

FACT SHEET

Family Violence Reforms Bill 2022

The *Family Violence Reforms Bill 2022* (the Bill) makes amendments to the following Acts:

- *Family Violence Act 2004*
- *Community Protection (Offender Reporting) Act 2005*
- *Corrections Act 1997*
- *Criminal Code Act 1924*
- *Dangerous Criminals and High Risk Offenders Act 2021*
- *Evidence Act 2001*
- *Evidence (Children and Special Witnesses) Act 2001*
- *Firearms Act 1996*
- *Justices Act 1959*
- *Sentencing Act 1997*

The Bill implements government commitments and includes additional miscellaneous amendments to improve the operation of the family and sexual violence legislative framework.

In the '*Safe Homes, Safe Families: Next Steps*' election commitment, the Government committed to strengthening family violence laws by creating a new declaration for repeat family violence offenders. The Government also committed, at Action 25 of the *Safe Homes Families Communities action plan for family and sexual violence 2019-2022*, to introducing an ability for courts to mandate participation in behaviour change programs as part of a Family Violence Order.

The Serial Family Violence Perpetrator Declaration

The Bill amends the *Family Violence Act 2004* to establish a Serial Family Violence Perpetrator (SFVP) declaration framework. A series of consequential amendments to the *Corrections Act 1997*, *Dangerous Criminals and High Risk Offenders Act 2021*, and *Firearms Act 1996* are also made to implement the framework.

The SFVP declaration in this Bill is designed to identify perpetrators who repeatedly commit family violence offences against a single partner or multiple and successive partners. The introduction of a SFVP declaration recognises that serial family violence perpetrators present a high risk of repeat and escalating offending. It aims to provide for a heightened justice response proportionate to the severity of a perpetrator's family violence offending and assessed risk of future family violence offending, through the imposition of certain restrictions, facilitating rehabilitation or providing for enhanced supervision.

The Bill provides that either the Supreme Court of Tasmania or Magistrates Court may make an SFVP declaration if the perpetrator is at least 18 years old at the time an application is made and:

- has been convicted of at least two indictable family violence offences committed on separate days; or
- three family violence offences committed on separate days if they are summary offences, or a combination of summary and indictable; or

- been convicted of the crime of persistent family violence at section 170A of the *Criminal Code*.

The Bill outlines the factors a court may have regard to in making the declaration, and includes an ability to require a pre-sentence report to evaluate, among other matters that may arise, the risk of the offender committing further family violence offences.

The duration of a declaration will be at the discretion of the court up to a maximum of 5 years, and includes an ability to review the declaration, such as for its early discharge or extension by application.

Upon an SFVP declaration being made by the court, it will be recorded on the perpetrator's criminal record, remove their ability to possess a firearm, be considered as an aggravating factor at sentencing for a subsequent family violence offence committed while the declaration is in force, be considered in a parole application, and be considered if a High Risk Offender order is applied for.

In addition to these immediate outcomes, the court is directed to take further steps at sentencing to enhance supervision and facilitate rehabilitation, through consideration of making of a Family Violence Order with electronic monitoring and/or behavioural change program participation conditions.

Mandated behavioural change program participation

The Bill amends the *Family Violence Act* to provide an option for the court to order rehabilitation program participation as a family violence order condition.

This amendment delivers on Action 25 of the Government's *Safe Homes Families Communities action plan for family and sexual violence 2019-2022*. The reform will enable family violence perpetrators to participate in behavioural change programs that may assist in addressing recidivism.

Under the reform, the court is required to order that a rehabilitation program assessment be undertaken in respect of the person, be satisfied that the person is eligible to participate in the rehabilitation program, and be that the rehabilitation program is available for the person to participate in at a suitable place and time.

A condition may be attached to the order that the person attending and participating in the rehabilitation program report to a person nominated by the Director of Corrective Services.

Miscellaneous family and sexual violence reforms

Under the *Family Violence Act*, the Bill expands the definition of 'family violence' to include additional specific offences, providing for alternative convictions for certain offences in the *Criminal Code*; and expands the definition of 'harassing', to reflect that making unwelcome contact is a form of family violence. The Bill also expands the list of conditions available under Police Family Violence Orders, to enhance the Safe at Home response in circumstances where a person has committed or is likely to commit family violence.

Under the *Criminal Code*, the Bill removes section 54 'Liability of husband and wife for offences committed by either with respect to the other's property'. It is well known that perpetrators of

family violence often injure or destroy their spouse's property. This type of conduct is a form of family violence as recognised, and captured, by the existing definition of family violence contained in the section 7(c)(i)-(iii) of the *Family Violence Act*. Section 54 of the Criminal Code is outdated and does not accord with the expectation of what amounts to unlawful conduct. A series of consequential amendments are also made to section 337A, providing alternative convictions to the crime of persistent family violence at section 170A, reflecting changes made under the definition of family violence.

Following introduction of section 170A (persistent family violence) of the *Criminal Code*, certain statutes require consequential amendment to reflect the introduction of this crime and resolve procedural irregularities. The Bill will make minor amendments to the *Community Protection (Offender Reporting) Act 2005*, *Evidence Act 2001*, *Evidence (Children and Special Witnesses) Act*, and *Sentencing Act 1997*.

Finally, the Bill includes an additional amendment to the *Evidence (Children and Special Witnesses) Act* to include reference to section 192 (stalking and bullying) of the *Criminal Code*, and makes a minor amendment to redraft section 61(2)(a)(vi) (reference to family violence offending) of the *Justices Act 1959* to improve clarity.