



## Joint submission on the *Family Violence Reforms Bill 2021*

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### Introduction

Engender Equality provides specialist counselling, psychoeducation and support for individuals and groups affected by family violence throughout Tasmania, together with advocacy and training to address gender inequality and reduce violence against women and children.

Yemaya Women's Support Service provides free and confidential counselling and support to women who are experiencing, or have experienced, abuse from an intimate partner.

Together, we welcome the opportunity to provide a submission on the draft Family Violence Reforms Bill (the Bill).

### Response to the Bill

#### i. *The Serial Family Violence Perpetrator declaration*

Broadly, Engender Equality and Yemaya support the introduction of the Serial Family Violence Perpetrator (SFVP) declaration. The common experience of our client groups is that repeat family violence offenders are only ever treated incident by incident in the criminal justice system, meaning the overarching patterns of perpetration and the totality of their harm (as well as their capacity to continue perpetrating) remains unaddressed. To the extent that the SFVP scheme recognises the patterned rather than incident-based nature of family and interpersonal abuse, and has the potential to relieve victim-survivors and their children of the burden of managing their own risk and safety, it is a useful measure.

However, we note that new initiatives designed to strengthen Tasmania's integrated criminal-justice response to family violence are only ever as effective as their implementation, and that without accompanying training, change management processes and evaluation, they risk inconsistent application and/or unintended consequences for victim-survivors. For these reasons we believe the SFVP declaration scheme should be supported by training for all relevant personnel within the Department of Justice, and should include the requirement for the public tabling of a formal evaluation and review process within a set period of time.

Additionally, we suggest that under 29D. *Review of declaration of serial family violence perpetrator*, further detail and guidance is required in relation to the 'exceptional circumstances' under which a declaration may be discharged, and similarly, in relation to the circumstances under which the duration of a declaration may be extended.

**Recommendation 1. Introduction of the Serial Family Violence Perpetrator declaration should be accompanied by training for all relevant personnel within the Department of Justice to ensure its equal and consistent application throughout Tasmania.**

**Recommendation 2. The Serial Family Violence Perpetrator declaration scheme should be formally evaluated, including in relation to outcomes for victim-survivors, within a set period of time and results tabled in Parliament.**

**Recommendation 3. Further detail and guidance should be provided under 29D. Review of declaration of serial family violence perpetrator in relation to the circumstances under which a Serial Family Violence Perpetrator declaration may be discharged or extended.**

ii. *Mandated behavioural change program participation*

Engender Equality and Yemaya take the position that criminal justice responses that seek to rehabilitate rather than punish family violence offenders are often the preferred option for victim-survivors (where they are safe), and on this basis we support the mandating of behaviour change program participation in conjunction with the issuing of Family Violence Orders. It is important to recognise, however, that the available evidence in relation to the effectiveness of behaviour change programs is inconclusive; in 2016 the Victorian Royal Commission into Family Violence stated that, “We do not know whether and to what extent existing programs are successful in changing an individual’s behaviour and attitudes or in keeping victims safe.”

For this reason, and given the extent to which behaviour change programs are now embedded within the family violence response in Tasmania, we recommend that the Tasmanian Government commits to reviewing the efficacy of mandated behaviour change programs for family violence offenders in the Tasmanian context and making these outcomes public, within a set period of time.

We also recognise that the mandating of behaviour change program participation in association with Family Violence Orders will add significantly to the demand for program access across Tasmania, including in parts of the state where there are currently no programs available. We therefore note the importance of ensuring appropriate workforce development, resourcing and recruitment are undertaken alongside the expansion of mandated behaviour change program participation in Tasmania, to ensure these programs are accessible and operate equitably throughout the state, in accordance with the intent of the legislation.

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**Recommendation 4. The efficacy of mandated behaviour change programs for family violence offenders should be formally evaluated within a set period of time, and results tabled in Parliament.**

**Recommendation 5. The Tasmanian Government should undertake appropriate workforce development, resourcing and recruitment alongside the expansion of mandated behaviour change program participation in Tasmania, to ensure these programs are accessible and operate equitably throughout the state.**

iii. *Miscellaneous family and sexual violence reforms*

Engender Equality and Yemaya support the majority of additional amendments within the draft Bill. We particularly welcome the expansion of the definition of ‘family violence’ to include specific family and sexual violence offences. In line with this expansion, we urge the Government to consider adding further clauses to the definition that reflect the contemporary family violence evidence base, specifically, recognising: that witnessing family violence and abuse carries the same risk of harm to children’s mental health and learning as being abused directly;<sup>1</sup> that non-fatal strangulation, choking and suffocation within intimate partner relationships are known precursors to escalating violence and death;<sup>2</sup> the high prevalence of reproductive coercion, including stealthing, as a form of family violence;<sup>3</sup> and that animal abuse is a common and profoundly traumatising tactic of family abuse and coercive control.<sup>4</sup>

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<sup>1</sup> Copeland WE, Shanahan L, Hinesley J, et al. Association of Childhood Trauma Exposure With Adult Psychiatric Disorders and Functional Outcomes. *JAMA Netw Open*. 2018;1(7).

<sup>2</sup> Thomson D, ‘Non-fatal strangulation: why law reform is needed in Tasmania’ (2021). *Forty South Tasmania*. 27 September 2021.

<sup>3</sup> Price E, Sharman LS, Douglas HA, Sheeran N, Dingle GA. Experiences of Reproductive Coercion in Queensland Women. *J Interpers Violence*, May 2019.

<sup>4</sup> SE McDonald et al, ‘Children’s experiences of companion animal maltreatment in households characterized by intimate partner violence’ (2015) *Child Abuse & Neglect* 116, 123.

Finally, we note the intention to repeal Section 39A of the Family Violence Act 2004, which relates to reviewing and reporting on the effectiveness of electronic monitoring of family violence offenders in Tasmania. We are strongly in favour of more, rather than less, evaluation and transparency in relation to the effective operation of criminal justice responses to family violence in Tasmania, and therefore recommend that S39A be retained and delivered upon, in accordance with the original intent of the legislation.

**Recommendation 6. The definition of family violence should be further expanded to include:**

- **Behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in paragraphs (a), (b) and (c) of the definition;**
- **Causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the family member to whom the behaviour is directed, so as to control, dominate or coerce the family member;**
- **Non-fatal strangulation, choking and suffocation;**
- **All forms of reproductive coercion, including ‘stealthing’.**

**Recommendation 7. Section 39A of the Family Violence Act 2004 should be retained and delivered upon, in accordance with its original intent.**

**Summary of Recommendations**

Recommendation 1	Introduction of the Serial Family Violence Perpetrator declaration should be accompanied by training for all relevant personnel within the Department of Justice to ensure its equal and consistent application throughout Tasmania.
Recommendation 2	The Serial Family Violence Perpetrator declaration scheme should be formally evaluated, including in relation to outcomes for victim-survivors, within a set period of time and results tabled in Parliament.
Recommendation 3	Further detail and guidance should be provided under <i>29D. Review of declaration of serial family violence perpetrator</i> in relation to the circumstances under which a Serial Family Violence Perpetrator declaration may be discharged or extended.
Recommendation 4	The efficacy of mandated behaviour change programs for family violence offenders should be formally evaluated within a set period of time, and results tabled in Parliament.
Recommendation 5	The Tasmanian Government should undertake appropriate workforce development, resourcing and recruitment alongside the expansion of mandated behaviour change program participation in Tasmania, to ensure these programs are accessible and operate equitably throughout the state.
Recommendation 6	The definition of family violence should be further expanded to include: <ul style="list-style-type: none"> <li>• Behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in paragraphs (a), (b) and (c) of the definition;</li> <li>• Causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the family member to whom</li> </ul>

	<p>the behaviour is directed, so as to control, dominate or coerce the family member;</p> <ul style="list-style-type: none"><li>• Non-fatal strangulation, choking and suffocation;</li><li>• All forms of reproductive coercion, including 'stealthing'.</li></ul>
Recommendation 7	Section 39A of the Family Violence Act 2004 should be retained and delivered upon, in accordance with its original intent.

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