



Tasmanian Council of Social Service Inc.

Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper

April 2026



**INTEGRITY
COMPASSION
INFLUENCE**

About TasCOSS

TasCOSS's vision is for one Tasmania, free of poverty and inequality where everyone has the same opportunity. Our mission is two-fold: to act as the peak body for the community services industry in Tasmania; and to challenge and change the systems, attitudes and behaviours that create poverty, inequality and exclusion.

Our membership includes individuals and organisations active in the provision of community services to Tasmanians on low incomes or living in vulnerable circumstances. TasCOSS represents the interests of our members and their service users to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage, and promote the adoption of effective solutions to address these issues.

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Introduction

TasCOSS welcomes the opportunity to provide a submission to the Tasmanian Government Department of Justice in response to *Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper* (the 'Discussion Paper'). The Discussion Paper provides an important examination of Tasmania's legislative and policy response to family violence and invites feedback on key aspects of the legislative framework, including the *Family Violence Act 2004* (the 'Act'), *Criminal Code Act 1924*, *Evidence (Children and Special Witnesses) Act 2001*, *Justices Act 1959*, *Police Offences Act 1935* and *Sentencing Act 1997*.

TasCOSS strongly supports legislative and policy reform that enhances the prevention and response to family violence and strengthens system capability to deliver evidence-informed, trauma-informed, and culturally safe responses across the prevention continuum. This includes reform that promotes the safety, wellbeing and agency of children, adults and communities harmed by family violence, and that is underpinned by sustained investment in prevention, early intervention and community-based services.

TasCOSS provides this submission as part of the Change Lead project, focussed on preventing harm to children and young people. Accordingly, this submission focuses on strengthening legislative and systemic responses to better recognise, protect and respond to children and young people impacted by family violence.

Background

Recognising and responding to children's experiences of family violence

Historically children have been positioned within family violence frameworks as 'witnesses' of violence directed at adults, rather than recognised as 'victim survivors in their own right'.¹ This framing has shaped adult-centric legislative and policy responses and has obscured the distinct, direct and cumulative harms of family violence for children.

Contemporary evidence, policy and practice emphasise the importance of child-centred responses that recognise the distinct developmental, relational, and intergenerational impacts of violence. This includes recognition of children's own safety, help-seeking, support and recovery needs,² as well as analysis systems which reinforce and exacerbate structural disadvantage,³ and children's rights to be heard and to participate in decisions affecting them, consistent with the United Nations Convention on the Rights of the Child.

¹ Richards, K (2011), *Children's exposure to domestic violence in Australia*, *Trends and Issues in Crime and Criminal Justice*, no. 419, Canberra: Australian Institute of Criminology.

² Gillfeather-Spetere, S & Watson, A (2024), *In their own right: Actions to improve children and young people's safety from domestic, family and sexual violence*, ANROWS, p. 11.

³ Victorian Government (2022), *Children and young people as victim survivors in their own right*.

Children experience and are impacted by family violence in a range of relational contexts, including in relationships with parents or caregivers, adolescent family violence in the home (AVITH), adolescent intimate partner violence, extended family, kinship and other formal or informal care relationships.

For Aboriginal children and families, experiences of family violence must be understood within the broader context of structural violence, including colonisation, racism and disproportionate statutory intervention. Aboriginal leaders and communities have consistently emphasised the importance of culturally safe, community-led responses that support healing, strengthen family connections to community and culture, and uphold Aboriginal self-determination.⁴

Ensuring that legislative and policy frameworks reflect contemporary understandings of family violence is essential to promoting effective, child-centred, trauma-informed, and culturally safe responses, while avoiding unintended statutory or system harm.

Recommendations

TasCOSS recommends that the Tasmanian Government:

1. Broaden the definition of family relationships.
2. Embed child-centred legislative principles.
3. Strengthen safeguards to prevent statutory harm.
4. Improve coordination across intersecting legislation.
5. Ensure reform is supported by sustained investment in child-centred and culturally safe services. Accompany legislative reform with long-term investment in prevention, early intervention and therapeutic supports, including culturally safe services delivered by Aboriginal community controlled organisations and the community services sector.

Key Issues

The definition of 'family relationship' does not reflect children's lived experiences of harm

The scope and operation of the Act is shaped by its definition of 'family relationship.'

The Act defines family violence as prescribed conduct 'committed by a person, directly or indirectly, against that person's spouse or partner,' or against a person with whom they have been in a prescribed 'family relationship.' In this context, a family relationship is limited to an intimate partner relationship between two adults, or between two people where one or both are between the ages of 16 to 18 years, and provided the relationship satisfies the prescribed circumstances of a 'significant relationship'⁵ as set out in the *Relationships Act 2003*.⁶

This definition reflects a primary focus on adult intimate partner violence and does not fully encompass the broad range of relationships in which children experience violence. As the definition establishes the threshold for recognition of family violence and access to legal protections and service supports, its

⁴ Australian Government Department of Social Services, [Our Ways- Strong Ways- Our Voices: National Aboriginal and Torres Strait Islander Plan to End Family, Domestic and Sexual Violence 2026-2036](#) (Canberra: Commonwealth of Australia, 2026).

⁵ *Family Violence Act 2004 (Tas)*, s7-s9.

⁶ *Relationships Act 2003 (Tas)*, s4.

scope directly influences the extent to which children’s experiences of harm are recognised and addressed within the legislative framework.

The Act’s reliance on the ‘significant relationship’ provision also creates barriers for some children aged between 16 and 18 years, whose experiences of intimate partner violence would otherwise be considered family violence under the current framework, but whose relationships do not meet the statutory criteria of a ‘significant relationship.’⁷ For example, LGBTQIA+ children who experience barriers to disclosing their gender identity or sexual orientation, or children who are considered financially dependent on their parents or are experiencing housing instability may be unable to access the protections and responses intended by the Act.

Tasmania’s legislative framework differs from other Australian jurisdictions, which have adopted broader statutory definitions, recognising family violence within a wider range of meaningful relationships.^{8 9} Expanding the definition of family relationship in the *Family Violence Act 2004 (Tas)* to include parent-child, sibling, kinship and caregiving relationships would align Tasmania with contemporary legislative practice, national reform direction, and enable more comprehensive responses to children’s experiences of harm.¹⁰ However, significant consideration must be given to ensuring reforms aimed to protect children and adults from harm, do not deepen the criminalisation those harmed by family violence.

Recommendation:

1. Broaden the definition of Family Relationships.

Expand the definition of ‘family relationship’ within the Family Violence Act 2004 to include parent-child, sibling, kinship and caregiving relationships, ensuring the legislation reflects the full range of contexts in which children experience family violence.

The Act does not adequately recognise and respond to children’s rights, experiences, and support needs

The Act predominantly recognises children as ‘affected’ by violence directed toward an adult victim survivor — ‘affected person’.¹¹ While this provides important acknowledgement of harm, it positions children’s experiences within an adult-centric framework. As a result, children’s individual safety,

⁷ [Relationships Act 2003 \(Tas\)](#), s4(3).

⁸ For example the [Domestic and Family Violence Act 2012 \(Qld\)](#), s13-s20 defines a ‘relevant relationship’ as an intimate partner, family or an informal care relationship.

⁹ The Australian Government’s House of Representatives Standing Committee on Social Policy and Legal Affairs inquiry into family violence orders (FVO Inquiry) recommended that children and young people should be able to apply for FVOs and be independently named as the protected person rather than as a secondary person protected on a parent or guardian’s FVO. For more information see, *Australian Government’s House of Representatives Standing Committee on Social Policy and Legal Affairs Inquiry into Family Violence Orders* (2025, no. 6, pp. xix-xx, recommendation 3, also referenced in the Tasmanian Government (2025), *Family Violence Act 2004 and Related Legislation Discussion Paper*, p. 24.

¹⁰ For example the [Domestic and Family Violence Act 2012 \(Qld\)](#), s13-s20 defines a ‘relevant relationship’ as an intimate partner, family or an informal care relationship.

¹¹ The [Family Violence Act 2004 \(Tas\)](#), s4, defines an *affected child* as ‘a child whose safety, psychological wellbeing or interests are affected or likely to be affected by family violence,’ and an *affected person* as ‘a person against whom family violence is directed.’

wellbeing, and recovery needs may not be consistently recognised or addressed as a distinct focus of legislative and systems responses.

Legislative frameworks shape system design, including eligibility for protection, access to services and participation in decision-making processes. Where children are not explicitly and meaningfully recognised within legislative provisions, their experiences and needs may be less visible within legal processes, risk assessment frameworks and service responses. This influences how systems identify, prioritise and respond to children affected by family violence.

These structural limitations are reflected in the operation of key protective mechanisms under the Act. While s15(2)(c) of the Act provides that an affected child may apply for a Family Violence Order (FVO), this is contingent on recognition that the child has been affected by family violence within the meaning of the Act. As the legislative definition of family violence is defined by prescribed conduct occurring within an intimate partner relationship, this mechanism most commonly applies where children are affected by violence directed at an adult within that relationship. This affects the extent to which children are independently recognised and able to access protection under the legislative framework.

Further, the Act also does not explicitly require decision-makers to consider children's developmental needs, rights or participation when exercising powers under the Act. Nor does it establish legislative obligations for police, legal practitioners, prosecutors and judicial officers to ensure children are provided with safe, meaningful, and developmentally appropriate opportunities to participate in decisions affecting their safety and wellbeing. This is inconsistent with the United Nations Convention on the Rights of the Child, which affirms children's rights to safety, dignity, participation, and to have their views heard and given due weight in matters affecting them.

Embed child-centred principles within the Act

Statutory objects and guiding principles play a central role in shaping how legislation is interpreted, applied and implemented. Embedding explicit child-centred principles within the Act would guide decision-making and support consistent, developmentally appropriate responses to children affected by family violence.

Comparable legislative frameworks in other Australian jurisdictions provide clear examples of this approach. For example, the *Family Violence Protection Act 2008 (Vic)*¹² and the *Domestic and Family Violence Protection Act 2012 (Qld)*¹³ include statutory purposes, objects and decision-making provisions

¹² [Family Violence Protection Act 2008 \(Vic\)](#), s1, Purpose: The purpose of this Act is to —

(a) Maximise safety for children and adults who have experienced family violence;

¹³ [Domestic and Family Violence Protection Act 2012 \(Qld\)](#)

Preamble — recognises that Australia is a party to the United Nations Convention on the Rights of the Child;

s4(1) — This Act is to be administered under the principle that the safety, protection and wellbeing of people who fear or experience domestic violence, including children, are paramount.

s4(2) — subject to subsection (1), this Act is also to be administered under the following principles —

(a) People who fear or experience domestic violence, including children, should be treated with respect and disruption to their lives should be minimised;

(b) To the extent that it is appropriate and practicable, the views and wishes of people who fear or experience domestic violence should be sought before a decision affecting them is made under this Act;

that explicitly recognise children's safety and wellbeing and require courts and decision-makers to consider the impact of family violence on children when exercising powers under the legislation.

In contrast, the Act does not currently include equivalent child-centred legislative principles. This limits the extent to which the legislative framework consistently supports child-centred interpretation and application. Amending the Act to include child rights, and child-centred statutory objects and guiding principles would strengthen legislative clarity and support more consistent system responses. These principles should:

- Recognise children rights holders, with distinct safety, wellbeing, and participation needs;
- Recognise the diversity of children's experiences and support culturally safe, inclusive and developmentally appropriate responses;
- Affirm children's rights to safety, dignity, participation and healing;
- Ensure legislative and system responses are designed to avoid statutory harm and minimise adverse system impacts;
- Support trauma-informed and strengths-based approaches that promote safety, stability and recovery; and
- Support developmentally appropriate and therapeutic responses to children displaying harmful behaviours.

Reform should also promote alignment across intersecting legislation affecting children's safety and wellbeing, including the *Children, Young Persons and their Families Act 1997 (Tas)*, the *Youth Justice Act 1997 (Tas)* and the *Police Offences Act 1935* to support a coherent and consistent legislative framework to children's experiences of harm.

Recommendation:

2. Embed child-centred legislative principles.

Introduce clear objects and guiding principles in the Act that recognise children as rights holders with distinct safety, wellbeing and participation needs, and require decision-makers to consider the impacts of family violence on children.

Legislative safeguards are required to prevent statutory and institutional harm

Expanding the scope of the Act to respond to children's experiences of family violence must be accompanied by appropriate legislative safeguards to ensure responses involving children are developmentally appropriate, trauma-informed, proportionate and focussed on promoting the safety and wellbeing of all children. Without such safeguards, there is a risk that legal mechanisms may be applied in ways that cause further harm.

(d) If people have characteristics that may make them particularly vulnerable to domestic violence, any response to the domestic violence should take account of those characteristics;
Examples of people who may be particularly vulnerable to domestic violence — ... children ...

Evidence demonstrates that children’s use of harmful behaviours, including AVITH, dating violence, and adolescent intimate partner violence, is complex and often associated with experiences of trauma and child maltreatment, including family violence and unmet developmental and support needs.¹⁴

Major Australian inquiries and recent research has cautioned against the use of legal responses to children displaying harmful behaviours. The *Victorian Royal Commission into Family Violence* (2016) recommended that children displaying harmful behaviours be diverted from the legal system to therapeutic and specialist supports wherever possible.¹⁵ Similarly, the *Positive Interventions for Perpetrators of Adolescent Violence in the Home Report* (2020), which examined legal and service interventions to AVITH in Victoria, Western Australia and Tasmania, found that legal interventions are often poorly suited as they do not address the underlying drivers of harmful behaviour.¹⁶ In Victoria, in 2024, more than half (53%) ‘of all young people aged between 10 and 24 who had a FVIO [Family Violence Intervention Order] made against them in the last five years were previously [identified as]’ an applicant in a FVIO.¹⁷

Service data analysis from 2018-24, undertaken by Legal Aid Victoria identified further challenges with the state’s legal response to children displaying harmful behaviours,¹⁸ including:

- Increasing numbers of children responding to intervention orders — between 2018-19 to 2023-24 the number of child respondents to PSIO applications almost doubled.
- Children and young people are missing out on legal representation — 56% of young respondents did not receive legal advice before the matters were finalised.
- Overrepresentation of children experiencing structural inequality as respondents to intervention orders:
 - 29% had child protection involvement;
 - 25% had a disability;
 - 9% were First Nations; and
 - 9% were born overseas.
- Intervention orders are being used to respond to AVITH, instead of supports for families in crisis — 39% of families did not support a FVIO being made against their child.

These findings reinforce the importance of ensuring legislative responses involving children are carefully designed to avoid compounding harm. These risks are particularly relevant in the Tasmanian context, where Police Family Violence Orders (PFVOs) can be issued directly by police and operate as final orders.

TasCOSS has previously raised concerns regarding the operation of the PFVO framework, including risks of misidentification and statutory harms associated with PFVOs. Please see TasCOSS’s submission to the *Family Violence (Miscellaneous Reforms) Bill 2025*, included at Appendix 1.

¹⁴ Victoria Legal Aid (2025), [Feeling Supported, Not Stuck: Rethinking intervention orders for children and young people](#), p. 7.

¹⁵ Victoria Legal Aid (2025), [Feeling Supported, Not Stuck: Rethinking intervention orders for children and young people](#), p. 7.

¹⁶ Campbell, E et al. (2020), *The PIPA Project: Positive interventions for perpetrators of adolescent violence in the home (AVITH)*, ANROWS, p.17.

¹⁷ Victoria Legal Aid (2025), [Feeling Supported, Not Stuck: Rethinking intervention orders for children and young people](#), pp. 4

¹⁸ Ibid, pp. 14-18.

Legislative safeguards play a critical role in supporting proportionate, child-centred responses. Examples from other Australian jurisdictions include:¹⁹

- Requiring decision-makers to consider children’s developmental stage, circumstances and support needs;
- Supporting accurate identification of risk and reduce the risk of misidentification;
- Providing clear guidance to police and courts on responding appropriately to children and young people; and
- Promoting therapeutic, family-centred, and support-based responses alongside legal protections.

The inclusion of explicit legislative safeguards would strengthen legal and service responses to family violence involving children, while reducing the risk of unintended statutory or institutional harm. Aligning Tasmania’s legislative framework with contemporary practice in other Australian jurisdictions would further support safe, developmentally appropriate, and evidence-informed responses.

Recommendation:

- 3. Strengthen safeguards to prevent statutory harm.**
Include legislative safeguards to ensure responses involving children are developmentally appropriate, trauma-informed and proportionate, and to reduce the risk of misidentification or inappropriate criminalisation of children displaying harmful behaviours.

Coordinated reform is required to address structural gaps in the legislative framework

The Discussion Paper considers whether the Act should be expanded as per national reform direction, to more effectively enable children and young people to apply for FVOs, and to be independently named as protected persons, rather than recognised only as secondary protected persons on a parent or guardian’s order.²⁰ The Discussion Paper notes that Child Safety Services (CSS) has primary responsibility for protecting children at risk of abuse or neglect under the *Children, Young Persons and their Families Act 1997 (Tas)*, including where family violence constitutes child abuse,²¹ and therefore takes the position such expansion may not be required. This raises important considerations regarding the interaction between the *Family Violence Act 2004 (Tas)* and the *Children, Young Persons and their Families Act 1997 (Tas)*, which serve complementary functions.

The *Children, Young Persons and their Families Act 1997 (Tas)* enables statutory intervention where experiences or risks of harm meet required thresholds, whereas the Act provides civil and criminal mechanisms intended to respond to violence within family relationships. Not all children impacted by family violence will meet the statutory threshold for child safety intervention. At the same time, the current framing of family violence under the Act does not consistently recognise children who

¹⁹ Australian Government Department of Health and Aged Care, *Recommendation 8.22 – Age of criminal responsibility*, 2025.

²⁰ Tasmanian Government (2025), *Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper*, p. 24.

²¹ Tasmanian Government (2025), *Strengthening Our Responses to Family Violence in Tasmania: Family Violence Act 2004 and Related Legislation Discussion Paper*, p. 24.

experience violence directly within family relationships. This creates a structural gap in which some children's experiences of harm may not be fully recognised or addressed within either legislative framework.

This presents a number of implications. For example, adolescents who have 'aged out' of child protection systems, and who may be experiencing or escaping family violence without the care of a protective parent, may face particular barriers to accessing appropriate protection and support. As such, there is increasing recognition of the need for tailored responses for children, including access to financial assistance and supports that enable continued engagement in education and community life, including in regional and remote areas where service availability may be limited.²²

These structural gaps highlight the importance of coordinated legislative reform across intersecting statutory systems, including family violence, child protection and youth justice legislation, to support consistent, effective, and developmentally appropriate responses to children and young people affected by family violence.

Recommendation:

4. Improve coordination across intersecting legislation.

Promote greater alignment between the Family Violence Act 2004 and related frameworks, including child protection and youth justice legislation, to address gaps and ensure consistent, coherent responses to children and young people affected by family violence.

Legislative reform must be accompanied by sufficient, sustained investment in child-centred and culturally safe support systems, including Aboriginal community controlled organisations (ACCOs) and community service organisations

Legislative reform alone is insufficient to improve outcomes for children and families impacted by family violence. Effectiveness will be influenced by accompanying policy reform, including the provision and availability of appropriately resourced, child-centred, culturally safe and trauma-informed prevention, early intervention, and therapeutic services enabled to respond to the diverse needs of children and families.

Where service systems lack sufficient capacity, legislative reform may increase the recognition and identification of children affected by family violence without strengthening the system's ability to respond effectively. Recent Australian research highlights the absence of integrated, end-to-end responses for children, with many children and families required to navigate multiple service systems, each with differing eligibility criteria, service models, and levels of trauma-informed capability.²³ This fragmentation limits continuity of support and reduces the effectiveness of interventions intended to promote safety and recovery.

²² Rapid Review Expert Panel (2024), [Unlocking the Prevention Potential: Accelerating action to end domestic, family and sexual violence. Report of the Rapid Review of Prevention Approaches](#), p. 38.

²³ Commonwealth of Australia (Domestic, Family and Sexual Violence Commission) (2025), [Yearly Report to Parliament](#), p. 97.

Investment in community-based services is therefore essential to ensure that legislative reform translates into meaningful improvements in children's and family's safety and wellbeing. This includes sustained and sufficient investment in ACCOs providing culturally safe, community-led supports to promote healing, strengthen connection to family, community and culture, and keep children and families safe and well.²⁴

In the absence of alternative, holistic, wraparound supports, there is a risk that legal mechanisms, such as PFVOs, will be used as a default response children and families in crisis. While FVO's and PFVO's are an essential protective mechanism, legal responses are not always suitable and can escalate risk and heighten experiences of harm. Strengthening prevention, early intervention and therapeutic supports is also essential to reducing escalation to statutory and legal intervention and supporting safer, more sustainable outcomes for children and families.²⁵

In addition, strengthening workforce capability across legal, statutory and service systems is critical to ensuring children's experiences are recognised and responded to appropriately. This includes building the knowledge and skills required to identify family violence affecting children, respond in developmentally appropriate and trauma-informed ways, and avoid misidentification or inappropriate system responses. Investment in workforce capability, alongside expanded service capacity, is essential to ensuring that legislative reform results in safer and more effective outcomes for children and families.

Recommendation:

5. Ensure reform is supported by sustained investment in child-centred and culturally safe services.

Accompany legislative reform with long-term investment in prevention, early intervention and therapeutic supports, including culturally safe services delivered by Aboriginal community controlled organisations and the community services sector.

Conclusion

The Family Violence Act 2004 represented an important step in strengthening Tasmania's response to family violence. However, evolving evidence and practice now demonstrate the need for the legislative framework to better reflect the experiences, rights and needs of children and young people affected by family violence.

Children experience family violence in complex relational contexts and are impacted in ways that are direct, cumulative and developmentally significant. Legislative frameworks that position children primarily as secondary victims risk obscuring these harms and limiting the effectiveness of legal and system responses. Reform of the Act therefore presents an important opportunity to ensure Tasmania's

²⁴ Commonwealth of Australia (2026), [Our Ways — Strong Ways — Our Voices: National Aboriginal and Torres Strait Islander Plan to End Family, Domestic and Sexual Violence 2026-36](#), p. 49.

²⁵ Commonwealth of Australia (2026), [Our Ways — Strong Ways — Our Voices: National Aboriginal and Torres Strait Islander Plan to End Family, Domestic and Sexual Violence 2026-36](#), p. 49.

legislative framework recognises children as rights holders with distinct safety, wellbeing and participation needs.

TasCOSS supports reforms that broaden the definition of family relationships, embed child-centred legislative principles, strengthen safeguards to prevent statutory harm, and improve coordination across intersecting legislation. These reforms must also be supported by sustained investment in prevention, early intervention and therapeutic services, including culturally safe, community-led responses delivered by Aboriginal community controlled organisations and the community services sector.

Strengthening Tasmania's response to family violence requires both legislative reform and a well-resourced service system capable of supporting children and families to achieve safety, healing and recovery. By embedding child-centred principles within the legislative framework and investing in the systems that support families, Tasmania can build a more effective, coordinated and compassionate response to family violence.

TasCOSS welcomes continued engagement with the Tasmanian Government to support reforms that place children's safety, rights and wellbeing at the centre of Tasmania's response to family violence.