

DRAFT SECOND READING SPEECH

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Family Violence Reforms Bill 2016

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Madam Speaker, I move that the Bill now be read a second time.

This Bill will strengthen our legislative frameworks to improve the safety of victims of family violence and hold perpetrators of family violence to account.

This Bill proposes amendments to the *Family Violence Act 2004*, the *Corrections Act 1997*, the *Evidence (Children and Special Witnesses) Act 2001* and the *Police Offences Act 1935*.

Madam Speaker, this Government is committed to addressing the very serious problem of family violence. This Bill complements the Government's *Safe Homes, Safe Families: Tasmania's Family Violence Action Plan 2015-2020*, a coordinated, whole of government action plan to respond to the issues associated with family violence.

In addition to activities to strengthen our legislative frameworks the Action Plan builds on existing family violence responses such as Safe at Home. The Action Plan also includes funding to hold perpetrators to account and better support adult and child victims.

While talking about family violence, I would like to take this opportunity to note the family violence consultation paper that was released for public comment last year with consultation having concluded in February.

The consultation paper explores a range of issues and potential further reform options for Tasmania's legal responses to family violence. Responses to the consultation paper are being carefully considered.

The outcomes of this consultation will help support the Government's ongoing efforts to strengthen existing legal frameworks and improve how Tasmania's justice system addresses family violence.

I will now turn to the amendments contained in the Bill before the House.

At present, section 87A of the *Corrections Act 1997* provides for eligible persons registered on the Eligible Persons Register to receive information about a person who has offended against them and is:

- a) a prisoner who has been sentenced to a period of imprisonment, or
- b) an adult forensic patient who is subject to a Restriction Order or has been apprehended under a Supervision Order, in respect of a violent offence or sexual offence.

This means that only family violence victims who were subject to a sexual or a violent offence are eligible to apply for inclusion on the register.

The Bill extends the scope of section 87A to provide a victim of a family violence offence the option to apply for inclusion on the Eligible Persons Register. This will mean that they are given information about a prisoner's release and progress through the prison system.

The *Evidence (Children and Special Witnesses) Act 2001* provides for certain people to have extra assistance when giving evidence. This includes children under 17, people with an intellectual, mental or physical disability and those who may be affected by age, cultural background, or relationship to any party in the proceedings of the nature of the subject matter.

A person may also be declared a special witness if it is likely the giving of evidence in court may cause a person severe emotional trauma or the person may be so intimidated or distressed as to be unable to give evidence satisfactorily. This may cover an alleged victim of a family violence offence.

If a judge is satisfied that a witness meets one of these criteria then it is possible to have, for example, a support person with the witness in the Court, to use an audio visual link to give evidence rather than being in Court, to admit into evidence a prior statement of a special witness as if they are an affected child under the Act, or to have some persons excluded from the Court room.

The new provisions inserted in section 8 of the Principal Act provide that where an alleged victim of family violence is giving or is to give evidence in proceedings for a family violence offence, a judge must consider whether to make an order declaring the alleged victim to be a special witness. A judge may then make an order declaring the alleged victim to be a special witness.

The Bill inserts a provision stating that when a person is deemed to be a special witness under new provision (2A) any one or more of the orders referred to in subsection (2)(b) in section 8 of the Principal Act may be included.

It is clear that some victims of family violence are apprehensive of court proceedings for a range of reasons, including emotional or financial reasons. These amendments will enhance the protections available to these vulnerable complainants to help them cope with and participate in court proceedings.

Of course, not every complainant may want or need these special witness protections, and the court will not make complainants utilise them. There may be some who want to face the perpetrator in court. The new provisions enable a judge to turn their mind to considering the circumstances of each family violence matter before the court.

This Bill inserts section 13A in the *Family Violence Act 2004*. This new section provides that if a person pleads guilty or is found guilty of a family violence offence that the court is to direct that the perpetrator's criminal record identifies the offence as a family violence offence.

Currently convictions for criminal offences committed in circumstances of family violence are recorded like any other crime. This new provision will identify a perpetrator's pattern of family violence offending. This section also provides for the court, on its own motion or following an application, to direct that the record be corrected if necessary.

Finally, this Bill amends the *Police Offences Act 1935* by inserting subsection 1B in section 35 to provide a separate express penalty provision for the summary offence of common assault where the accused knew at the time of the assault that the victim was pregnant.

Section 184A of the *Criminal Code* currently provides that it is a crime to assault a pregnant woman. This crime is dealt with on indictment in the Supreme Court, and is reserved for matters where the assault itself is serious enough to be indictable, or where the assault was directed at the pregnancy.

The Sentencing Council has previously recommended that such an amendment be considered. The amendment recognises that pregnancy is a time when women are vulnerable to abuse; research has shown that women are at an increased risk of family violence during pregnancy.

The insertion of an express sentence aggravating provision in the offence of common assault where the person assaulted is a pregnant woman recognises the aggravating circumstances of pregnancy in all assaults, not just those where serious injury, or risk to the pregnancy, result.

The proposed new penalty under this provision is a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years.

Madam Speaker, tackling the scourge of family violence is a priority of this Government and the proposed amendments in this Bill form part of a number of important initiatives by this Government to address family violence.

I commend the Bill to the House.