

# **Inquiry into the Family Law Amendment (Federal Family Violence Orders) Bill 2021 [Provisions] Standing Committee on Legal and Constitutional Affairs**

**(JUNE 2021)**



**AASW**

Australian Association  
of Social Workers

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# The Australian Association of Social Workers

The Australian Association of Social Workers (AASW) is the professional body representing more than 15,000 social workers throughout Australia. We set the benchmark for professional education and practice in social work, and advocate on matters of human rights, discrimination, and matters that influence people's quality of life.

## The social work profession

Social work is a tertiary qualified profession recognised internationally that pursues social justice and human rights. Social workers aim to enhance the quality of life of every member of society and empower them to develop their full potential. Principles of social justice, human rights, collective responsibility and respect for diversity are central to the profession, and are underpinned by theories of social work, social sciences, humanities and Indigenous knowledges. Professional social workers consider the relationship between biological, psychological, social and cultural factors and how they influence a person's health, wellbeing and development. Social workers work with individuals, families, groups and communities. They maintain a dual focus on improving human wellbeing; and identifying and addressing any external issues (known as systemic or structural issues) that detract from wellbeing, such as inequality, injustice and discrimination.

## Our submission

Governments at all levels need to ensure a service system that responds to women and children who experience violence, including family violence services, sexual assault services, health services, judiciary, law enforcement, men's behaviour change programs, and housing services. Integral to this is ensuring that every woman who makes a complaint of domestic violence is given the professional assistance of an accredited social worker.

Governments also have a continuing responsibility to address discrimination and violence in all forms, and this includes addressing the larger structural issues which contribute to gender inequality. Issues such as wage inequality, lack of access to paid maternity leave or childcare, discrimination in the compliance regime for income support payments are all examples of policies which entrench the unequal position of women in Australian society. They are all policies that are under the direct control of the federal government.

While family violence affects many members of society, it is a gendered crime and abuse of human rights most commonly perpetrated by men against women and children. It is both widely prevalent and completely preventable.

The AASW endorses Domestic Violence Victoria's definition, identifying family violence as:

*...a pervasive, life-threatening crime that impacts on thousands of women and children with serious physical, psychological and economic effects. Family violence includes not only physical assaults but also an array of power and control tactics used along in concert with one another... Family violence can occur within any intimate relationship, age and ethnicity. While it can be perpetuated by any member of a family against another, it is more likely to be perpetrated by men (predominately by a woman's current or ex- partner) against women and children <sup>1</sup>*

The causes of family violence are complex and include individual, environmental, cultural, and social factors, such as gender inequality and community attitudes towards women. As the fundamental cause of violence against women, gender inequality is reflected across all aspects of a woman's life. Women experience a range of discriminations, including lower incomes, poor health, and wellbeing outcomes across the lifespan as a consequence of not only violence but structural discrimination based on their gender. Discrimination based on gender has been widely documented in a range of structural settings, such as unequal economic, social, and political power between men and women.

The AASW also appreciates that family violence affects members of the LGBTIQ+ community. We acknowledge that these factors can intersect to create unique experiences of violence. The AASW acknowledges that this submission does not include the voices of all of these experiences and therefore recommends additional research to better understand and address experiences of violence by marginalised groups in Australia in the future.

Social workers are integral to the delivery of support and intervention services for victims and survivors of family violence. In their practice, social workers believe that everyone has a right to live free from fear and violence in their home and broader society. The scope of social work practice includes counselling, crisis interventions, group work and case management; as well as policy development, research, evaluation and advocacy. Above all, social workers are deeply committed to

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<sup>1</sup> Australian Association of Social Workers 2019. "The Scope of Social Work Practice: Social Work in Family Violence." *The Australian Association of Social Workers*. August. Accessed July 14, 2020. <https://www.aasw.asn.au/document/item/12226>.

challenging family violence at an individual, community, and systemic level, with the twin aims of ending it and of minimising its profound, long-lasting impacts.

The AASW welcomes the opportunity to submit to the Inquiry into the Family Law Amendment (Federal Family Violence Orders) Bill 2021 [Provisions]. The AASW provisionally supports this legislation in providing nation-wide safeguarding for predominantly women-applicants of family violence orders. We hope an outcome of this legislation will be a reduction in the administrative burden of applying for family violence orders in each applicable state. We also welcome the criminal nature of these orders as having greater protection for the women and their children who seek them.

Our members have told us that in this context however, extra consideration needs to be given to the increased risks faced by Aboriginal and Torres Strait Islander women, women who are recent immigrants, and women and children who speak a language other than English, who are particularly disadvantaged and discriminated against in their engagements with institutional processes. This is especially applicable in incidences of the misidentification of perpetrators by attending police. Therefore, the unique needs of these groups need to be considered in the implementation of this legislation.

We therefore recommend alongside the introduction of this legislation:

- That the police and the judicial systems be provided with ongoing, adequate, and comprehensive domestic violence training that provides specific training in relation to working with victims and perpetrators from culturally and linguistically diverse and Aboriginal and Torres Strait Islander backgrounds in a culturally appropriate way, working with women who have disabilities, and comprehensive understanding of the dynamics of family and domestic violence, within the context of the new provisions.
- That police and the judicial systems be provided with adequate and comprehensive support and training with the application of legislative changes in relation to federal family violence orders.
- That the national register of state, territory and federal protection orders also contain current Family Court parenting orders.
- That family violence legislation of all state and territories are amended to include a prohibition on lowering the standard of protection offered under family violence legislation to accommodate parenting orders.
- That the state and federal systems forge enhanced working relationships to ensure that the safety of children is prioritised in all decision making.
- That perpetrators of violence are challenged to commit to change alongside being given strong consistent messages about the unacceptability of their behaviour.
- That there is a development of Memorandums of Understanding and protocols between federal family courts and child protection agencies.

With these additional measures women and children will be further safeguarded in situations of family violence.

## Conclusion

The AASW welcomes the opportunity to discuss further any of the points raised in this submission.



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