

Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025

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30 May 2025

Committee Secretary
Education, Arts and Communities Committee
Parliament House
George Street
Brisbane Qld 4000

Via web portal: [EACC - Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025 - Submission](#)

Dear Committee Secretary,

Re: Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025 ('the Bill')

The Refugee and Immigration Legal Service ('RAILS') welcomes the opportunity to provide a submission to the Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025 Inquiry ('the Inquiry').

Much more must urgently be done to address domestic and family violence ('DFV') in our communities, and we welcome the Queensland Government's commitment to further reform.

RAILS is a community legal centre operating throughout Queensland, and practising exclusively in immigration law. For over 40 years, RAILS has provided legal advice, assistance and representation to refugees, asylum seekers, and other migrants in vulnerable situations in relation to their visa matters and pathways. RAILS specialises in assisting temporary visa holders experiencing DFV, including visa applicants relying on the family violence provisions in Division 1.5 of the *Migration Regulations 1994* (Cth) ('the Migration Regulations').

This submission is being provided with the approval of RAILS' Legal Practice Director responsible for our DFV work, Neha Vaidyanathan.

RAILS supports the Inquiry's goals to examine proposed amendments to the *Domestic and Family Violence Prevention Act 2012* (Qld) ('DFVP Act') and the *Evidence Act 1977* (Qld) ('Evidence Act').

Changes to DFV legislation should reflect recommendations made by the Women's Safety and Justice Taskforce. Any change must have the safety and wellbeing of victim-survivors as the priority policy objective.

As set out below, RAILS is seriously concerned that the proposed introduction of Police Protection Directions ('PPDs') may endanger and cause further harm to victim-survivors of DFV.

Addressing domestic and family violence

Through our work with refugees, asylum seekers and other migrants, RAILS has acquired extensive experience working with victim-survivors of DFV from migrant backgrounds.

Violence against women in Australia has been declared a national crisis by the Federal Government.¹ In Queensland, DFV services are experiencing unprecedented demand for help from victim-survivors. RAILS consistently experiences a very high demand for legal advice and representation from victim-survivors of DFV, far exceeding our resourcing and capacity to assist.

There is a disproportionate rate of violence against First Nations women.² Aboriginal and Torres Strait Islander women are 11 times more likely to be killed by family violence,³ and 32 times more likely to be hospitalised, as a result of violence.⁴

Family violence has unique and specific impacts on people from culturally and linguistically diverse backgrounds, including people from refugee and migrant backgrounds. The Australian Government's *National Plan to End Violence against Women and Children* recognises that:

Women and children from diverse cultural, ethnical, religious and linguistic backgrounds and migrant and refugee women and children, including those on temporary visas, can face specific challenges. These include the impact of their visa status (for example, depending on partners for residency in Australia and having restricted eligibility criteria for access to government support and services); the absence of trusted social networks or families in Australia and linguistic and cultural barriers in seeking help and reporting violence.

It is well recognised that temporary visa holders have specific experiences in relation to family and domestic violence, including perpetrators using a women's visa status to control and abuse them. A 2021 study indicated that one in 3 migrant and refugee women had experienced some form of family and domestic violence, with temporary visas holders consistently reporting proportionately higher levels of family and domestic violence, including controlling behaviours.

... Additionally, for some women on temporary visas, the inability to access services can increase their exposure to violence and poverty, minority status, and disrupt their family and community support systems.

Culturally and linguistically diverse women's experiences of violence have some distinct contributors that relate to other intersecting forms of inequality and discrimination, and may also include culturally specific norms about gender and relationships. International students and those travelling on working holiday visas may experience increased risk of violence including sexual violence due to exploitation and lack of accommodation and employment opportunities; economic abuse; lack of support from educational institutions; and control over their mobility.⁵

¹ Ministers for the Department of Social Services, *Working to end violence against women with rapid review into prevention approaches*, 28 May 2024, available at: <https://ministers.dss.gov.au/media-releases/14901>.

² Department of Social Services, Commonwealth of Australia, *National Plan to End Violence against Women and Children 2022-2023*, 2022, available at: [The National Plan to End Violence against Women and Children 2022–2032 | Department of Social Services](#), at 41-42.

³ Department of Social Services, Commonwealth of Australia, *National Plan to End Violence against Women and Children 2022-2023*, 2022, available at: [The National Plan to End Violence against Women and Children 2022–2032 | Department of Social Services](#), at 76.

⁴ Our Watch, *Opinion: The long tail of colonisation*, 25 January 2024, available at: [Our Watch | Opinion: The long tail of colonisation](#).

⁵ Department of Social Services, Commonwealth of Australia, *National Plan to End Violence against Women and Children 2022-2023*, 2022, available at: [The National Plan to End Violence against Women and Children 2022–2032 | Department of Social Services](#), at 43-44.

There is evidence that immigrant women are less likely to seek help in relation to DFV than non-immigrant women.⁶ In addition to the barriers faced by all victim-survivors, immigrant women often face additional complex and intersecting barriers to seeking help, including language barriers, lack of understanding of legal systems, insecure visa status, minimal support networks or family in Australia, and fear of retaliation by their partner, their partner's family, and their community.⁷ RAILS' experience over many years working with refugee, asylum seeker, and migrant people is consistent with these findings.

Establishing a framework for Police Protection Directions

RAILS strongly opposes the introduction of Police Protection Directions ('PPDs'). Our concerns include the following:

- PPDs are designed to save police time. They do not prioritise the safety and wellbeing of victim-survivors.
- The introduction of PPDs will result in continued or increased misidentification of the person who is most in need of protection at DFV incidents, meaning victim-survivors will be left without protection, and will face serious adverse consequences as a result of being identified as a DFV perpetrator.
- Appealing PPDs will be difficult, and legal services are not accessible or available for all people.
- Removal of court processes will result in the removal of important oversight of police decisions.
- There will be a reduced opportunity for referrals to support services and behavior change programs, which can occur in court and can be ordered by Magistrates.

Misidentification of victim-survivors as family violence perpetrators

RAILS is concerned that the introduction of PPDs may increase the risk of continued misidentification of the person most in need of protection, and reduce opportunities for such misidentification to be identified and corrected through the Protection Order application process in the Magistrates Court.

We note that the Australian Government's *National Plan to End Violence against Women and Children* provides the following information about the risk of victim survivors being misidentified as the person using violence:

Misidentification can also result from biases including inequality, and/or racial and other forms of social discrimination. For example, people can hold gendered stereotypes about how an 'ideal victim' should act. However, a victim-survivor may appear to be agitated (which is a normal response to trauma) or may appear 'uncooperative', meaning they are misidentified as the perpetrator. Perpetrators, on the other hand, may appear to be calmer, more cooperative, more convincing and more in control. Victim-survivors from diverse groups, including

⁶ Vaughan, C., Davis E., Murdolo, A., Chen, J., Murray, L., Block, K., Quiazon, R., & Warr, D. (2015). *Promoting community-led responses to violence against immigrant and refugee women in metropolitan and regional Australia: The ASPIRE Project: State of knowledge paper* (ANROWS Landscapes, 12/2015), available at: [Promoting community-led responses to violence against immigrant and refugee women in metropolitan and regional Australia: The ASPIRE Project: State of knowledge paper - ANROWS - Australia's National Research Organisation for Women's Safety](#), at 31.

⁷ Vaughan, C., Davis E., Murdolo, A., Chen, J., Murray, L., Block, K., Quiazon, R., & Warr, D. (2015). *Promoting community-led responses to violence against immigrant and refugee women in metropolitan and regional Australia: The ASPIRE Project: State of knowledge paper* (ANROWS Landscapes, 12/2015), available at: [Promoting community-led responses to violence against immigrant and refugee women in metropolitan and regional Australia: The ASPIRE Project: State of knowledge paper - ANROWS - Australia's National Research Organisation for Women's Safety](#), at 31-32; Department of Social Services, Commonwealth of Australia, *National Plan to End Violence against Women and Children 2022-2032*, 2022, available at: [The National Plan to End Violence against Women and Children 2022-2032 | Department of Social Services](#), at 43-44.

*Aboriginal and Torres Strait Islander peoples, culturally and linguistically diverse communities, LGBTIQA+ people and people with disability, are at risk of being misidentified as the perpetrator if assessments are based on stereotypes, the miscategorisation of family and domestic violence, or a misunderstanding of the use of violence, power and control.*⁸

The National Plan also identifies the prevention of ‘misidentification of the victim-survivor as the perpetrator’ as an early intervention objective in preventing DFV.⁹

Misidentification of victim-survivors as the perpetrators of DFV has many serious consequences for victim-survivors, including ‘criminalisation, loss of housing and employment, and losing access to their children and communities’.¹⁰ Misidentification also has serious implications for victim-survivors in the migration context.

Through our work, RAILS has observed numerous instances of migrant victim-survivors of DFV being misidentified by police as the person using violence. In our experience, migrant victims-survivors are at increased risk of misidentification by police, as they often face a language barrier, may be more likely to distrust authorities, and may be reluctant to engage with police due to fears about their visa status. We regularly advise victim-survivors who believe that simply reporting the fact that they are experiencing DFV to the police could result in negative visa outcomes, such as a visa refusal or cancellation. Some victim-survivors may also be fearful of engaging with police due to concerns about the potential impact on their partner’s visa status. Where a victim-survivor does not speak English as their first language, police do not always engage an interpreter when responding to a DFV incident, further increasing the risk of the victim-survivor being misidentified as the perpetrator.

Where these matters result in an application for a Protection Order, the particular circumstances of the matter can be more thoroughly tested, and the respondent is afforded an opportunity to obtain legal advice and assistance. As such, where the matter proceeds in the Magistrates Court, victim-survivors who have been misidentified by police have a greater chance of having that error identified and overturned, and being afforded the protection of a Protection Order granted in their favour.

RAILS is aware of cases in which a victim-survivor has been misidentified by police, who have applied to the Magistrates Court for a final Protection Order naming them as the respondent. Through this court process, our clients have been able to seek legal advice and assistance to challenge the misidentification before a final determination is made. In some cases, this has resulted in police withdrawing the original application and applying for a Protection Order on behalf of our client, or the Magistrates Court identifying our client as the person most in need of protection.

However, the proposed introduction of PPDs will substantially reduce these safeguards, including the opportunity for respondents to obtain legal advice and assistance. While we note that the Bill requires police to make a ‘reasonable attempt’ to speak with the alleged perpetrator before issuing a PPD,¹¹ in our view this is not sufficient to counter the risk of misidentification of the person most in need of

⁸ Department of Social Services, Commonwealth of Australia, *National Plan to End Violence against Women and Children 2022-2023*, 2022, available at: [The National Plan to End Violence against Women and Children 2022–2032 | Department of Social Services](#), at 74.

⁹ Department of Social Services, Commonwealth of Australia, *National Plan to End Violence against Women and Children 2022-2023*, 2022, available at: [The National Plan to End Violence against Women and Children 2022–2032 | Department of Social Services](#), at 112, see also 83.

¹⁰ Nancarrow, H., Thomas, K., Ringland, V., & Modini, T. (2020). *Accurately identifying the “person most in need of protection” in domestic and family violence law* (Research report, 23/2020, ANROWS), available at: [Accurately identifying the “person most in need of protection” in domestic and family violence law - ANROWS - Australia's National Research Organisation for Women's Safety](#), at 86.

¹¹ Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025 (Qld) s 100B.

protection, particularly in circumstances involving victim-survivors from migrant backgrounds. As such, we are concerned that the introduction of PPDs will result in a higher likelihood that victim-survivors from migrant backgrounds may be misidentified by police and named as a respondent on the PPD, and that such misidentification will be far less likely to be able to be corrected or challenged through a court process.

Being named as the respondent on any type of Protection Order, including a PPD, can have very serious consequences for any visa held by a victim-survivor, as well as any future visa applications that person makes.

In order to be granted or hold any visa, a person must satisfy the Character Test, which is set out in section 501(6) of the *Migration Act 1958* (Cth) ('the Migration Act'). If a person does not pass the Character Test, the Minister has discretion to cancel any visa that person holds, or refuse any visa application the person has made. Some of the provisions under the Character Test are extremely vague. For instance, section 501(6)(c) states:

For the purposes of this section, a person does not pass the character test if:

- (c) having regard to either or both of the following:
 - (i) the person's past and present criminal conduct;
 - (ii) the person's past and present general conduct;
- the person is not of good character.

Further, *Ministerial Direction 110 (Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA)* provides binding guidance in relation to the application of the Character Test. This Direction establishes that whether the relevant conduct 'constituted family violence' must be a primary consideration for decision-makers, and that the Government 'has serious concerns about conferring on non-citizens who engage in family violence the privilege of entering or remaining in Australia'.¹²

As such, if a victim-survivor is misidentified by police and named as the respondent on a PPD, this is extremely likely to enliven the provisions of the Character Test, and could lead to the person's visa being cancelled or their visa application being refused. A visa cancellation or refusal could result in the victim-survivor being forced to depart Australia, despite having experienced trauma in Australia due to their experiences of DFV.

Even in situations where the victim-survivor misidentified on the PPD is ultimately able to satisfy the Minister that their visa should not be cancelled or refused character grounds, the process of responding to the Department of Home Affairs' character concerns is lengthy, highly stressful and re-traumatising for victim-survivors of DFV.

Increased burden on victim-survivors during visa processes

RAILS is also concerned that the introduction of PPDs may increase the burden on victim-survivors of DFV who are required to provide evidence of their experiences of DFV in support of a visa application.

¹² Minister for Immigration, Citizenship and Multicultural Affairs, *Direction no. 110 — Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA*, Direction under section 499 of the *Migration Act 1958* (Cth), 7 June 2024.

Pursuant to the *Migration Regulations 1994* (Cth), applicants for certain subclasses of permanent visas, including permanent partner visas, may be able to continue with their permanent visa application even after separating from their visa sponsor or the primary visa applicant, if they can demonstrate to the Department of Home Affairs that they experienced DFV during the relationship.

These provisions were introduced into the *Migration Regulations* to address concerns 'that some migrants might remain in an abusive relationship because they believe they may be forced to leave Australia if they end the relationship'.¹³

The *Migration Act* and *Migration Regulations* contain detailed and highly prescriptive rules about the types of evidence of family violence that will be accepted by the Department of Home Affairs.¹⁴

Where a visa applicant has been granted a final Protection Order naming them as the aggrieved, this Order is considered judicial evidence under the *Migration Regulations*,¹⁵ and is generally the only evidence the person is required to provide about their experiences of family violence. A PPD will not meet the judicial evidence requirements in the *Migration Regulations* as it is not issued by a court.

Applicants relying on the family violence provisions who do not have access to judicial evidence must satisfy much more onerous evidentiary requirements, including preparing a detailed statutory declaration about their experiences of DFV, and obtaining at least two pieces of evidence from two different categories of relevant professionals.¹⁶

In RAILS' experience, the process of gathering this evidence, which requires victim-survivors to describe their experiences of DFV in detail, is often highly distressing and re-traumatising. We note that the *National Plan to End Violence against Women and Children* identifies minimising the number of times a victim-survivor must retell their experiences of DFV as a key goal for improving systemic responses to DFV.¹⁷

Victim-survivors also rely heavily on family violence professionals, including family violence support services, to prepare the detailed reports required to support their applications, which places a significant additional burden on these organisations and professionals, who are often already operating with limited resources. The process of assisting visa applicants to prepare this type of detailed evidence is also onerous for legal practitioners. In services such as RAILS, which operate with limited resources, this places an additional strain on capacity.

If more victim-survivors are issued PPDs, and are not supported by police to apply for a final Protection Order in the Magistrates Court, this will inevitably lead to fewer DFV victim-survivors having access to judicial evidence, and an increased number of visa applicants being required to prepare detailed non-judicial evidence of their experiences of DFV, increasing the burden placed on victim-survivors, DFV support services, and legal practitioners.

¹³ Australian Law Reform Commission, *Family Violence and Commonwealth Laws – Immigration Law (IP 37)*, 'The family violence exception', 28 February 2011, available at: [The family violence exception | ALRC](#).

¹⁴ See *Migration Regulations 1994* (Cth) division 1.5.

¹⁵ *Migration Regulations 1994* (Cth) reg 1.23(4).

¹⁶ *Migration Regulations 1994* (Cth) reg 1.23(9) and reg 1.24.

¹⁷ Department of Social Services, Commonwealth of Australia, *National Plan to End Violence against Women and Children 2022-2023*, 2022, available at: [The National Plan to End Violence against Women and Children 2022–2032 | Department of Social Services](#), at 84.

To address domestic and family violence the Queensland Government should:

- Continue to implement the recommendations from the Women's Safety and Justice Taskforce.
- Invest comprehensively in services including early intervention and prevention, crisis services, shelters, healing and recovery, women's health services and behaviour change programs.
- Support the continued improvement of policing of domestic and family violence including through the implementation of recommendations included in the Commission of Inquiry into Queensland Police Service responses to domestic and family violence.
- Scale up support for the continued improvement of policing of domestic and family violence including through an increased implementation of the co-responder model across the state.

Conclusion

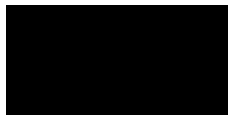
While RAILS supports the Government's commitment to further reform and strengthen responses to DFV, we strongly submit that any changes to Queensland's DFV legislation must have the protection and wellbeing of victim-survivors as a primary objective. We urge the Government to reconsider implementation of the PPD scheme, which may result in further traumatisation and victimisation of DFV victim-survivors.

Thank you again for the opportunity to provide a submission to the Inquiry. We are willing to provide oral submissions to the Inquiry at the public hearing on 9 June in Brisbane, if required.

Yours sincerely,



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