



Submission cover sheet

Inquiry into the Family, Personal and Sexual Violence Legislation Amendment Bill 2025

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Submitter: Women's Legal Centre

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Standing Committee on Legal Affairs
ACT Legislative Assembly

By email: LACommitteeLegal@parliament.act.gov.au

Dear Committee

RE: INQUIRY INTO THE FAMILY, PERSONAL AND SEXUAL VIOLENCE LEGISLATION AMENDMENT BILL 2025

The Women's Legal Centre ACT and Region ('the Centre') welcomes the opportunity to make a submission to the Inquiry into the *Family, Personal and Sexual Violence Legislation Amendment Bill 2025* ('the Bill').

The Centre is a specialist community legal centre based in Canberra that supports women, trans, and gender diverse people in the ACT and surrounding region. This submission is informed by the extensive experience of our staff in responding to family, personal, and sexual violence. It draws upon the expertise of our Family Law Practice, Sexual Violence Legal Service, and Employment, Discrimination, and Sexual Harassment Practice. The Centre is broadly supportive of the Bill and makes the following comments.

Family Violence Safety Notices (FVSNs)

The Centre supports reforms that enable timely, effective, and flexible responses to family violence in the ACT. We acknowledge that the proposed Family Violence Safety Notice (FVSN) scheme is intended to enhance police capacity to respond immediately to high-risk situations. The scheme has the potential to benefit victim-survivors who face barriers to immediately accessing the court system, including people with caring responsibilities, mobility issues, limited English proficiency, distrust or fear of courts, or limited legal knowledge.

However, the Centre has serious concerns about the implementation and potential impacts of the proposed FVSN framework. The scheme confers extensive and immediate powers on police which, without adequate safeguards, training, and resourcing, may inadvertently place victim-survivors at increased risk. We are concerned that in some circumstances, FVSNs may compromise rather than enhance the safety of affected persons.

1. Views of Affected Persons

While the Bill requires police to consider the views of the affected person, police are not bound by those views. The Centre is concerned that this approach may place victim-survivors at increased risk and discourage victims from contacting the police about incidents of family violence.

Decisions about safety are most effective when made in genuine collaboration with the victim-survivor. Victim-survivors are often best placed to assess risk, anticipate escalation, and identify responses that are safe and realistic. For example, many of our clients with strong prospects of obtaining a Family Violence Order (FVO) make the informed decision not to apply due to safety concerns, fear of



escalation, or a belief that the perpetrator will contest the order, engage in systems abuse, or cause them further distress.

The Centre is particularly concerned about instances where an FVSN may be issued contrary to the wishes of the affected person, the notice subsequently lapses, and it is unsafe or impracticable for the affected person to apply for an FVO.

In our experience, many victim-survivors already find it difficult to trust and engage with police. The Centre is concerned that allowing police to issue an FVSN without the consent of the affected person may deter victim-survivors from seeking police assistance. Victim-survivors may fear that the perpetrator will be dealt with in a way that increases risks to their own safety. We are also concerned that, as part of safety planning, we would need to advise clients about the possibility of an FVSN being issued without their consent. This may inadvertently discourage them from contacting police.

The Centre therefore suggests that:

- a. The views of the affected person be identified in the legislation as a primary consideration, to reinforce that decision-makers should consult with, and make decisions in collaboration with, the affected person to the greatest extent possible; and
- b. FVSNs explicitly state that they are issued on the initiative of police. This may provide affected persons with a degree of plausible deniability where respondents attribute blame to them for the making of the notice.

2. Statement of Grounds

Proposed section 13I requires an FVSN to include a brief statement explaining how each statutory ground for issuing the notice (set out in proposed section 13B) is satisfied. This suggests that notices may include substantial factual detail that supports the decision.

As the statement must be provided to the respondent and is not necessarily produced in collaboration with the victim-survivor, there is a risk that inclusion of factual detail may escalate the respondent, promote retaliation or facilitate victim-blaming by the respondent.

The Centre therefore suggests that:

- a. FVSNs state only that the decision was made with reference to the relevant statutory considerations, without specifically addressing how each ground is satisfied.

3. Police Training and Resourcing

The Centre acknowledges the significant operational challenges faced by police in responding to high-risk family violence, especially in circumstances of under-resourcing. However, the proposed FVSN scheme confers broad and immediate powers on police, and the Centre has concerns about the capacity of police to implement the scheme safely and consistently.

In particular, the Centre is concerned about the risk of misidentification of the primary aggressor in high-risk family violence contexts. Depending on the scope of the notice, misidentification may result in the primary victim being excluded from their home and, or separated from their children, undermining their safety and confidence in the justice system. These risks are heightened where police must make rapid risk assessments and apply complex statutory criteria under significant time pressure.

The Centre therefore suggests that:

- a. police officers be provided with comprehensive, specialist training, with additional targeted training for senior officers authorised to issue FVSNs;
- b. the police receive additional, adequate resourcing to support careful, consistent decision-making and oversight; and
- c. the police provide timely and effective responses to alleged breaches of FVSNs, noting a failure to investigate breaches is likely to embolden perpetrators and undermine the intent of the scheme.

4. Access to Application

Documents forming part of an FVSN application are likely to be accessible to the respondent in a range of circumstances, for example, when an order is made under sections 67ZBD and 67ZBE of the Family Law Act 1975 (Cth), or as part of other processes requiring police to produce documents.

The Centre is concerned that this may create safety risks for affected persons. Unlike Family Violence Order (FVO) proceedings, victim-survivors do not collaborate on the content of FVSN applications and therefore have limited control over what information may ultimately be disclosed to the respondent. In our experience, careful and strategic presentation of information in FVO applications is critical to minimising risk and preventing escalation.

There is a particular risk of retaliation where a respondent attributes responsibility to the victim-survivor for information provided to police, especially in circumstances where an FVSN was issued contrary to the affected person's wishes.

The Centre therefore suggests that:

- a. The legislation requires that when seeking the views of the affected person, the police warn them that information included in an FVSN application may be disclosed to the respondent in subsequent proceedings.

5. Amendment or Revocation of Notices

Under section 13X, police officers are unable to amend or revoke an FVSN once issued. The Centre is concerned that this creates significant practical and safety issues, particularly where:

- the affected person urgently wishes the notice to be revoked; or
- the notice contains a clear administrative or clerical error.

In these circumstances, the only apparent option is waiting for the notice to lapse, or attendance at court. This may be unsafe, impractical, or highly distressing for victim-survivors, particularly where they have caring responsibilities, work commitments, or safety concerns associated with attending court. It is unreasonable to require an affected person to attend court to seek revocation of a notice made against their wishes and which they believe compromises their safety.

The Centre acknowledges the risk that affected persons may be pressured to seek revocation. On balance, we believe that providing a safeguarded mechanism for amendment or revocation is preferable to leaving victim-survivors without an accessible pathway to address a notice that compromises their safety.

The Centre therefore suggests that:



- a. police be granted limited authority to revoke an FVSN at the request of an affected person and subject to appropriate safeguards (e.g. the request is made at least 24 hours after the order is issued, reminding the person of their right to seek advice, and providing a clear explanation of the notice's implications and available alternatives, including an FVO); and
- b. police be given authority to correct administrative or clerical errors in an FVSN

Protected Confidences

The Centre supports the proposed changes to the consensual release of protected confidence material. Allowing a litigant to release their own protected confidence material may help corroborate their allegations, promote earlier resolution, and give litigants a greater sense of control. However, releasing this material can have serious long-term consequences, including harm to existing and future therapeutic relationships and deter victim-survivors from accessing care.

It is therefore important that litigants have a real opportunity to obtain advice before making this decision, and we acknowledge that the legislation seeks to provide this. However, a reasonable opportunity to seek advice does not always mean that advice is available in practice. In our experience, litigants often struggle to access free or low-cost legal assistance, and it can be particularly difficult to obtain affordable, specialist advice from counsel on how this material may be used in proceedings.

The Centre therefore suggests that community legal services receive additional resourcing to enable them to provide detailed and timely advice on the disclosure of protected confidence material in civil proceedings.

Character References

The Centre supports the proposal to remove good character references as a mitigating factor in sentencing for sexual offences against children. In our experience, these references are deeply distressing for victim-survivors, particularly where an offender's apparent good character or reputation enabled the offending by fostering trust amongst children, parents, and the community. This is a proportionate and trauma-informed reform that better recognises the impact of these offences on victim-survivors.

However, it is unclear why the Bill limits this reform to offences against children. In our experience, good character references are retraumatising for victim-survivors regardless of their age at the time of the offending. We therefore recommend that the Committee consider extending the prohibition on good character references to sexual offences more broadly.

If you require further information, please contact me.

Sincerely,

Siobhan Hobbs

Director of Legal Services
Women's Legal Centre ACT