

Q&As – Family and Whānau Violence Legislation Bill

Why is the Government overhauling family violence laws?

We need to improve how we respond to family violence to curb the horrific rate in New Zealand. Police respond to over 110,000 family violence incidents a year, yet an estimated 80 per cent of incidents are not reported to Police.

We have the highest reported rate of intimate partner violence in the developed world. Family violence has a devastating impact on families and communities so addressing it will have a positive impact on our society.

The law underpins our response to family violence, so we need to make sure it has kept pace with local and international advances in understanding family violence and how to address it.

We need to ensure the broad set of laws that apply in this area are effective and work well together. The review identified how our laws can be strengthened and developed ideas to support a more coordinated approach to family violence.

The Government's package of reforms aims to create a more effective response to family violence that will increase the safety of family violence victims and hold perpetrators to account for their behaviour.

What are the proposed law changes?

The Bill includes changes to both civil and criminal law that support more effective interventions to prevent and reduce family violence. It includes changes to support a more collaborative response across the family violence system. The reforms will keep victims safe, and connect perpetrators with the help they need to stop the abuse.

Key changes include:

- making the process of applying for protection orders easier, including approving providers to apply on behalf of victims who can't apply themselves
- intervening earlier to connect perpetrators and victims to services that can reduce the risk of violence. For example, perpetrators subject to a Police safety order will be able to be directed to a risk and needs assessment, and perpetrators who have protection orders against them can be referred, in the future, to a wider range of services to address their behaviour
- better protecting children when making parenting arrangements in Family Court cases (for example, requiring the court to consider whether a protection order has been made or breached)
- improving the identification and recording of family violence by flagging all cases that involve it when Police file charges. The flag will give judges more information about the cases in front of them and make it possible to better respond to family violence. It will also provide better information about family violence volumes and trends
- creating three new offences of non-fatal strangulation, coercion to marry and assault on a family member

- making offending while a protection order in place an aggravating factor at sentencing.
- improving information sharing so agencies work together more effectively to identify people at risk of family violence and can intervene to prevent future violence.

How will these changes support an integrated system?

To create an integrated system, the Bill includes specific changes to promote proactive and coordinated responses, including:

- implementing new information sharing provisions that will allow specified family violence agencies and professionals to share information with each another. This allows people in the sector to see the bigger picture necessary to help identify family violence and to prevent further violence.
- allowing codes of practice to be issued to help ensure services for victims and perpetrators are coordinated and consistent.
- more effectively changing perpetrator's behaviour by increasing access to risk and needs assessments, and referrals to appropriate services to stop their violence.
- enhancing decision making and data by more accurately recording family violence offending in the criminal justice system. For example, this will mean Police and judges will be able to easily determine whether a perpetrator has a history of violence, and will provide better information about family violence volumes and trends.

Are there any new additions since the Safer Sooner reforms?

During the drafting process, the following additional policy decisions were made:

- the Domestic Violence Act will be renamed the 'Family and Whānau Violence Act'. This change better illustrates the range of family relationships and ensures that family violence interventions can be more responsive to Māori needs and reflect tikanga
- a new term "perpetrator" has been added to better recognise the harm family violence causes victims
- non-contact includes digital communications from all internet sites, not just social media
- respondents who wish to have contact with a person with a protection order must obtain that consent in writing. This will ensure there is no confusion about whether or not consent has been given. That consent to contact can be withdrawn in writing or by any other means
- to protect those who are most vulnerable, approved providers will be able to apply for protection orders on behalf of children and adults who lack capacity to make the application themselves. This complements the decision around

third party applications on behalf of those who cannot apply due to physical incapacity or fear

- Family Court judges will be given additional powers to vary the terms of a parenting order to protect children where the circumstances require it. For example the court may vary child contact arrangements if a perpetrator fails to attend a programme
- agencies will be able to request information from other agencies, as well as disclose information
- Immigration New Zealand and Housing New Zealand Corporation have been added to the list of agencies covered by the definition of “Family Violence Agencies” for the purpose of sharing information.

What were the steps involved in the review?

In July 2014 the Prime Minister announced a package of initiatives to support agencies to work together effectively to respond to family violence. The review of family violence legislation is a pivotal part of this work.

In August 2015, Justice Minister Amy Adams released a public discussion document ‘Strengthening New Zealand’s legislative response to family violence’, inviting submissions on suggested ideas for change.

About 500 submissions were received from the general public, the judiciary, family violence service providers and organisations. These submissions helped to inform the decisions on proposed law changes.

In September 2016, the Government announced the Safer Sooner package which outlined the policy decisions. The Family Whānau Violence Legislation Bill is the accumulation of that work.

What are some of the problems with the old systems?

The 2015 review of the family violence laws found that:

- applying for protection orders is too often costly and complex for victims
- we don’t currently maximise all opportunities to intervene early to change perpetrator behaviour
- more can be done to ensure parenting arrangements are safe for children and their families
- identifying and recording family violence offending in the criminal justice system is inconsistent
- existing criminal offences do not effectively cover all family violence behaviour
- the criminal law does not always recognise the serious and repeat nature of family violence, and
- information sharing could be improved to support risk and needs assessment and service delivery.

How will these law changes support victims?

The changes aim to support and protect victims to make them safer sooner than they are under the current laws.

To date, the onus has been on victims to take all the steps to make themselves safe and relied on going to court to get help – but the nature of family violence means this isn't always realistic or effective.

It will be easier for victims to apply for protection orders and property orders, which will be made more responsive to their needs. Police and courts will be able to use these orders, and Police safety orders, more effectively to protect victims.

The safety of victims will also be the primary consideration in bail decisions for family violence cases. This will help stop perpetrators from continuing to use violence after they are charged with an offence.

What will the changes mean for perpetrators?

The law reforms will help set up a system that focuses on holding perpetrators to account, stopping them being violent and helping them change.

Changes to protection orders and the new offences alone are predicted to prevent about 2,300 violent incidents each year.

The family violence sector will focus on identifying and assessing the risks a perpetrator poses, and connecting them with appropriate services to help them change their behaviour.

Early intervention to prevent violence escalating is crucial. Currently, many perpetrators need a protection order against them to access services to change their behaviour.

The changes will support the family violence sector to identify and assess the risks a perpetrator poses earlier, and connect them with appropriate services to manage these risks.

The law will be strengthened by new offences to recognise the seriousness of family violence. For example, the offence of non-fatal strangulation reflects that it is a significant risk factor for future serious harm and death. The penalty will be up to seven years imprisonment.

When will the changes be implemented?

It's expected the proposed new offences will come into force when the Bill is enacted. Most of the other changes will come into effect several months after enactment.

Some reforms will require appropriate services to be in place before they can be implemented. These include referrals for perpetrators to risk and needs assessments when a Police safety order is made, and referrals to a wider range of services when protection orders are made.

The Ministerial Group is working to determine what these services will be and when the proposals will come into force. The Ministerial Group work programme will continue to focus on improving and coordinating services to ensure they lead to

lasting change, and help make sure that people get the right services at the right time.

What are the Acts that the Bill changes?

The Family and Whānau Violence Legislation Bill overhauls the Domestic Violence Act, amends five Acts and makes consequential changes to over thirty pieces of law.

The five Acts are the Care of Children Act 2004, Crimes Act 1961, Criminal Procedure Act 2011, Bail Act 2000 and the Sentencing Act 2002.

How long will it take to make a difference?

We expect to start seeing changes across the system almost as soon as the Bill is enacted. For example, more accessible protection orders and the new offences should immediately help improve victim safety.

Due to the complexity of family violence, including its intergenerational nature, it is likely that family violence rates will take longer to reduce. It is also likely more people will seek help and report incidents, meaning reported rates of family violence may increase at first.

How do these changes fit within the work programme of the Ministerial Group on Family Violence and Sexual Violence?

The Minister of Justice and the Minister for Social Development, as co-chairs of the Ministerial Group, are leading cross-government work to reduce family violence. The aim is to stop perpetrators hurting their families, protect victims, and break the cycle of re-victimisation and re-offending.

The Ministerial Group work programme is focused on enabling an integrated and effective family violence response system. This system will involve everyone who plays a role in preventing and reducing family violence, including Government agencies, non-government organisations, service providers and professionals who provide health, education and social services.

The Ministerial Group's work seeks to make victims safer, improve services and change long-standing behaviours and attitudes towards family violence. The law should be forward-looking and enabling to support the system as it develops.

How much will the package of reforms cost?

The changes to legislation will cost approximately \$132 million over the next four years. This is fully funded.

This is an example of the government's social investment approach, which requires upfront investment but over time results in savings and better outcomes for New Zealanders.

The package includes, for example, an additional 66 police, to ensure we have enough resource across New Zealand to implement the changes.