent was present, or he was served/ told about the order by an officer; or

- A proceeding for an application for a protection order is dismissed or adjourned without a temporary protection order under part 3 being made.

Conversely, the PPD stays in effect if a court review is sought and the PPD becomes an application for a protection order under subdivision 5 and that application for a protection order (the PPD) is dismissed by the Court or the Court adjourns the application for a protection order (the PPD) without making a TPO.

We cannot understand why it would be appropriate to keep the PPD in effect if a DFV court has dismissed it (when it is considered an application for a protection order) or declined to make a TPO? This means that after a full judicial process that has determined that a protection order is not necessary or desirable, the PPD issued by an officer stands.

If our understanding of the provisions is incorrect, then we submit that this is evidence of the confusing nature of these provisions.

Subdivision 4 – Police review of direction

These provisions require police to notify parties, receive any submissions within seven days from the parties (who are unlikely to be able source legal advice or assistance within that time limit), accrue all relevant information for a highly ranked officer to consider and have that officer decide the review within 28 days. Again, this will surely increase the demand on resources of the QPS.

Subdivision 5 - Court review of direction

S100ZA – One (1) business day after receiving a copy of the application for review of a PPD seems an incredibly short amount of time for the QPS to file the list of documents required under this section. Would this not place an unrealistic and significant strain on police resources?

Then the onus is on the registry to notify parties and the QPS of the details of the hearing. Presumedly, registry staff will not always have current contact details to do so.

Additionally, the QPS must locate and serve documents on both applicant and the other person who is entitled to apply for a review – noting that a PPN or application for a protection order need only be provided to an aggrieved, not formally served. This service is in addition to the requirement to initially serve the respondent with the PPD when it is

made. Thus, the police resources needed in locating and serving parties effectively triples in comparison to the requirement to serve a PPN or application on a respondent.

S100ZB (2) – Why would an application for a review (an approved form) allow an applicant respondent to seek a protection order against the original aggrieved, thus promoting cross applications? Is it not just a review of the PPD against the applicant respondent? We understand that this may be being proposed to take into account misidentification by police, however we see it being grossly misused by perpetrators.

S100ZC (1) – as mentioned above, why would a PPD still remain in effect under this section if a DFV court declines to make a TPO when adjourning an application for PO (a PPD filed under s100ZB(1))?

S100ZD (2)(b) should be clarified to the 'application for a review' as this whole process is very confusing.

S100ZD(4) (a) needs clarity. If a PPD becomes an application for a protection order to be determined as per part 3 of the DFVPA, and the Court dismisses the application for review, then would the Court not have to make a PO under s37? Otherwise, the Court would also have to dismiss the application for a PO, leaving the PPD. Why would these confusing options be necessary? If the PPD converts to an application for a PO and part 3 applies, then that should result in the usual options of making a PO (and dismissing the application for review) or dismissing the application for a PO and a declaration that the PPD is taken to have never taken place etc.

Amendment of the *Evidence Act 1977*

We support the extension of VREC in Magistrates Courts across the state alongside victim-centred training for police. This reform supports victim-survivors from being re-traumatised by having to retell their evidence to courts.

We do not support the removal of the requirement for police to be trained to take VREC. We have heard of charges being withdrawn because of leading questions being asked in VRECs. If this is to be effective, police must be properly trained.

Conclusion:

We thank you again for this opportunity to provide submissions and are available for discussion at any time to elaborate on any aspect of our submissions.

Yours sincerely

Hayley Grainger

A/Director & Principal Solicitor

North Queensland Women's Legal Service