Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025

Explanatory Notes

For

Amendments to be moved during consideration in detail by the Honourable Amanda Camm MP, Minister for Families, Seniors and Disability Services and Minister for Child Safety and the Prevention of Domestic and Family Violence

Short title

The short title of the Bill is the Domestic and Family Violence Protection and Other Legislation Bill 2025 (the Bill).

Policy objectives and the reasons for them

The Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025 (the Bill) progresses legislative amendments to the *Domestic and Family Violence Protection Act 2012* (DFVP Act*)* that will improve productivity for operational police officers when responding to domestic and family violence (DFV), give victim-survivors immediate protection against respondents, support delivery of DFV related election commitments and make other technical amendments to DFV legislation.

This will be achieved in part through amendments to the DFVP Act that:

- establish a framework for police protection directions (PPDs) to improve efficiencies for police responding to DFV and reduce the operational impacts of the current DFV legislative framework; and
- support an electronic monitoring pilot for high-risk DFV perpetrators, by inserting a new monitoring device condition available to judicial officers to impose on a respondent to a domestic violence order (DVO) in certain circumstances.

A<u>mendments to police protection direction provisions in the Bill</u>

The objectives of amendments to the PPD provisions in the Bill to be moved during consideration in detail are to:

- require the police commissioner to provide a copy of the PPD and the grounds for the PPD to the court where an application for a protection order is made, and the applicant is named in the PPD as either a respondent or the aggrieved;
- clarify that the dismissal or adjournment of an application for a protection order will only end a PPD where the applicant is the aggrieved named in the PPD;
- expand the orders a court may make when reviewing a PPD to include an order that ends a PPD on a stated day, to enable reference to the PPD to be included on the respondent's domestic violence history; and
- allow the police commissioner to file documents when notified by the clerk of the court of a court review of a PPD 'within 1 business day or as soon as practicable' to provide flexibility in the case of legitimate delays.

Amendments to electronic monitoring provisions in the Bill

Amendments are also proposed to the electronic monitoring provisions in the Bill, the purpose of these amendments is to:

- ensure a court seeking to inform itself about monitoring device conditions considers whether the information is likely to be in a prescribed entity's possession; and clarify that the prescribed entity is only required to provide information in the entity's possession, or to which the entity has access; and
- enable evidence derived from the imposition or use of a monitoring device to be admissible in a proceeding for a criminal offence that is not a domestic violence offence, if the court considers it is in the interests of justice to admit the evidence.

Amendments to the *Family Responsibilities Commission Act 2008*

The objective of the amendments to the Bill to be moved during consideration in detail, to amend the *Family Responsibilities Commission Act 2008* (FRC Act), is to provide for the Family Responsibilities Commission (FRC) to receive a notice from the police commissioner following the issue of a Police Protection Direction (PPD) in relevant circumstances.

The FRC is a statutory body established under the FRC Act. The role of the FRC is to support the restoration of socially responsible standards of behaviour and local authority in welfare reform community areas (Aurukun, Coen, Doomadgee, Mosman Gorge and Hope Vale) and to help people in those areas ('*community members*') resume primary responsibility for their community, families and individuals.

The FRC's jurisdiction relates to '*community members*', which is defined in the FRC Act as a person who is a welfare recipient; who either usually resides in a welfare reform community area, or has lived in a welfare reform community area for at least three months since the commencement of the FRC Act.

The FRC receives notices about child safety, education, social housing issues, domestic violence protection orders (protection orders) and convictions in the courts. The FRC is currently notified of relevant protection orders through 'court advice notices', which are sent to the FRC when a protection order is made against a person and either: the court was sitting in a welfare reform community area, Cooktown or Mossman; or the court officer learns that

the person lives, or at any time after the start day has lived, in a welfare reform community area.

The amendments are to be moved in response to a recommendation made by the Education, Arts and Communities Committee (the Committee) following its consideration of the Bill. The Committee tabled *Report No. 5, 58th Parliament - Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025* (Committee Report) on 20 June 2025.

Recommendation 3 of the Committee Report provided for further amendment be considered to the DFVP Act or to the FRC Act to expand the definition of a 'protection order' to include PPDs. This was in response to submissions made to the Committee, including by the FRC, expressing concern about the potential for victim-survivors and their children to lose the opportunity for referrals to support services at court, and for the potential reduction in referrals to behaviour change programs for the person using violence that would commonly occur when the matter proceeds through court. Specifically, the FRC expressed concern that the use of PPDs (in favour of a matter going to court) could reduce the number of court advice notices being made and thereby limit the opportunity for early intervention in a culturally safe environment. The amendments establish a new notice type under the FRC Act, a *notice about police protection direction*, to be provided to the FRC by the police commissioner where a PPD is issued and either or both of the following apply:

(i) the relevant domestic violence occurred in a welfare reform community area;

(ii) the police commissioner becomes aware that the respondent lives or, at any time after the start day, has lived in a welfare reform community area.

Providing the FRC with notice of PPDs issued in these circumstances will enable the FRC to assess whether the respondent to the PPD is a '*community member*' under section 7 of the FRC Act and to consider opportunities for early intervention.

The amendments are consistent with, and intended to largely replicate, section 43 of the FRC Act, which provides for court advice notices to be given to the FRC if a person is convicted of an offence or, a protection order is made against the person. These notices were added to the FRC Act in 2015 to implement a recommendation of the Special Taskforce on Domestic and Family Violence in its *Not now, not ever: Putting an end to domestic and family violence in Queensland* report.

Amendments to the *Forensic Science Queensland Act 2024*

The *Forensic Science Queensland Act 2024* (FSQ Act) commenced on 1 July 2024. The FSQ Act establishes Forensic Science Queensland (FSQ) and provides that it consists of the director and staff.

Section 3 of the FSQ Act currently provides that the main purpose of the FSQ Act is to ensure high quality, reliable, independent and impartial forensic services for the administration of criminal justice in Queensland.

The section further provides that the purpose is primarily achieved by establishing the Director of FSQ to lead the provision of forensic services and establishing the FSQ Advisory Council to give advice and make recommendations about particular matters.

On 4 August 2025, the report *Review of Operational Matters at Forensic Science Queensland* was tabled in the Legislative Assembly. That was followed on 5 August 2025 when the report *Independent Review of Operation Matters at Forensic Science Queensland and Recommendations for Foundational Reform – Based on Specified Terms of Reference* was also tabled in the Legislative Assembly.

The reports follow commissions of inquiry (COI) into the delivery of forensic DNA services in Queensland that were held in 2022 and 2023 and presided over, respectively, by Mr Walter Sofronoff KC and the Honourable Annabelle Bennett AC SC.

Both reports identify a broad range of matters that affect the performance of FSQ as an organisation and in undertaking forensic DNA testing. Both reports identified that issues affecting FSQ have resulted in very significant delays with the investigation of criminal offences and with criminal prosecutions.

These delays limit access to justice for both victims of crime and people accused of having committed a criminal offence.

Delays have also affected the timely resolution of some coronial investigations particularly where human remains require forensic DNA testing or reports of testing that has been conducted.

The amendments to the FSQ Act provide an initial and immediate response to issues identified in the reports that are related to FSQ's governance, leadership, culture and oversight. The amendments are consistent with recommendation 14 of the report *Review of Operational Matters at Forensic Science Queensland* which recommended that there be a comprehensive review of the FSQ Act.

The objectives of the amendments are to:

a. broaden the eligibility requirements for appointment as the Director of Forensic Science Queensland;

b. remove the director's independence and provide the Minister with adequate flexibility and oversight of FSQ's affairs and leadership and oversight of the FSQ Advisory Council; and,

c. provide for the appointment of Deputy Directors to enable better oversight of FSQ's culture and management.

Having regard to the public interest in the subject matter of the reports and the tabling of the reports in the Legislative Assembly, the amendments to the FSQ Act also provide that the principles of natural justice, including the principle of natural justice relating to bias, do not apply and are taken never to have applied in relation to the reports about the operation of FSQ obtained by the State and tabled in the Legislative Assembly. The amendments declare remedies that are not available in respect of a report, a person involved in the preparation of a report, including the State; and further provide that a person, including the State, does not incur a liability, and is taken to have never incurred a liability, in respect of the drafting, preparation, disclosure, or publication of a report.

The amendments also provide that no damages or compensation are payable by a person, including the State, because of any of those matters.

Achievement of Policy Objectives

Amendments to police protection direction provisions in the Bill

The Bill introduces a PPD framework that provides police officers with a new tool for responding to DFV, to be used in circumstances where a police officer considers it is appropriate for a matter not to proceed to court. PPDs are intended to provide immediate, longer-term protection for the aggrieved without requiring the matter to be considered by a court.

Amendment to clause 10 (section 36A (Court must be given respondent's criminal history and domestic violence history))

As introduced, section 100R(3)(b) of the Bill provides that a PPD will end when a DVO, recognised interstate order or protection order under section 42 of the DFVP Act becomes enforceable in relation to the respondent and aggrieved (regardless of who is the respondent and who is the aggrieved). This means that a subsequent order made by a court will override the making of the PPD.

In deciding an application for a protection order, it is important that the court be fully informed of previous police responses to DFV, to assist in determining the protective needs of the parties. This is currently achieved in part by section 36A of the DFVP Act, which provides that the court must be given the respondent's criminal history and domestic violence history in particular circumstances, including where an application for a protection order is made. This process is facilitated by the police commissioner.

The Bill, as introduced, amends section 36A to support the court being aware of PPDs, and also amends the definition of 'domestic violence history' to include where a respondent is subject to a PPD. However, the definition of 'domestic violence history' only includes orders made against the respondent, and does not include where a respondent to a protection order application is named as the aggrieved on a PPD.

As introduced, new section 100R(3)(b) may result in circumstances where a DVO is made by a court without knowledge of a current PPD, and the PPD automatically ends. This may result in circumstances where Courts inadvertently remove the protection for the aggrieved named in the PPD. For example, where the respondent to a private application for a protection order is named as the aggrieved to a PPD.

To address this issue, amendments to clause 10 expand section 36A of the DFVP Act to provide that, if a PPD is in effect in relation to the aggrieved and respondent (regardless of who is the aggrieved and who is the respondent in relation to the direction), the police commissioner must also give the court a copy of the PPD and the grounds for the PPD. This is in addition to the

information that the police commissioner must file with the court, being the respondent's criminal history and domestic violence history.

New section 100R(3)(e)

The Bill provides for circumstances that end a PPD in clause 19, section 100R(3). New section 100R(3)(e) provides that a PPD continues in force until a proceeding for an application for a DVO in relation to the respondent and the aggrieved is dismissed, or adjourned, without a temporary protection order being made under Part 3, Division 2. This section applies where the respondent and aggrieved on the private application are the same as the respondent and aggrieved on the PPD and does not apply where the parties are reversed.

New section 100R(3)(e) does not explicitly provide that it only applies where the parties to the application are the same as the parties to the PPD. The provision may be misinterpreted to suggest that a respondent to a PPD may later apply privately for a protection order and, if the court dismisses the protection order, the PPD will end. In these circumstances, the aggrieved could be unintentionally denied the continuing protection afforded by a relevant PPD.

Amendment 8 clarifies that new section 100R(3)(e) only applies where the proceeding for an application for a DVO that is dismissed, or adjourned without a TPO, is in relation to the same respondent and same aggrieved as the PPD.

New section 100ZD

New section 100ZD provides that, in deciding a court review, the court may make any order under Part 3 of the DFVP Act, as well as an order setting aside the PPD, or a decision to dismiss the application. Section 100ZD also provides that if a court makes an order setting aside the PPD, the direction is taken to have never been issued and the PPD will not form part of the person's domestic violence history.

Currently, the Bill does not provide the court with an option to decide that a PPD should end, but that a record of the PPD should remain on the person's domestic violence history. It may be a desired outcome in some circumstances to acknowledge that there was a previous need for protection of the aggrieved, and that the respondent had previously committed domestic violence against the aggrieved. This may also be a preferred outcome where a court review is sought after the PPD has been in place for a number of months, noting that a court review may be sought at any time during the PPD.

Amendment 11 addresses this issue, by expanding the orders that the court may make to include an order that the PPD ends on a stated day. If the court makes this order, the part of the respondent's domestic violence history relating to the PPD must include the court's order, and the day on which the PPD ended.

New section 100ZA

Section 100Z of the Bill outlines that certain persons may to apply to the Magistrates Court at any time a PPD is in force, for a review of the direction. It states that as soon as practicable after the application is filed, the clerk of the court must a give a copy of the application to the police commissioner.

New section 100ZA sets out the requirements for filing and service of documents. As introduced, section 100ZA(1) provides that upon receiving a copy of the application for the review of the PPD from the clerk of the court, the police commissioner must, within 1 business day file particular documents with the court.

Amendment 9 will allow the police commissioner to file documents, as required under section 100ZA, 'within 1 business day or as soon as practicable'. This amendment will provide flexibility in circumstances of legitimate delays impacting filing timeframes.

A<u>mendments to electronic monitoring provisions in the Bill</u>

Clause 15 of the Bill outlines the legislative framework for the electronic monitoring pilot for high-risk DFV perpetrators. This clause will enable particular courts to impose a monitoring device condition when making a DVO, which requires a respondent to wear a monitoring device for a stated period under specific circumstances, and where the court is satisfied the condition is necessary or desirable to protect the aggrieved from domestic violence, or a named person from associated domestic violence, or a named person who is a child from being exposed to domestic violence. This is consistent with considerations of the court when making all other conditions currently available on a DVO.

The courts will be required to consider the personal circumstances of the respondent, including their geographical location and living arrangements, as well as their ability to charge and maintain the monitoring device. This is to ensure a respondent is not expected to comply with a condition when they are unable to. Further, courts will be required to consider any views or wishes expressed by the aggrieved or named persons relating to the monitoring device condition.

Amendments to section 66D

New section 66D of the Bill empowers the court to compel a prescribed entity to provide information that the court reasonably considers may help the court in deciding whether it is necessary or desirable to impose a monitoring device condition on the respondent. An entity who is asked by the court to assist must comply. This is to ensure the court can request information from prescribed entities to enable fulsome consideration of appropriateness of making a monitoring device condition.

The current wording of this section is broad and could place an administrative burden on prescribed entities if they are requested to provide information which is not in their possession, or that they do not have access to. For example, this may place an administrative burden on the Queensland Police Service (QPS) if a police prosecutor is required to comply with a court's

direction to obtain and provide information that is not held by the QPS. The Bill lists the police commissioner as a prescribed entity, whose role may be delegated to the QPS.

To address this issue, amendment 4 adds a second limb to new section 66D(1) to provide that the court may ask a prescribed entity for information that the court reasonably considers:

(a) is likely to be in the entity's possession; and

(b) may help the court in deciding whether it is necessary or desirable to impose the monitoring device condition on the respondent.

Amendment 5 further provides that a prescribed entity is only required to provide information in its possession, or to which the entity has access.

Amendment to section 66G (Restriction on disclosure in proceedings)

As introduced, new section 66G provides that evidence of the imposition of a monitoring device condition or the use of a monitoring device or safety device, and other evidence directly or indirectly derived from the imposition or use, is not admissible in a proceeding other than a proceeding for a domestic violence offence (as defined in the schedule (Dictionary) to the DFVP Act).

This provision was included as a safeguard, intended to ensure that monitoring device information is not admitted as evidence in proceedings that are not related to domestic and family violence. The restriction also recognises that monitoring device conditions are being used in a civil context, and that information gathered in the civil context should not be routinely used to pursue unrelated criminal proceedings. Additionally, this restriction ensures that information is only used for the purpose for which it is collected, in compliance with State and Commonwealth privacy legislation and the Queensland Privacy Principles.

As introduced, section 66G would prohibit evidence from being admissible in any proceeding that is not related to a domestic violence offence, meaning that evidence about other serious criminal matters may not be admissible in court. For example, this restriction would prevent information derived from the use of a monitoring device that places a person at the scene of a murder, that is not a domestic violence offence, from being admissible in a criminal proceeding. Additionally, without amendment, new section 66G would prevent a person subject to a monitoring device condition from using information from a monitoring device to alibi themselves in relation to a criminal offence that was not a domestic violence offence.

Recognising the importance of maintaining this safeguard, balanced with the interests of community safety, the amendment provides an exception to this restriction, for a proceeding for a criminal offence that is not a domestic violence offence, where the court considers it would be in the interests of justice for the evidence to be admissible.

Amendment 6 replaces new section 66G to provide that evidence of the imposition of a monitoring device condition or the use of a monitoring device, and other evidence directly or indirectly derived from the imposition or use, is not admissible in any proceeding other than:

(a) a proceeding for a domestic violence offence; or

(b) a proceeding for a criminal offence that is not a domestic violence offence, in which the court considers it is in the interests of justice to admit the evidence.

The amendment retains the limitation on the use of evidence of a safety device and, provides that evidence of the use of a safety device, and other evidence directly or indirectly derived from the use, is not admissible in any proceeding other than a proceeding for a domestic violence offence. This means that evidence derived from a safety device used by an aggrieved will not be admissible in proceedings for a criminal offence, that is not domestic violence offence.

This approach treats monitoring device information and safety device information differently and allows consideration of the evidence obtained on a case-by-case basis. This also aligns with the existing approaches for dealing with evidence in a proceeding under the *Evidence Act 1977*, which allow the court to determine the admissibility of evidence in the interests of justice. Adopting an 'interests of justice' test ensures a consistent approach for courts and is a common concept in evidence law, and a concept used elsewhere in the DFVP Act.

Amendments to the *Family Responsibilities Commission Act 2008*

The introduction of PPDs will provide operational police officers with a new tool for responding to domestic and family violence (DFV), to be used in circumstances where a police officer considers it is appropriate for a matter not to proceed to court. Under the DFVP Act, new section 100B will outline circumstances where a police officer may issue a PPD. New sections 100C and 100D will also outline circumstances when a police officer must not issue a PPD, The Bill also sets out matters for a police officer to consider before making a PPD, provided at new section 100E.

Amendment 12 will insert a new notice type for PPDs, requiring that the police commissioner provide a notice to the FRC where a PPD is issued, and either or both of the following apply:

(i) the relevant domestic violence occurred in a welfare reform community area; or

(ii) the police commissioner becomes aware that the respondent lives or, at any time after the start day, has lived in a welfare reform community area.

The notice provided to the FRC must state:

(a) the day on which the PPD was issued;

(b) the conditions of the PPD;

(c) the name and address of the respondent;

(d) information that identifies:

(i) the place where the relevant domestic violence occurred; and

(ii) if applicable, the welfare reform community area in which the respondent is said to live or have lived.

The police commissioner must provide the notice to the FRC within 10 business days after the later of the following:

(a) the PPD being issued; or

(b) after becoming aware that the respondent lives or, at any time since the start day, has lived in a welfare reform community area.

The 'start day' is defined as 17 December 2015. This is the same day from which courts have been required, under section 43, to notify the commission of protection orders under the DFVP Act made against residents of welfare reform community areas.

By maintaining a consistent definition of 'start day' for all notices related to DFV, the FRC will continue to have visibility of DFV occurring in welfare reform community areas to enable early intervention in a culturally safe environment.

P PD notice where the 'relevant domestic violence' occurred in a welfare reform community a rea

New section 43A(1)(b)(i) provides for a PPD notice to be issued if a PPD is issued and the relevant domestic violence occurred in a welfare reform community area.

The DFVP Act recognises that domestic violence usually involves an ongoing pattern of abuse over a period of time. However, for the purpose of identifying where the domestic violence that led to the issuing of the PPD occurred, it is necessary to rely on a more limited definition of 'relevant domestic violence'.

Clause 40 of the Bill inserts a new definition of 'relevant domestic violence' in the DFVP Act. It provides that relevant domestic violence, in relation to a PPD, means the domestic violence mentioned in section 100B(1)(a) of the Bill because of which—

(a) a police officer is deciding whether to issue the direction; or

(b) the direction was issued.

In other words, the 'relevant domestic violence' is the domestic violence that the officer reasonably believes to have been committed, and in response to which, the officer has issued a PPD.

There may be some circumstances where the FRC is notified of a PPD issued in response to domestic violence which occurred in a welfare reform community area, and the respondent does not meet the definition of a '*community member*' (under section 7 of the FRC Act). In these circumstances, the person will not fall within the FRC's jurisdiction and the FRC will destroy the notice as required by section 141 of the FRC Act.

P PD notice where the respondent lives or has lived in a welfare reform community area

It is anticipated that police will become aware of information about whether a respondent lives or has lived in a welfare reform community area through the issuing of a PPD, or through undertaking a police review under new section 100Y.

It is not intended that the police commissioner, or any police officers to which the requirement is delegated, will have an ongoing obligation to monitor whether a respondent's address is changed after the PPD is made, or, to actively seek out a person's past residential addresses when making a PPD.

Instead, it is expected that police will act on information that is presented or becomes apparent during inquiries related the issuing of the PPD, for example through speaking to the parties involved.

Police will also not be required to determine whether the person meets the definition of a '*community member*' under section 7 of the FRC Act. The role of police is limited to notifying the FRC if a PPD is issued in certain circumstances relating to a welfare reform community area as set out in new section 43A of the FRC Act.

A mendments to the *Forensic Science Queensland Act 2024*

The amendments to the FSQ Act are to commence on assent.

Eligibility for nomination for appointment as director

Section 7 of the FSQ Act currently provides that the Minister may only recommend a person for appointment by the Governor in Council as the director if the person has (1) a tertiary qualification in a scientific discipline relevant to forensic services; and (2) at least 10 years practical experience in providing forensic services.

The amendments replace these eligibility requirements with a requirement that the Minister be satisfied that the person is appropriately qualified to perform the functions of the director. The phrase 'appropriately qualified' is defined in the *Acts Interpretation Act 1954*.

Removal of director

Section 10(4) of the FSQ Act enables the Minister to recommend the director's removal to the Governor in Council if the Minister is satisfied the director: (1) has engaged in misconduct; or (2) is incapable of performing the director's duties; or (3) has neglected the director's duties or performed the duties incompetently; or(4) is absent from duty without leave granted by the Minister; or (5) has contravened section 20 or section 21 of the FSQ Act.

The amendments provide that the Minister may recommend the director's removal by the Governor in Council for any reason or none.

The Minister is currently empowered to suspend the director for a period not exceeding six months if satisfied that there are grounds for removing the director under section 10(4) of the FSQ Act or there is an allegation of misconduct against the director.

The amendments provide that the Minister may suspend the director for any reason or none for a duration of no more than six months.

Appointment of Deputy Directors

The amendments will enable appointment of deputy directors under the FSQ Act.

The power to appoint a deputy director, along with powers to suspend and remove the person from office, will reside with the Minister.

Independence of director

Section 19 of the FSQ Act currently provides that, in performing the director's functions and exercising the director's powers, the director is not subject to direction by the Minister.

The amendments omit current section 19 of the FSQ Act and replace with provisions that the director must comply with a direction given by the Minister. However, a direction may not be about a particular person or matter.

The Minister may also ask the director for information relevant to the performance or exercise of the director's functions and powers.

The director must comply with a direction or request for information.

Other references across the FSQ Act to the director's independence are also removed by the amendments.

Termination of the appointment of a member of the FSQ Advisory Council

Section 34(2) of the FSQ Act currently provides the circumstances in which the Minister may terminate the appointment of a member of the FSQ Advisory Council.

The amendments empower the Minister to terminate the appointment of a member of the FSQ Advisory Council for any reason or none.

Amendment with respect to particular reports about the operation of FSQ

New section 43A will provide that the principles of natural justice, including the principle of natural justice relating to bias, do not apply and are taken never to have applied in relation to the reports about the operation of FSQ obtained by the State and tabled in the Legislative Assembly. The amendments declare remedies that are not available in respect of a report, a person involved in the preparation of a report, including the State; and further provide that a person, including the State, does not incur a liability, and is taken to have never incurred a liability, in respect of the drafting, preparation, disclosure, or publication of a report.

The amendments also provide that no damages or compensation are payable by a person, including the State, because of any of those matters.

Alternative ways of achieving policy objectives

There are no alternative ways to achieve the policy objectives other than by legislative amendment.

For the amendments to the FRC Act, it is necessary to legislate for PPD notices to enable the sharing of otherwise confidential information.

For the amendments to the FSQ Act, the policy objectives to be achieved are directly related to the FSQ Act. Achievement of the objectives requires amendment to the FSQ Act.

Estimated cost for government implementation

As noted in the explanatory notes for the Bill, introduction of the PPD framework will likely result in additional costs for government. Government will monitor the impacts of the legislative amendments, and any cost impacts will be dealt with as part of normal budget processes.

Funding has been allocated for the electronic monitoring pilot, however future funding may be required. Any future funding will be sought through normal budget processes.

No additional administrative costs to government are associated with implementing the amendments to the FSQ Act.

Consistency with fundamental legislative principles

Amendments to the PPD provisions and electronic monitoring provisions

The amendments to the PPD and electronic monitoring provisions in the Bill have been drafted with due regard to the fundamental legislative principles in section 4 of the *Legislative Standards Act 1992* (LS Act). The amendments are consistent with fundamental legislative principles.

Amendments to the *Family Responsibilities Commission Act 2008*

The amendments to the Bill which amend the FRC Act have been drafted having regard to the fundamental legislative principles in the LS Act and are generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles raised by the amendments are considered justified and are addressed below.

The primary fundamental legislative principle is whether the amendments have sufficient regard for the rights and liberties of individuals. The right to privacy and confidentiality is engaged through the details of PPDs and identifying details of persons being provided to the FRC.

Section 147 of the FRC Act has confidentiality provisions that protect the recording, disclosure and use of confidential information gained by a person involved in the administration of the FRC Act and provides further protection to ensure the confidentiality of the details of the PPD and respondent provided to the FRC, and relevant entities that it provides this information to.

Further, as noted above, information which is provided to the FRC that does not concern a community member is required to be destroyed.

The main objective of the amendments is to provide for the FRC to be notified of relevant PPDs, giving effect to the overall purpose of the FRC Act. The overall purpose of the FRC Act is to support the restoration of socially responsible standards of behaviour and local authority; and to help people resume primary responsibility for the wellbeing of their community and the individuals and families of the community.

Amendments to the *Forensic Science Queensland Act 2024*

The amendments to the FSQ Act are generally consistent with fundamental legislative principles.

Eligibility for nomination for appointment as director

This amendment changes the qualifications that must be possessed by a person to be eligible for nomination by the Minister for appointment by the Governor in Council as the director of FSQ. Whether a person is appropriately qualified to perform the functions of the office is a matter of which the Minister is to be satisfied prior to nominating the person.

In the context of fundamental legislative principles, the issue to be considered is whether in making rights and liberties dependent upon administrative power, the amendment sufficiently defines the power to be exercised by the Minister (section 4(3)(a) of the LS Act.

Section 3 of the FSQ Act sets out the main purpose of the FSQ Act. This section includes standards to which forensic services for the administration of criminal justice in Queensland are to be delivered and, further, identifies that the purpose is to be achieved by establishing the Director of FSQ to lead the provision of forensic services.

Section 3 of the FSQ Act therefore provides a measure against which the Minister may consider whether a person is appropriately qualified.

Suspension and removal of director and termination of a member of the Advisory Council

New clause 59H, through an amendment to section 10, enables the Minister to recommend to the Governor in Council that the director be removed by the Governor in Council for any reason or none. The Minister will be empowered to suspend the director for up to six months for any reason or none.

New clause 59J, through new section 14D, similarly enables a deputy director (provided for under the amendments and appointed by the Minister) to be dismissed or suspended by the Minister for any reason or none.

New clause 59U, through an amendment to section 34, enables the appointment of a member of the FSQ Advisory Council to be terminated by the Minister for any reason or none.

In respect of each of the amendments, the powers available under section 25 of the *Acts Interpretation Act 1954* are not limited by those amendments.

Consideration of fundamental legislative principles in the context of the above clauses raises whether in making rights and liberties dependent upon administrative power, the amendments sufficiently define the power to be exercised by the Minister (section 4(3)(a) of the LS Act).

As power in each of these clauses may be exercised 'for any reason or none', each provision does not define the power to be exercised.

The purpose of the amendments to the provisions is to enable the Minister adequate flexibility and oversight over the affairs and leadership of FSQ.

The leadership of FSQ is expected to uphold standards for the provision of high quality forensic services given FSQ's role to provide impartial expert evidence to Queensland's criminal courts.

The reports tabled in the Legislative Assembly reveal ongoing and entrenched dysfunction within FSQ.

The issues that confront FSQ have had a very significant impact upon FSQ's scientific operations. FSQ's operation as a public entity has also been significantly and negatively impacted.

FSQ's performance has produced unacceptable delays for Queensland's courts, the QPS, victims of crime, accused people and the coronial system.

Timely access to justice is a critical feature of a parliamentary democracy based on the rule of law.

The changes proposed by the clauses outlined above will provide the Minister with oversight of FSQ's affairs and leadership and oversight of the FSQ Advisory Council. The amendments will provide adequate flexibility with respect to the positions currently created under the FSQ Act and the positions proposed by the amendments.

Appointment of Deputy Directors

The amendments to the FSQ Act that enable the appointment of Deputy Directors of FSQ raise consideration of a number of fundamental legislative principles.

New clause 59J, through new section 14E, provides that a deputy director will be subject to an obligation to disclose to the Minister if the person becomes an insolvent under administration. A failure to do so, without reasonable excuse, is a criminal offence that carries a maximum penalty of 100 penalty units. This mirrors an offence that applies to the director.

Additionally, a deputy director may be criminally responsible, under existing section 16 of the FSQ Act, for a failure to disclose to the Minister if they are charged with or convicted of an indictable offence during the term of their appointment. The maximum penalty is 100 penalty units.

The creation of the of the offence relating to a failure to disclose insolvency and the extension of the offence in existing section 16 of the FSQ Act are appropriate and are consistent with fundamental legislative principles. It is important that the Minister be informed of matters which might affect the suitability of a person to hold a statutory office.

The maximum penalty of 100 penalty units that is proposed for the offence relating to a failure to disclose insolvency is the same for the equivalent offence that applies to the director. That penalty is appropriate.

Other provisions which would apply to a deputy director which require consideration in the context of fundamental legislative principles are:

1. enabling the Attorney-General to obtain a criminal history to be obtained from the commissioner of police to determine whether a person is qualified to be, or continue as a deputy director (new clause 59K);

2. requiring a deputy director to obtain approval to engage in other paid work (new clause 59P); and,

3. requiring a deputy director to disclose a conflict of interest to the Attorney-General (new clause 59Q).

Section 4(2)(a) of the LS Act requires that legislation has sufficient regard to the rights and liberties of individuals. In each instance, these provisions would require a deputy director to disclose personal information, or have personal information about them disclosed.

Each of these provisions already apply to the director under the FSQ Act.

These provisions are mechanisms to ensure that corruption risks are identified and also assist to determine whether a person should be appointed, removed or suspended as a deputy director.

Amendment with respect to particular reports about the operation of FSQ

New section 43A provides that remedies and compensation that may have been available to a person are not because of the section.

The removal of the remedies and compensation are considered appropriate given the public interest in the contents of the reports; and the need to provide certainty, stability and finality to the approach to be taken moving forward in response to issues identified in the reports relating to FSQ's governance, leadership, culture and oversight. As noted above, FSQ's performance issues have had a continuingly detrimental effect upon the investigation of crime and the prosecution of offenders.

Consultation

Consultation was not undertaken on the amendments to the PPD provisions, electronic monitoring provisions or the amendments to the FSQ Act.

The amendments to the FRC Act respond to Recommendation 3 of the Committee Report, which arose from stakeholder submissions to the Committee, including a submission made by the FRC. The FRC was consulted during drafting of the amendments.

Consistency with legislation of other jurisdictions

The amendments to the Bill are specific to the State of Queensland and are not uniform with, or complementary to, the legislation of the Commonwealth or another State.

Notes on provisions

Amendment 1 inserts ', other than Part 4B' into clause 2 of the Bill.

Amendment 2 amends clause 10 (Amendment of s 36A (Court must be given respondent's criminal history and domestic violence history)) to amend the heading of section 36A so that it refers to 'other information'.

Amendment 3 amends clause 10 (Amendment of s 36A (Court must be given respondent's criminal history and domestic violence history)). The amendment inserts a new subsection (4) into section 36A, which applies if a PPD is in effect in relation to the aggrieved and respondent to an application for a protection order (regardless of who is the respondent and who is the aggrieved). In these circumstances, the police commissioner must give a copy of the PPD and a signed written notice stating the grounds for issuing the PPD to the Court.

Amendment 4 amends clause 15 (Insertion of new pt 3, div 5, sdiv 3 and sdiv 4, hdg) to amend section 66D as inserted by the Bill. The amendment will insert new subsections (1)(a) and (1)(b) to provide that the court may ask the prescribed entity or another prescribed entity prescribed by regulation for information the court reasonably considers is (a) likely to be in the entity's possession; and (b) may help the court in deciding whether it is necessary or desirable to impose the monitoring device condition on the respondent.

Amendment 5 amends clause 15 (Insertion of new pt 3, div 5, sdiv 3 and sdiv 4, hdg) to amend section 66D as inserted by the Bill. The amendment will insert additional subsection (3) to provide that a prescribed entity is required only to provide information in the entity's possession or to which the entity has access.

Amendment 6 amends clause 15 (Insertion of new pt 3, div 5, sdiv 3 and sdiv 4, hdg) to replace section 66G as inserted by the Bill.

New subsection (1) provides that evidence of the imposition of a monitoring device condition or the use of a monitoring device, and other evidence directly or indirectly derived from its imposition or use, is not admissible in any proceeding other than–

(a) a proceeding for a domestic violence offence; or
(b) a proceeding for a criminal offence that is not a domestic violence offence in which the court considers it is in the interests of justice to admit the evidence.

New subsection (2) provides that evidence of the use of a safety device, and other evidence directly or indirectly derived from the use, is not admissible in any proceeding other than a proceeding for a domestic violence offence.

Monitoring device and *safety device* are both defined in section 66A (Definitions for subdivision) as introduced by the Bill.

Domestic violence offence is defined in schedule (Dictionary) of the DFVP Act.

Amendment 7 amends clause 19 (Insertion of new Pt 4, div 1A) to amend new section 100R as inserted by the Bill. The amendment to new section 100R(3) inserts new subsection (aa) to provide that a PPD will continue in force until the direction ends under section 100ZD(3A)(a).

Amendment 8 amends clause 19 (Insertion of new Pt 4, div 1A) to amend new section 100R as inserted by the Bill. The amendment clarifies that section 100R(3)(e) will only apply if the proceeding for an application for a DVO is in relation to the same respondent and same aggrieved.

Amendment 9 amends clause 19 (Insertion of new Pt 4, div 1A) to amend new section 100ZA(1) to insert 'or as soon as practicable'. This amendment requires the police commissioner to provide the documents listed in section 100ZA (1)(a) to (d) within 1 business day or as soon as practicable, after receiving a copy of an application for review of a PPD under section 100Z(3).

Amendment 10 amends clause 19 (Insertion of new Pt 4, div 1A) to amend new section 100ZD(2) as inserted by the Bill, to provide that a court may make an order that the PPD ends on a stated day.

Amendment 11 amends clause 19 (Insertion of new Pt 4, div 1A) to amend new section 100ZD(4) as inserted by the Bill. The amendment inserts a new subsection (3A) into 100ZD to provide that if a court makes an order that a PPD ends on a stated day–

(a) the direction ends on the stated day; and
(b) the part of the respondent's domestic violence history relating to the PPD must include the following information–
    (i) the court's order;
    (ii) the day the PPD ends under paragraph (a).

Amendment 12 inserts a new Part 4A into the Bill (Amendments of *Family Responsibilities Commission Act 2008* (FRC Act)). New part 4A inserts clauses 59A to 59C into the Bill.

Clause 59A provides that this part amends the FRC Act.

Clause 59B inserts a new section 43A (Notice about police protection direction).

Subsection (1) provides that this section applies if (a) a PPD is issued; and (b) either or both of the following apply –

(i) the relevant domestic violence occurred in a welfare reform community area (s 43A(1)(b)(i));

(ii) the police commissioner becomes aware that the respondent lives or, at any time after the start day, has lived in a welfare reform community area (s 43A(1)(b)(ii)).

Reference to a PPD issued in section 43A(1)(a) is intended to capture a PPD issued under new section 100B, as well as a PPD issued following a police review under new section 100Y. To achieve this, new section 43A(4) provides a definition of 'police protection direction' which references the definition of PPD under the DFVP Act.

Subsection (2) provides that the notice must state:

(a) the day on which the PPD was issued; and

(b) the conditions (if any) of the PPD; and

(c) the name and address of the respondent; and

(d) information that identifies:

(i) the place where the relevant domestic violence occurred; and

(ii) if subsection (1)(b)(ii) applies, the place in a welfare reform community area where the respondent lives or has lived.

Subsection (3) provides that the police commissioner must give the notice as soon as practicable, but not more than 10 business days, after the later of the following happens –

(a) the PPD is issued; or

(b) the police commissioner becomes aware that the respondent lives, or at any time after the start day, has lived in a welfare reform community area.

Subsection (4) provides definitions for section 43A, including a definition for *police protection direction, relevant domestic violence, respondent* and *start day.*

Police protection direction means a PPD issued under the DFVP Act.

The definition of *relevant domestic violence* refers to the schedule (Dictionary) of the DFVP Act, which is amended by clause 40 of the Bill to define *relevant domestic violence* in relation to a PPD, as meaning the domestic violence mentioned in new section 100B(1)(a) because of which:

(a) a police officer is deciding whether to issue the direction; or

(b) the direction was issued.

In other words, the 'relevant domestic violence' is the domestic violence that the officer reasonably believes to have been committed, and in response to which, the officer has issued a PPD.

The DFVP Act recognises that domestic violence usually involves an ongoing pattern of abuse over a period of time. However, in the context of PPD notices, the 'relevant domestic violence' will only relate to the domestic violence in response to which the PPD was issued.

The definition of ***respondent*** refers to section 21(3) of the DFVP Act.

Start day is defined as 17 December 2015 and is relevant to the question of whether a person 'has lived' in a welfare reform community area. The date accords with the *Start day* relevant to the decision courts make about whether a person 'has lived' in a welfare reform community area for the purposes of notifying the FRC of protection orders.

Clause 59C (Amendment of schedule (Dictionary)) provides for consequential amendments to the FRC Act.

Subsection (1) inserts a definition of ***PPD notice*** meaning a notice given to the commission under new section 43A.

Subsection (2) inserts reference to a PPD notice into the definition of *agency notice*.

Subsection (3) internally renumbers the paragraphs under the *agency notice* definition.

Subsections (4) and (5) amend the definition of *relevant person* to include, for a PPD notice, the respondent for the PPD the subject of the PPD notice.

Subsection (6) internally renumbers the paragraphs under the *relevant person* definition.

Amendment 13 inserts a new part 4B into the Bill (Amendment of *Forensic Science Queensland Act 2024* (FSQ Act)). New part 4B inserts clauses 59D to 59X into the Bill.

Clause 59D provides that this part amends the FSQ Act.

Clause 59E amends section 3 of the FSQ Act to omit the word 'independent'.

Clause 59F replaces the heading to part 2 of the FSQ Act and the heading to part 2, division 1 of the FSQ Act.

Clause 59G amends section 7(3) of the FSQ Act to provide that the Minister may recommend a person for appointment only if satisfied the person is appropriately qualified to perform the functions of the director.

Clause 59H amends section 10 of the FSQ Act by omitting sections 10(4) and (5) and inserting new sections 10(4), (5) and (6).

New section 10(4) provides that the Minister may recommend the removal of the director for any reason or none.

New section 10(5) provides that the Minister may, for any reason or none, suspend the director for not more than 6 months by signed notice given to the director.

New section 10(6) provides that the section does not limit the Governor in Council's power under section 25 of the *Acts Interpretation Act 1954*.

Clause 59I amends section 13(1)(b)(i) of the FSQ Act by removing the word 'independent'.

Clause 59J inserts new part 2 division 1A (Deputy directors of Forensic Science Queensland) and new sections 14A, 14B, 14C, 14D and 14E into the FSQ Act.

New section 14A(1) provides that the Minister may appoint an appropriately qualified person to be a deputy director of FSQ. New section 14A(2) sets out persons who must not be appointed as a deputy director and new section 14(3) provides that a deputy director is appointed under the FSQ Act and not under the *Public Sector Act 2022*.

New section 14B(1) provides that a deputy director is appointed for the term stated in the instrument of appointment. The term cannot be of more than 5 years. New section 14B(2) provides that a deputy director may be reappointed.

New section 14C(1) provides that a deputy director is to be paid the remuneration and allowances decided by the Minister and that the deputy director holds office on the terms and conditions decided by the Minister to the extent the terms and conditions are not provided for in the FSQ Act.

New section 14D(1) provides that the office of a deputy director becomes vacant if the deputy director completes the term of office and is not reappointed, resigns from office or is removed from office by the Minister. New section 14D(2) allows the Minister to terminate the deputy director's appointment for any reason or none. New section 14D(3) provides that the Minister may, for any reason or none, suspend the deputy director for no more than 6 months by signed notice given to the deputy director. New section 14D(4) provides the section does not limit the Minister's power under section 25 of the *Acts Interpretation Act 1954*.

New section 14E applies to a person who is appointed as a deputy director; and during the term of the person's appointment, becomes an insolvent under administration. New section 14E(2) provides that the person must, unless the person has a reasonable excuse, immediately give written notice of the insolvency to the Minister. The maximum penalty is 100 penalty units.

Clause 59K amends section 15 of the FSQ Act to extend its operation where the Minister is to decide whether a person is qualified to become, or continue as a deputy director.

Clause 59L amends section 16 of the FSQ Act to provide that the requirement to disclose charges and convictions also applies to a deputy director.

Clause 59M amends the heading of part 2 division 3 of the FSQ Act.

Clause 59N amends section 18 of the FSQ Act to enable the director to delegate the director's functions and powers to a deputy director in addition to an appropriately qualified staff member of FSQ. Section 18(2) enables a deputy director to subdelegate a function or power to an appropriately qualified staff member of FSQ.

Clause 59O omits section 19 and inserts new sections 19 and 19A.

New section 19 provides that the Minister may give the director a direction about a matter relevant to the performance or exercise of the director's functions or powers, however, it may not be about a particular person or matter. The director must comply with a direction.

New section 19A provides that the Minister may ask the director for information about a stated matter relevant to the performance or exercise of the director's functions or powers and the director must comply with the request.

Clause 59P amends section 20 of the FSQ Act to include a deputy director.

Clause 59Q amends section 21 of the FSQ Act to include a deputy director.

Clause 59R amends section 22 of the FSQ Act to include a deputy director.

Clause 59S replaces the heading of part 3 of the FSQ Act.

Clause 59T amends section 23 of the FSQ Act to include a deputy director.

Clause 59U amends section 34 of the FSQ Act to provide that the Minister may terminate the appointment of an FSQ Advisory Board member for any reason or none. New section 34(3) provides that the section does not limit the Minister's power under section 25 of the *Act Interpretation Act 1954*.

Clause 59V amends section 40 of the FSQ Act to include a deputy director and internally renumbers the section.

Clause 59W inserts new section 43A into the FSQ Act.

New section 43A(1) limits the application of the section to a report about the operation of FSQ if the report was obtained by the State and tabled in Parliament before the commencement of this section.

New section 43A(2) provides that the principles of natural justice, including the principle of natural justice relating to bias, do not apply, and are taken never to have applied, in relation to: (a) the drafting or preparation of the report; or (b) the disclosure of the report, or a draft of the report, to any person for the purpose of preparing or finalising the report; or (c) the publication of the report.

New section 43A(3) provides that it is declared that any person involved in the preparation of the report, including the State, does not incur, and never has incurred, any liability in relation to (a) the drafting or preparation of the report; or (b) the disclosure of the report, or a draft of the report, to any person for the purpose of preparing or finalising the report; or (c) the publication of the report.

New section 43A(4) provides that to remove any doubt, it is declared that (a) the report, and any person involved in the preparation of the report, including the State, is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on the ground that the principles of natural justice, including the principle of natural justice relating to bias, were not complied with in preparing the report; and (b) no damages or compensation are payable by any person involved in the preparation of the report, including the State, because of or in relation to (a) the drafting or preparation of the report; or (b) the disclosure of the report, or a draft of the report, to any person for the purpose of preparing or finalising the report; or (c) the publication of the report.

Clause 59X amends the schedule 1 to the FSQ Act to omit the definition of 'misconduct' and insert a definition of 'deputy director'.

Amendments 14 and 15 amend the long title of the Bill to include reference to the FRC Act and FSQ Act as acts which are amended by the Bill.