



YWCA CANBERRA



## **Family, Personal and Sexual Violence Legislation Amendment Bill (2025)**

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## Acknowledgement of Country

YWCA Canberra proudly recognises the rights of Aboriginal and Torres Strait Islander peoples to own and control their cultures and pays our respect to these rights. YWCA Canberra acknowledges the need to respect and encourage the diversity of Indigenous cultures and to respect Indigenous worldviews, lifestyles and customary laws. We extend our respect to the Aboriginal and Torres Strait Islander women who for thousands of years have preserved the culture and practices of their communities on country. This land was never surrendered, and we acknowledge that it always was and will continue to always be Aboriginal land.

## About YWCA Canberra

YWCA Canberra is a feminist not-for-profit organisation that has provided community services and represented women's issues in Canberra since 1929. Our mission is 'We strengthen communities by supporting girls and women through our services and advocacy' and our vision is 'Girls and women thriving'.

We provide essential, quality services for women, girls and families in the ACT and surrounding regions. We work in the areas of children's services, community development, homelessness and affordable housing, youth services, personal and professional training, women's leadership and advocacy.

We are externally accredited against the [Quality Improvement Council \(QIC\) Health and Community Service Standards \(7th Edition\)](#). Accreditation against the QIC standards support us to improve client and community engagement, diversity and cultural appropriateness, management systems, governance and service delivery, while committing to a cycle of continuous quality improvement. In addition to the QIC standards, we are accredited against the following external client-related service standards for our key areas of work:

- [Australian Charities and Not for Profit Commission](#)
- [National Quality Standard for Early Childhood Education and Care and School Aged Care](#)
- [National Regulatory System for Community Housing](#)
- [Registered Training Organisations Standards](#)

Through our national Affiliate Association with YWCA Australia, we are part of the World YWCA network, which connects 120 countries across the globe.

## **Introduction**

YWCA Canberra welcomes the opportunity to provide feedback to the *Family, Personal and Sexual Violence Legislation Amendment Bill (2025)*. YWCA Canberra has a longstanding interest in law reform that enhances access to justice for survivors of violence, and which holds perpetrators to account. In this regard we have made previous submissions on the proposed introduction of Family Violence Safety Notices (FVSNs) and a prohibition on character references in sentencing mitigation for convicted child sexual abuse offenders. We also supported landmark reforms in the criminalisation of stealthing in the ACT and a communicative model of consent. Further, as the auspicing body for the Working with Women Alliance, we have also provided feedback to reforms with a federal scope including The Australian Law Reform Commission (ALRC) review into justice responses to sexual violence in Australia.

As a leading feminist non-profit organisation dedicated to eliminating violence against women and children, YWCA Canberra plays a critical role in supporting victim-survivors through our integrated services. The integrated nature of our service also allows us to connect clients of our community services, including our domestic violence support service, with specialist community support including legal advice and rape crisis support.

Through this submission, we discuss the following key items:

- **Feedback on consultation process**
- **Supported reforms in the omnibus bill**
- **Reforms with qualified support**
- **Concerns with the delay to the statutory review**

## **Feedback on consultation process**

This Bill is a significant undertaking capturing a breadth of long discussed reforms, with the explanatory statement running to nearly 100 pages. While there have been progressive opportunities dating from the last Assembly for input on a range of reforms

explored in this proposal, there has been no opportunity to discuss with government officials the detail of the omnibus bill or seek clarification in a consultative forum.

YWCA Canberra has experience participating in a breadth of direct consultations on significant policy and legislative reforms including with regards to the *Family Law Act* and the recent proposal to commence a national gun buyback scheme. Despite short turnaround times with the latter, Australian Government officials hosted consultation forums with relevant stakeholder groups where opportunities for clarity and policy alignment were given. It is lamentable that the ACT Government did not provide stakeholders similar opportunities with such a significant Bill that was presented over the holiday period.

### **Supported reforms in the omnibus Bill**

YWCA Canberra supports the proposal to **prohibit good character references for sentencing mitigation for offenders of sexual abuse against children**. We contributed to the *Good Character References in the Sentencing of Child Sexual Abuse Matters* discussion paper in 2024 and attended a roundtable discussion in May of that year. Separately, we have also raised this reform with both the former and current Attorneys General. At the time, we noted how: *The entitlement inflicts further distress on the survivors, does not align with contemporary understanding of grooming behaviours and fails to acknowledge how charisma and reputation are intrinsic to grooming and sexual offending against children.*

While an exclusion exists for those whose noted community standing facilitated abuse, the limited scope of this exclusion is simply a product of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, the terms of reference of which were restricted to institutional offending and responses. As such, by its very remit the recommendations had limited scope to consider the pernicious societal grooming and manipulation that underlies sexual offending against children in the non-institutional context.

YWCA Canberra also supports the expansion of the definition of sexual offence and protections in sexual offending proceedings to include intimate image abuse. We also support the inclusion of deep-fake image distribution in this amendment. As the auspicing body for the Working with Women Alliance, we were also involved in the consultation of the amendment to the Commonwealth Criminal Code Amendment (*Deepfake Sexual Material*) Act 2024. It should be noted that the commonwealth amendment to address the proliferation and weaponisation of deepfake image abuse does not capture the initial creation of such material. Rather, the *Deepfake Sexual Material Act* (Cth) is limited to intentional or reckless transmission which includes to make available, publish, distribute, advertise and promote (sections 474.17A and 474.17AA). It is not clear from the Bill itself whether the proposed ACT reformer will be included but it is included in the explanatory note. YWCA Canberra does not support criminalisation of creation without subsequent non-consensual distribution as it would be impossible to police without judicial overreach.

### **Amendments with qualified support**

YWCA Canberra has participated in previous consultations regarding the introduction of Family Violence Safety Notices. We understand this new scheme will replace the existing After Hours Family Violence Order scheme, allowing police to issue immediate and short-term protection notices. The FVSN proposal obligates police to engage both parties before issuing a notice and prohibits the issuance of cross FVSNs, mitigating potential weaponisation of the system. Where uncertainty persists regarding the identity of the perpetrator, the scheme defers the decision to the Court. **YWCA Canberra broadly supports the introduction of these powers to enable police to immediately respond with an enforceable ‘cooling off’ directive.**

As we noted in our earlier contribution, however, FVSNs must be subject to clear statutory time limits to reflect their role as short-term response to an immediate threat. In issuing an FVSN, the police must take into account peripheral impacts on the respondent including accommodation and employment needs. **The proposed ACT FVSN scheme limits the duration of Notices to 14 days. However, we urge that this**

**time limit does not become the arbitrary default of *all* Notices issued under the scheme.** Rather, despite the 14-day limit, there must be urgency to streamline the FVSN towards a court issued outcome. YWCA Canberra is concerned that where the 14-day limit becomes the practical norm, the peripheral needs of the respondent (such as accommodation for 14 days) will outweigh the applicant's immediate safety requirements and police will err towards not issuing an FVSN.

YWCA Canberra is also concerned that the issuing of a FVSN does not automatically trigger an application for an interim or final FVO. This oversight does not align with processes in other jurisdictions and places the onus on an applicant to initiate a separate legal proceeding within 14 days of the FVSN being issued. As we have previously noted, this arrangement places administrative burdens on an applicant at a time when they are likely to be acutely aware of their safety and the risks of initiating further proceedings in a heightened dynamic. **We urge the ACT Government to consider an integrated model that automatically triggers a hearing for a longer-term court issued protection order while allowing applicants to opt out of further proceedings if their circumstances or needs change.**

**YWCA Canberra supports the proposal to insert victims of family violence offences into sections 79H(3)(b)(c) to clarify that giving leave to disclose protected confidences applies to victims of family violence related offences as well as sexual violence offences.** There is no clarity however that this protection will apply to domestic violence support and crisis services and guidance to date has not indicated this is likely. Again, such uncertainty could have been rectified in government led sector consultation. Further, as has been previously stated through similar consultation opportunities, the capacity of domestic and family violence services to respond to or contest subpoenas for civil matters is limited when in-house legal expertise is not available or services are not funded to outsource administrative legal work. This also applies to the validity of client *consent* when a service is not legally trained in the protections and circumstances for waiver. It is worth noting that recent amendments to the *Family Law Act* (Cth) extended these protections, however without adequate training and guidance the practical effect of the reform at the overwhelmed community service level is potentially moot. This calls into question the practicality of the consent

where: *the court must be satisfied the counselled person is aware of the effect of the division and has been given reasonable opportunity to seek legal advice on the matter* (explanatory statement, page 44). **We urge that where the protected confidences provision is extended to domestic and family violence services and that adequate guidance and support be tailored for and delivered to services to enable them to respond appropriately.**

YWCA Canberra has concerns regarding the proposal to issue FVSNs electronically, where the respondent consents. However, we believe that this process relies too heavily on the assumption that respondents consistently monitor their electronic devices and will comply with the Notice. Electronic services cannot guarantee respondent will see, read and comply with the FVSN.

The Bill does not clarify the circumstances where a written Notice will be served electronically, thereby potentially creating the opportunity for the entire FVSN issuance process to become wholly electronic, rather than requiring direct police action. We understand that some respondents may deliberately try to avoid being served and therefore this approach may be favourable. **We encourage the ACT Government to consider electronic serving of FVSNs as a last resort. Further, we recommend that protected persons are advised in advance of when electronic communication is being issued, particularly in situations where the respondent may be present in the home or nearby.** Providing this information may reduce the potential of safety risks and ensure that applicants can take appropriate precautions prior to the notice being issued.

#### **Concerns with the delay to the statutory review**

YWCA Canberra has concerns regarding the proposal to defer the commencement of the Statutory Review of the *Family Violence Act 2006*, to coincide with the proposed review of the FVSN scheme after 2 years operation. We appreciate concerns regarding ‘consultation fatigue’ among the sector, but this has rarely been raised as an issue in deliberative forums relating to significant policy and legislative proposals. The policy landscape on domestic violence responses and prevention is regularly in flux and will soon be guided by a 10-year strategic plan and possibly include criminalisation of

coercive control. We believe there is value in undertaking the statutory review as intended to ensure its relevancy and effectiveness during a period of significant policy enhancements.