

# Queensland Family & Child Commission



Telephone: 07 3900 6000  
Reference: GRCS – TF22/883 – D22/17326

Committee Secretary  
Legal Affairs and Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Via email: [lasc@parliament.qld.gov.au](mailto:lasc@parliament.qld.gov.au)

Dear Committee Secretary

Thank you for providing the Queensland Family and Child Commission (QFCC) with the opportunity to make a submission regarding the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022 (the Bill).

We understand the Bill will:

1. give effect to legislative reform in recommendations 52 to 60 and 63 to 66 of the Women's Safety and Justice Taskforce (the Taskforce) in Chapter 3.8 of its first report, *Hear her voice – Report one – Addressing coercive control and domestic and family violence in Queensland*;
2. modernise and update sexual offence terminology in the Criminal Code in response to advocacy that the language appropriately reflects criminal conduct;
3. address stakeholder concerns regarding the operation of the sexual assault counselling privilege framework in relation to the standing of counsellors and victims and alleged victims of sexual assault offences ('counselled persons');
4. amend the *Youth Justice Act 1992* to provide specific mitigatory circumstances relating to domestic violence;
5. amend the *Coroners Act 2003* to remove the limitation upon the number of terms of re-appointment of the State Coroner and the Deputy State Coroner;
6. amend the *Oaths Act 1867* to address issues that have arisen in the implementation of the *Justice and Other Legislation Amendment Act 2021*; and
7. amend the *Telecommunications Interception Act 2009* to enable the Public Interest Monitor to perform the role intended under the International Production Order (IPO) scheme in relation to applications for interception IPOs.

Level 8, 63 George Street  
Brisbane Qld 4000  
PO Box 15217  
Brisbane City East Qld 4002  
Telephone 07 3900 6000  
Facsimile 07 3900 6050  
Website [qfcc.qld.gov.au](http://qfcc.qld.gov.au)  
ABN: 91 102 013 458

It is difficult to accurately estimate the prevalence of domestic and family violence among families. Evidence drawn from parents' and children's self-reported experiences of violence suggest that approximately one-third of parents in the general community experience violence.<sup>i</sup> The Australian Bureau of Statistics Personal Safety Survey (2016) also suggests a high proportion of Australian children experience violence in their home:

- of the women who reported experiencing violence while living with their current partner, 44.1 per cent had children in their care
- of the men who reported experiencing violence while living with their current partner, 23.8 per cent had children in their care.<sup>ii</sup>

The co-occurrence or co-reporting of domestic and family violence and child harm often brings families into contact with the Child Safety system resulting in this estimate being reportedly higher among this population. In the year ending 30 June 2021, violence was recorded in half of all households subject to a substantiated Child Safety investigation and assessment (where it was assessed a child had experienced harm) by the Department of Children, Youth Justice and Multicultural Affairs.<sup>iii</sup>

The QFCC supports amendments that provide further protections for children and their families who experience domestic and family violence, and is supportive of the intent and approach of the Bill.

#### **Consideration of impacts on child offenders**

The Bill proposes amendments to the Criminal Code, the *Coroners Act 2003*, the *Domestic and Family Violence Protection Act 2012*, the *Evidence Act 1977* and the *Penalties and Sentences Act 1992* among others, however it does not contemplate a *Youth Justice Act 1992* amendment.

Given children as young as 13 years are reported to have been respondents in domestic violence proceedings, the proposed amendments in the Bill will have implications for children either as an accused person, or as an aggrieved or respondent party.<sup>iv</sup>

As Heward-Belle et al have stated, 'children and young people who experience domestic violence and other forms of child maltreatment are more likely to exhibit internalising and externalising behaviour problems, as a result of the perpetrator's harmful patterns and violent examples. Practitioners must be mindful to assess children's behaviours by paying attention to the wider traumatic context that the perpetrator established.'<sup>v</sup>

The distinctions between adult and child currently reflected in the *Domestic and Family Violence Protection Act 2012* should be mirrored in the Bill where relevant for consistency.<sup>vi</sup>





### **Consideration of impacts of violence on children**

Children experience a range of consequences of domestic and family violence in their homes, including being subjected to deliberate or actual violence; witnessing or overhearing violence; intervening to try and protect a parent; experiencing the aftermath of violence, such as dealing with a distressed parent, police and emergency services attending the home; living in a household dominated by tension or fear and being asked to keep events a secret.

Importantly, a child need not be present, see, or hear domestic and family violence to be impacted or harmed by its occurrence. All forms of domestic and family violence harm children. Research demonstrates that children who have witnessed or lived in a violent environment experience negative impacts in their development, behaviour and self-worth.<sup>vii</sup>

The Child Safety Practice Manual states that ‘children are not “exposed” to domestic violence, in that it’s not just something they witness and move on. They experience direct and lasting harm. Domestic violence can impact on every aspect of a child’s life – from how they experience each day, to their self-esteem and their own relationships. Children will be assumed to have been harmed or to be at risk of harm when their parent or carer has been a victim of domestic and family violence.’<sup>viii</sup>

Being the victim of domestic and family violence can have detrimental impacts on children’s physical and mental wellbeing, cognitive development, behaviour and schooling.<sup>ix</sup>

Similarly, the protections in relation to disclosure of information and offending history afforded under the *Youth Justice Act 1992* should be considered by the Bill to ensure compatibility with the Act and youth justice principles.<sup>x</sup>

### **Consideration of impacts on families**

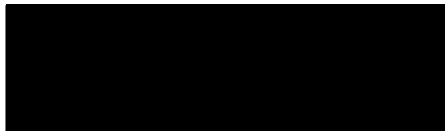
In our submission to the first discussion paper released by the Queensland Women’s Safety and Justice Taskforce, we raised concerns about the detrimental impact misidentification of a victim can have on children, and the greater risk for Aboriginal and Torres Strait Islander women to be misidentified of the person most in need of protection.<sup>xi</sup>

Misidentification of a victim whether in a civil domestic violence process or a criminal proceeding may also have implications for Child Safety assessments of a parent’s capacity to act protectively, and a person’s ability to continue to hold or obtain a blue card which may result in the loss of a kinship or foster carer placement.

The removal of a child from their parent, kinship carer or foster carer where the parent or carer has acted protectively in challenging circumstances may not lead to greater safety for the child. We note that the *Human Rights Act 2019* provides protections for families and children, and the cultural rights of Aboriginal and Torres Strait Islander peoples.<sup>xii</sup>

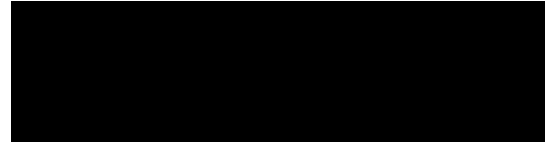
Legislation which seeks to minimise or mitigates the risks of misidentification and associated unintended consequences for children are supported by the QFCC.

Yours sincerely



**Luke Twyford**  
Principal Commissioner  
Queensland Family and Child Commission

2 / 11 / 2022



**Natalie Lewis**  
Commissioner  
Queensland Family and Child Commission

02 / 11 / 2022

<sup>i</sup> Australia's National Research Organisation for Women's Safety 2016, *Domestic and family violence and parenting: Mixed methods insights into impact and support needs: State of knowledge paper*, [https://apo.org.au/sites/default/files/resource\\_files/2016-01/apo-nid60485.pdf](https://apo.org.au/sites/default/files/resource_files/2016-01/apo-nid60485.pdf), accessed 2 November 2022.

<sup>ii</sup> Australian Bureau of Statistics 2017, *Personal Safety Survey Australia (2016)*, <https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>, accessed 2 November 2022.

<sup>iii</sup> Department of Children, Youth Justice and Multicultural Affairs 2021, *Our performance: Family and household risk factors. Table FP.1: Prevalence of parent risk factors in substantiated households, Queensland*. Accessed 7 March 2022.

<sup>iv</sup> Queensland Family and Child Commission, *Women's Safety and Justice Taskforce: Discussion Paper 1 Submission July 2021*, p.5 [https://www.womenstaskforce.qld.gov.au/\\_data/assets/pdf\\_file/0008/691712/wsjt-submission-qld-gov-queensland-family-and-child-commission.pdf](https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0008/691712/wsjt-submission-qld-gov-queensland-family-and-child-commission.pdf)

<sup>v</sup> Jasmine Hines, 'Children as young as 13 served with domestic violence orders in Queensland', *ABC News*, 4 August 2021, <https://www.abc.net.au/news/2021-08-04/children-as-young-as-13-served-with-domestic-violence-orders/100291728>

<sup>vi</sup> Heward-Belle S, Healey L, Isobe J, Roumeliotis A, Links E, Mandel D, Tsantfiski M, Young A & Humphreys C 2020, *Practice Guide: Working at the intersections of domestic and family violence, parental substance misuse and/or mental health issues*, <https://www.nifvs.org.au/wp-content/uploads/2021/03/STACY-Practice-Guide.pdf>, accessed 2 November 2022.

<sup>vii</sup> For example the *Domestic and Family Violence Protection Act 2012*, Sections 22, 148, 149, and 188.

<sup>viii</sup> Department of Children, Youth Justice and Multicultural Affairs 2022, *Child Safety Practice Manual – Domestic and family violence practice kit*, <https://cspm.csyw.qld.gov.au/getmedia/702aaa8a-7e81-4126-9f3a-5ac9e93a9926/Domestic-and-family-violence-2022-02-23.pdf>, accessed 2 November 2022.





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<sup>ix</sup> Campo M 2015, *Children's exposure to domestic and family violence: Key issues and responses*, Australian Institute of Family Studies (CFCA Paper no. 36), <https://aifs.gov.au/cfca/publicatons/childrens-exposure-domestic-and-family-violence>, accessed 2 November 2022.

<sup>x</sup> For example the *Youth Justice Act 1992*, Sections 150(1), 154(3), 283 and 288.

<sup>xi</sup> Queensland Family and Child Commission, *Women's Safety and Justice Taskforce: Discussion Paper 1 Submission July 2021*, p.8-10, [https://www.womenstaskforce.qld.gov.au/\\_data/assets/pdf\\_file/0008/691712/wsjt-submission-qld-gov-queensland-family-and-child-commission.pdf](https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0008/691712/wsjt-submission-qld-gov-queensland-family-and-child-commission.pdf)

<sup>xii</sup> *Human Rights Act 2019*, Sections 26 and 28.

