



# the women's centre

North Queensland Combined Women's Services Inc.

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## Submission to the Criminal Law (Domestic Violence) Amendment Bill 2015

North Queensland Combined Women's Services Inc. (NQCWS) welcomes the opportunity to provide a written submission to the Communities, Disability Services and Domestic Violence and Family Violence Prevention Committee (the Parliamentary Committee) in response to the draft *Criminal Law (Domestic Violence) Amendment Bill 2015*. North Queensland Combined Women's Services is an integrated Women's Health Service, Sexual Assault Service and Homelessness Service focused on women escaping domestic and family violence.

This written submission has been developed within significant time constraints and does not attempt to address all provisions outlined in the Bill, but rather focuses on what is directly relevant to sexual violence.

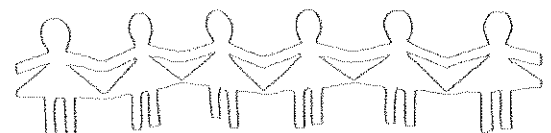
## Prevalence of Sexual Violence

Sexual violence continues to be one of the most significantly underreported types of criminal offences in Australia. Data indicates that sexual violence is endemic with one in three young women experiencing some form of sexual violence before the age of 18 years, and one in four women in Australia reporting sexual violence over their lifetime. Sexual violence is a largely hidden crime that often occurs within the family and other private contexts; it is primarily perpetrated by males who are known to the victim such as family members, intimate partners, friends, colleagues, neighbours, and acquaintances.

Sexual violence against women in Australia frequently occurs within intimate partner relationships as observed in the following statistical snapshot:

- More than a quarter of a million women (272,300, or 24%) reported having been sexually assaulted by a previous partner since the age of 15i.
- In a study on young people and domestic violence, 14% of surveyed women aged 12–20 had been sexually assaulted by a boyfriend.
- In Townsville approximately 70% of reported sexual assaults occurred within a residential setting – many of these incidents were related to domestic and family violence
- Specialist domestic violence prevention services report that between 90-100% of women who have experienced domestic violence, namely physical, emotional, financial, and social abuse are also experiencing intimate partner sexual abuse.

There are significant barriers for victim/survivors in disclosing and reporting experiences of sexual violence and rates of disclosure are even lower for intimate partner sexual violence. A range of factors including safety concerns and fear of further violence; stigma and shame; limited understanding as to what constitutes 'consent'; lack of recognition of sexual assault as being a crime; and lack of trust in police and/or service responses, are all observed as the primary deterrents for victims in disclosing intimate partner sexual offences.



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In our experience many women who are experiencing intimate partner sexual violence have difficulty identifying the experience as sexual assault or rape as male partners who engage in domestic violence. It is often not until a woman is engaged in counselling when she discusses her experiences of sexual assault that she recognises and understands what has happened.

#### **Part 4 Amendment of Evidence Act 1977**

The draft *Criminal Law (Domestic Violence) Amendment Bill 2015* includes provisions to amend the *Evidence Act 1977* to ensure the availability of protections for special witnesses apply to all victims of domestic violence (Taskforce Recommendation 133). These provisions are outlined as follows:

1. Clause 10 states that Part 4 of the Bill amends the *Evidence Act 1977*.
2. Clause 11 subsection (1) inserts a new definition of *domestic violence* into section 21A (1). The new definition adopts the definition of domestic violence contained in section 8 of the *Domestic and Family Violence Protection Act 2012*.
3. Subsection (2) amends the existing definition of *special witness* in section 21A(1) to include within that definition a person who is a victim of domestic violence and who also is to give evidence about the commission of an offence committed by the person who committed the domestic violence.

These provisions aim to ensure that victims of domestic violence who are giving evidence about the commission of an offence by the perpetrator automatically fall within the definition of 'special witness' under the *Evidence Act 1977*.

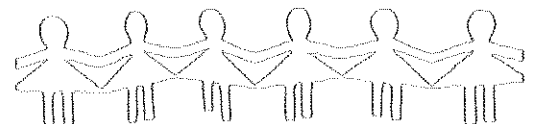
NQCWS supports the proposed expansion of the definition of 'special witness' to automatically include victims of domestic violence, and we seek a commitment from the Queensland Government to ensure the same protections are available to all victims of sexual violence who are giving evidence in criminal proceedings. Currently the special witness provisions only apply automatically to children / young people under the age of 16 years who are victims of sexual violence and who are giving evidence in criminal proceedings. Under Section 21A of the *Evidence Act 1977*, special witness provisions are only made available to adult victims of sexual violence upon application to the Court where they must demonstrate to the Court that they:

1. Would as a result of mental, intellectual, or physical impairment or a relevant matter be likely to be disadvantaged as a witness; or
2. Would be likely to suffer severe emotional trauma; or
3. Would be likely to be so intimidated as to be disadvantaged as a witness.

Applications for special witness provisions are not always successful and many victims of sexual violence aged 17 years and over face significant disadvantage, unnecessary and prolonged trauma, and substantial intimidation when giving evidence about the commission of sexual violence in Court.

#### **Recommendations**

1. **A commitment from the Queensland Government to ensure similar protections are available to all victims of sexual violence who are giving evidence in criminal proceedings. This can be achieved by enacting additional provisions to those outlined in the *Criminal Law (Domestic Violence) Amendment Bill 2015* to amend the *Evidence Act 1977* to ensure**



the availability of protections for special witnesses apply to all victims of sexual violence who are to give evidence about the commission of a sexual offence committed by any person.

2. Amendments to the *Evidence Act 1977* to ensure that special witness provisions are routinely offered to all victims of sexual violence, irrespective of their age, who are giving evidence in criminal proceedings to enable their participation, with respect to their informed choice.



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