



IMMIGRANT WOMEN'S SUPPORT SERVICE

a domestic violence and sexual assault service  
for women of non-english speaking backgrounds

10 July 2013

Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
Brisbane QLD 4000

Justice & Other Legislation  
Submission 010

Dear Sir / Madam

**Re: *Justice and Other Legislation Amendment Bill 2013***

I am writing on behalf of the Migrant Women's Emergency Support Service Inc., operating as the Immigrant Women's Support Service (IWSS), to express our support for the proposed changes to the *Domestic and Family Violence Protection Act 2012* and the *Magistrates Courts Act 1921* outlined in the *Justice and Other Legislation Amendment Bill 2013*. IWSS welcomes the invitation provided by the Legal Affairs and Community Safety Committee to provide a submission with the stated aim to improve the safety of women and children experiencing domestic and family violence.

IWSS is a specialist domestic violence and sexual assault service funded by the Department of Communities to provide support services to women and their children from non-English speaking backgrounds (NESB) through information, advocacy, counselling, court support and ongoing case management. IWSS is the only service of its kind in Queensland, established in 1986 to provide culturally appropriate services to women from NESB and their children affected by domestic and sexual violence.

IWSS recognises that domestic and family violence occurs in all communities and primarily affects women and children. Domestic and family violence has serious social, financial, legal and health implications for women and children, and requires a coordinated response from all levels, including government, human services and justice. IWSS believes a key role within this coordinated response is to address issues of clarity, consistency and efficiency of the legal justice responses for people seeking safety and protection from violence. IWSS therefore supports the measures proposed in the *Justice and Other Legislation Amendment Bill 2013* and would like to draw attention to the following areas for consideration by the Legal Affairs and Community Safety Committee.

**1. *Domestic and Family Violence Protection Act 2012* to provide that when a temporary protection order is made on an application to vary a domestic violence order, the existing domestic violence order is suspended until the variation application is finalised to ensure there is only one order in force and clarity as to the conditions the respondent must comply with.**

IWSS supports the proposed amendment which aims to provide clarity in relation to temporary protection orders superseding existing orders on an application to vary that existing order. A clear legislative direction in relation to the type of order and conditions in place will minimise confusion for the aggrieved and respondent and will assist police in clearly determining the

people experiencing domestic violence, particularly women from NESB who face multiple barriers in accessing the justice system, including but not limited to

- Limited English proficiency (written and verbal skills)
- Absence of interpreters throughout some or all stages of domestic violence proceedings
- Limited knowledge about Australian law, their rights and options for protection and safety

## **2. Domestic and Family Violence Protection Act 2012 and the Magistrates Courts Act 1921 to provide authority to make stand-alone rules of court for domestic and family violence proceedings.**

IWSS supports, in principle, the proposal to have stand-alone rules of court for domestic and family violence proceedings. IWSS envisages that such measures would provide a framework that supports a consistent approach, fosters efficiency and promotes equitable practices. IWSS also supports the Women's Legal Service submission on the *Justice and Other Legislation Amendment Bill 2013* and would like to offer additional commentary to some areas that were highlighted in the aforementioned submission.

### *Standard Directions and Procedures*

IWSS supports the inclusion of standardised definitions of each court event and other key terms in the proposed stand-alone rules. It is not uncommon for the women that IWSS supports to have a matter mentioned at one court and then have the matter transferred to another court for a hearing. The discrepancies between key terms and definitions used at different magistrates' court can be extremely confusing for women who are un-represented, and additionally have limited English proficiency.

### *Courts Powers Re: Summary Dismissal and Vexatious Proceedings*

IWSS supports providing magistrates the power to summarily dismiss matters that lack merit and/or are vexatious. As a service we have observed an increase in the number of female respondents in domestic violence proceedings. On establishing the women's circumstances, we have assessed that all the women identified as respondents in these proceedings are actually the party most in need of protection. We have also observed that most of the time when this happens, interpreters have not been engaged. A non-identifying and confidential case study is attached to illustrate an example of this occurrence.

### *Oral applications*

As noted by Womens Legal Service, oral applications to the court are a common occurrence and should be accommodated for in the stand alone rules. To this we would like to add that interpreters, face to face or telephone, should be made available for all court matters dealing with oral applications. In the process of providing court support we have frequently observed, and received feedback regarding the inconsistent engagement of qualified interpreters in domestic and family violence proceedings. This practice has the potential to result in detrimental and unsafe outcomes for women and children experiencing domestic violence.

### *Representation by Police Prosecutors*

IWSS supports the inclusion of rules regarding the representation of the aggrieved by police prosecutors. For such measures to be effective there needs to be a clear practice framework to ensure police representation is available and provided consistently and also widely promoted.

*Specialised Domestic Violence Courts*

IWSS supports the establishment of specialised Domestic Violence Courts and considers specialist knowledge and understanding as paramount in ensuring the safety of women and children affected by domestic and family violence. There is anecdotal evidence to suggest that the interpretation of the widened definitions in the new *Domestic and Family Violence Protection Act (2012)* is not consistent across magistrates' courts in Queensland. Furthermore, there is extensive literature citing specialised courts as effective in providing a civil and criminal response to domestic and family violence.

IWSS commends the Legal Affairs and Community Safety Committee for seeking commentary from relevant stakeholders and hopes the outlined issues are considered in the committee's report. If you require any further information I can be contacted on 3846 3490 or email [REDACTED]

Yours sincerely



Cecilia Barassi-Rubio  
Director

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Outgoing correspondence