

Criminal Justice Legislation (Sexual Violence and Other Matters) Amendment Bill 2024

Submission No: 4
Submitted by: Queensland Family and Child Commission
Publication:
Attachments:
Submitter Comments:

Queensland Family & Child Commission



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Reference: TF24/490 – D24/7089

Committee Secretary
Community Support and Services Committee

Via email: CSSC@parliament.qld.gov.au

Dear Committee Secretary

Thank you for the opportunity to review the *Criminal Justice Legislation (Sexual Violence and Other Matters) Amendment Bill 2024* (the Bill) and to provide a submission on behalf of the Queensland Family and Child Commission (QFCC). The QFCC was pleased to contribute to the *Women's Safety and Justice Taskforce* and Community Support and Services Committee to highlight the experiences of children, young people and their families as it relates to improving their safety and wellbeing in the community and welcomes the current Bill as progress to implementing the recommendations from the Taskforce.

I recognise the impact of the first and second major stages of implementation and legislative reform, along with their power in supporting women and girls as victim-survivors in the criminal justice system. I also note the importance of the Bill in amending various pieces of legislation relating to sexual violence and women and girls as offenders. I have included my support and response to the proposed amendments below.

Amendments to the Attorney-General Act 1999

The QFCC supports the review of the *Attorney-General Act 1999* as soon as practicable five years after commencement of provisions, and thereafter as appropriate. Conducting such a review will provide ongoing, longitudinal data on effectiveness of the amendments and implemented measures.

Amendments to the Corrective Services Act 2006

The QFCC supports immunity for program engagement to not be considered in Court proceedings. Doing so will allow for accused persons to engage with specialised programs in custody to address their needs as part of an early intervention approach and promotes engagement in behavioural change programs without risk of impact to judicial proceedings. The proposal for immunity for program engagement provides opportunity for accused persons to begin rehabilitation and restorative processes to address behaviours prior to their return to the community without fear that their participation in such programs will be seen as an admission of guilt in their Court matter.

Amendments to the Criminal Code

The QFCC supports the inclusion of a distinct offence "unlawful sexual acts with a child aged 16 to 18 under one's care, supervision or authority" in the *Criminal Code*. We support the establishment of a non-exhaustive list of 'relevant persons' to allow it to evolve as necessary with contemporary community roles and responsibilities, including formal and informal guardianship



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or supervisory roles. Including such a provision will provide a protective function to young people with increased vulnerabilities who are over the age of consent and aims to deter members of the community who may use the influence, trust and power that is entrusted in them when a young person is under their care, supervision or authority. We also support the defence provisions as proposed in the Bill, where defence of the standalone offence may only be applied where there is no more than a 2-year age difference for older-teenaged parties, and where there is no sexual exploitation. This appropriate application of this defence is important in reducing criminalisation of older adolescents over the age of consent engaging in sexual relationships where coercion, exploitation or abuse is not present.

Amendments to the Evidence Act 1977 and Evidence Regulation

The QFCC supports the proposed amendments to the *Evidence Act 1977* which will ensure that special witnesses, including children under the age of 16 years, are entitled to give evidence in a remote room or by alternative arrangements. Providing safeguarding and support to witnesses reduces the risk of re-traumatisation which may occur through exposure to an accused party, or by appearing in a Courtroom, and presents opportunity for specific support particularly for witnesses for whom English is an additional language, or where other culturally safe adjustments can be made. We also support the amendment which requires the evidence of victim-survivors and special witnesses in sexual offence proceedings be video and audio recorded and stored securely for use in any retrial. The proposed amendments would reduce the need for victim-survivors to justify having such measures, minimise the number of times they would be required to give evidence in Court, and improve victims' overall experiences of the Court process.

Amendments to the Penalties and Sentences Act 1992

The QFCC supports the extension of the duration of non-contact orders to five-years. This will provide victim-survivors of sexual violence with longer protection from threats of violence. We also support the amendment to include a maximum penalty of 3 years imprisonment for breaching a non-contact order, bringing it in line with the maximum penalty for contraventions of restraining orders for unlawful stalking, intimidation, harassment or abuse. We anticipate that extending the duration of protection orders for victim-survivors of sexual violence and creating this penalty will better safeguard victim-survivors.

I welcome the proposed legislative amendments and acknowledge the action taken to implement the recommendations from the two *Hear Her Voice* reports. If you have any issues or wish to discuss further, please contact me via telephone on [REDACTED], or via email at [REDACTED].

Yours sincerely

[REDACTED]
Luke Twyford
Principal Commissioner
Queensland Family and Child Commission

23 June 2024

