

DRAFT SECOND READING SPEECH

HON. WILL HODGMAN MP

Family Violence Amendment Bill 2015

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

The purpose of this Bill is to improve and strengthen the operation of the *Family Violence Act 2004*. This Bill proposes a number of amendments to the *Family Violence Act 2004*, along with consequential amendments to the *Justices Act 1959*.

Tasmania's dedicated family violence legislation has been operating since March 2005. The amendments in this Bill have been identified by stakeholders working within the Safe at Home process over the years since the *Family Violence Act 2004* commenced and are designed to enhance the operation of the Act.

Madam Speaker, the *Family Violence Act 2004* provides an important tool for protecting victims, including children, of family violence and also underpins Safe at Home, the Government's integrated criminal justice response to family violence.

Tasmania's Safe at Home program delivers a suite of services to assist victims of family violence and is founded on the principle of the 'primacy of the safety of the victim' and employs a pro-arrest, pro-prosecution approach to fulfil this fundamental principle. The Safe at Home program operates in partnership with the Departments of Justice, Police and Emergency Management, Health and Human Services, Education and Premier and Cabinet.

This Government is dedicated to addressing the very serious problem of family violence. The proposed amendments in this Bill will enhance and clarify the operation of the *Family Violence Act 2004*.

Madam Speaker, I think that this is a good opportunity to mention that last week, the Government released its Family Violence Action Plan for 2015-2020 – *Safe Homes, Safe Families*.

The almost \$25.57 million Plan has been widely praised as a nation-leading strategy that has exceeded all expectations, and will go a long way to both reducing and preventing violence.

I want to thank my Parliamentary colleagues for the cross-party support for the Plan, and again thank the community sector, wider community and the many organisations, businesses and individuals for their contribution, including the External Consultative Group.

One element of the Plan is to strengthen the legislative framework to address family violence.

This Bill is the first tranche of that commitment. Further legislative measures to recognise the seriousness of family violence offences requires full and further consideration, and the Government's actions will be guided by the recommendations from the Sentencing Advisory Council report on family violence, expected to be released later in 2015.

I now turn to the provisions of the Bill before the House.

A statutory review recommended that property damage should be included in the definition of family violence. This Bill makes that amendment in section 7 to include property damage as a type of family violence. This Bill recognises property damage in its own right as it may be one part of a course of conduct which, taken as a whole, constitutes family violence.

At present, the time in which to commence proceedings for an offence of economic abuse or emotional abuse or intimidation is six months. The offences of economic abuse and emotional abuse or intimidation consist of a 'course of conduct' which may take place over a prolonged period of time and this Bill inserts section 9A to extend the limitation period within which a prosecution under the Act may be brought from six months to twelve months.

Where a police officer has entered premises to prevent family violence, the Bill clarifies the powers of a police officer in section 10 to detain a person on the premises and carry out a search of that person.

This Bill also introduces in section 10 the power for a police officer to obtain assistance from either another police officer or a member of the public to assist the police officer as required in the circumstances, including for example, to enter premises to prevent family violence, search for an object which is suspected of having been used or may be used in the commission of a family violence offence. Further, failure to comply with a direction by a police officer under the new subsection 2(ab) carries a maximum fine of eighty penalty units.

Section 12(2) sets out a list of matters that a judge, court or police officer must have regard to when considering whether or not to grant bail. This Bill removes safety audit results from this list. Safety audits are not generally provided to the court as the principles of natural justice and procedural fairness would then require that the audit be provided to the defence as provision of the safety audit to the defendant could seriously compromise the victim's safety.

To ensure the protection of victims of family violence, the Bill clarifies in sections 14 and 23 that a court can make an interim family violence order where an application to vary, extend or revoke a police family violence order has been made to the court.

The Bill also introduces section 25A which provides a new power within the Family Violence Act. Section 25A provides that if an application for a family violence order is adjourned, the courts have powers to remand in custody and issue a warrant, admit to bail, or issue a summons ordering the respondent to appear before a court at a time and place to which the proceedings are adjourned.

This amendment is to ensure that the protection and welfare of the person for whose benefit the family violence order is sought is recognised as being of paramount importance.

The new section 25A also provides that where a court remands a respondent in custody under this provision, that the court is to specify that the respondent is to be in custody for a period not exceeding 28 days at any one time and the date the respondent is to be brought before the court.

In addition, the Bill also sets the period of bail in the new section 25A at a maximum of 60 days when a respondent to an application for a family violence order is admitted to bail.

Under section 26 a person may apply to the Chief Clerk of Petty Sessions to register an external family violence order and section 27 sets out that the Chief Clerk of Petty Sessions must register an external family violence order. The Bill removes 'Chief' from both sections to avoid delays in registering external family violence orders because of the need for the Chief Clerk to be involved. Unnecessary delays may have serious implications for the safety of the person or persons protected.

The Bill amends section 32 to provide for an automatic ban on the publication of any material that might identify an affected child in family violence proceedings, rather than a reliance on a court order. The maximum penalty that can be imposed for breaching the automatic ban in section 32 is a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 3 months.

Finally, this Bill makes a minor consequential amendment to the *Justices Act 1959* by inserting section 106BA. This new provision will provide that justices may make a family violence order pursuant to section 15 of the *Family Violence Act 2004* where an application for a restraint order has been made if the justices consider that the application should have been an application for a family violence order.

Madam Speaker, these amendments have been developed over a number of years and have undergone considerable consultation across a broad range of stakeholders including the Law Society of Tasmania, Women's Legal Services and Community Legal Centres.

Consultation was undertaken across government through the Interdepartmental Committee on Family Violence which consists of representatives from the Departments of Health and Human Services, Police and Emergency Management, Education, Justice and Premier and Cabinet. The proposed amendments have been endorsed by the Safe at Home Steering Committee, which oversees the Safe at Home Interdepartmental Committee.

The Legal Aid Commission of Tasmania, the Magistrates Court and Supreme Court were also consulted on the Bill.

Madam Speaker, this Government takes the issue of family violence very seriously. The amendments in this Bill have been carefully considered and will enhance the operation of Tasmania's family violence legislation.

Family violence is a priority issue for Government and this Bill forms part of a series of initiatives to deal with family violence.

Madam Speaker, I commend the Bill to the House.

