Strengthening New Zealand’s legislative response to family violence

SUMMARY
This review

This review of the family violence law raises ideas and asks what you think. These ideas are not formal proposals, and you can talk about any aspect of the family violence law.

It is just one part of government work toward a coordinated, integrated and efficient response to family violence and sexual violence. Also under way is a national service to secure the homes of highest risk victims, a new role of Chief Victims Advisor to Government and tests to speed up court processes. Justice and Police are working on a new case-management approach for high risk victims, and more projects are coming soon.
What is family violence?

Family violence is physical, sexual or psychological abuse against a person by someone they have, or have had, a close and personal relationship with. Psychological abuse includes economic and financial abuse, threats of violence, property damage and causing children to witness violence.

A large proportion of family violence is done by intimate partners, and by adults abusing and neglecting children. With these forms of family violence, there is usually a pattern of harmful behaviour over time that can result in the victim’s life being controlled by the perpetrator.

Family violence also includes abuse of parents by children, violence between siblings, and violence toward older people.
IN 2014 POLICE responded to >100,000 family violence incidents

WE THINK ONLY 20% of family violence is reported to POLICE
14 women, 7 men and 8 children are killed by a family member on average, every year.

Nearly half of all homicides & reported violent crime are related to family violence.
New Zealand has the highest reported rate of intimate partner violence in the developed world.
Understanding family violence

As our understanding of family violence evolves, law and practice should keep up.

One increasingly important concept is coercive control, in which perpetrators use controlling or intimidating behaviours to make victims fear for their safety. The behaviours may appear minor, but in a repetitive pattern they can cause significant harm.

Knowledge is also growing about how family violence affects people from different groups, such as women, men, Māori, Pacific and ethnic migrants, disabled people, older people, and lesbian, gay, bisexual, transgender and intersex people.

Ideas include updating the legal definition of family violence and adding principles to the law.
QUESTIONS ABOUT population groups

• What changes could be made to address the barriers faced by each population group?
• Does the current legal framework for family violence address the needs of vulnerable population groups, in particular disabled and elderly people?
• What changes could be made to better support victims who are migrants, particularly when immigration status is a factor?
• What other ideas do you suggest?
QUESTIONS ABOUT understanding family violence

• What changes to legal tools and powers would ensure the law keeps pace with advances in understanding of family violence and how to address it?
• What changes to the current definition of domestic violence would ensure it supports understanding of family violence and improves responses?
• How would guiding principles affect how the Domestic Violence Act 1995 and other legislation is implemented? What principles would you suggest?
• How could including principles in the law reflect the nature and dynamics of family violence?
• What other ideas do you suggest?
Victim safety

Legal tools should keep victims safe. Protection orders, property orders, Police safety orders and parenting arrangements could be adjusted to increase safety.

For example,

• Police could assist victims in applying for protection orders, and judges deciding parenting arrangements could be required to consider the safety of adult victims.

• Arrest for breach of a protection order could be required.

• Police safety orders could also be a trigger to refer the perpetrator to non-violence programmes and short-term housing, and the victim to support services.
QUESTIONS ABOUT victim safety

- What changes would you suggest to improve access to protection orders?
- What changes could enhance the effectiveness, use and enforcement of protection orders, property orders and Police safety orders?
- How should risks to children and to adult victims be reflected in parenting arrangements under the Care of Children Act 2004?
- How could parenting orders and protection orders be better aligned?
- What other ideas do you suggest?
Prosecuting family violence perpetrators

The criminal law usually deals with single or representative family violence incidents. It cannot always respond to the ongoing pattern of abuse that is typical of family violence. Individual incidents may not meet the threshold for prosecution and, if charges are laid, sentences may not reflect the seriousness of the abuse.

• A stand-alone family violence offence or class of offences could be created that would make the family relationship central to the offending.

• Judges could be empowered to consistently consider victim safety in bail and sentencing decisions.
QUESTIONS ABOUT prosecuting perpetrators

- What changes could be made to the criminal law to better respond to family violence, including the cumulative harm caused by patterns of family violence?

- What changes would ensure victim safety is considered in bail decisions and sentencing decisions?

- What powers should criminal court judges have to vary or suspend orders usually made by the Family Court, or to make orders at different stages in proceedings?

- What changes would you suggest to court processes and structure to enable criminal courts to respond better to family violence?

- *What other ideas do you suggest?*
An additional pathway to safety

In some cases victims, perpetrators and their whānau may wish to maintain their relationship while seeking help to stop the violence. Currently, families usually have to pay for self-referral to services.

When responding to a family violence incident, Police could be required to either lay a criminal charge (or issue a warning), make a Police safety order, or make a referral to a funded family violence service or assessment service. Putting this in law would help people know what to expect when Police are called to a family violence incident.
QUESTIONS ABOUT an additional pathway to safety

• What are your views on an additional pathway for families who seek help to stop violence escalating?

• What are your views on the range and type of services that might be appropriate in the circumstances?

• What are your views on clarifying in law that Police take at least one of the following steps when responding to family violence reports – lay a criminal charge (or issue a warning), issue a Police safety order, or make a referral to a funded service or assessment?

• What other ideas do you suggest?
Better services for victims, perpetrators and whānau

Government and non-government agencies need to be able to share information about victims and perpetrators. But sometimes useful information is withheld because of privacy concerns. The law could say that safety trumps privacy in family violence cases.

Criminal court judges don’t always have all of the available information about a perpetrator’s family violence history, including protection orders, parenting orders and relationship property orders. They could be given this information.

Minimum standards for the people working in the family violence field could be set to make sure they have the right skills and expertise to help victims and perpetrators.
QUESTIONS ABOUT better services

• What changes could enhance information sharing between agencies in family violence cases?

• What changes could enhance information sharing between courts, and between courts and other agencies in family violence cases?

• What impact would setting minimum workforce and service delivery standards have on the quality of services? What challenges do you see in implementing minimum statutory standards?

• What other ideas do you suggest?
Have your say

The full consultation discusses these ideas and others more fully and asks for your views. You can also make a submission about any other part of the family violence law, or upload a submission from your computer.

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The Ministry of Justice will hold your personal information in accordance with the Privacy Act 1993. Confidential or anonymous submissions will be accepted.

If you have any questions email familyviolencelaw@justice.govt.nz.