

Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025

Submission No:	2
Submitted by:	Queensland Sexual Assault Network
Publication:	
Attachments:	See attachment
Submitter Comments:	

3rd June 2025

The Secretariat
Justice Equity and Community Safety Committee
Parliament House
George Street
Brisbane QLD 4000

Email: jicsc@parliament.qld.gov.au

Dear Secretariat,

RE: Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025

Thank you for providing us the opportunity to provide comment on this Bill.

Our comments relate only to the Queensland Sentencing Advisory Council (QSAC) recommendations.

About QSAN

The Queensland Sexual Assault Network (QSAN) is the peak body for sexual violence prevention and support organisations in Queensland. We have 20 member services, including specialist services for Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, women with intellectual disability, young women, men and children and our membership are located throughout Queensland, including in rural and regional locations.

Our network of non-Government services is funded to provide specialist sexual assault counselling, support, and prevention programs in Queensland. QSAN is committed to working towards ensuring all Queenslanders who experience sexual violence recently or historically, regardless of age, gender, sexual orientation, cultural background receive a high-quality response in line with best practice, client-centred principles. Our work and analysis of sexual violence is from a feminist perspective and addressed within a specialist trauma framework.

We are committed to engaging with government and other bodies to raise systemic issues of concern, and to ensure the voices and experiences of victims of sexual violence are considered in the formulation of policy and legislation that impacts on sexual violence victims in Queensland.

Good Character Evidence

QSAN acknowledges that the Bill introduces some qualifications on the current unrestricted use of good character evidence in the sentencing of sexual violence matters. We note the following changes:

- The Bill inserts new subsections (3A) to (3D) into section 9 of the PS Act to qualify the court's treatment of good character in sentencing offenders convicted of offences of a sexual nature.
- The new subsections provide that the court may treat the offender's good character, to the extent it has been established by a character reference, standing in the community, or contributions to the community (each a 'restricted form of character evidence'), as a mitigating factor only if the good character is relevant to the offender's prospects of rehabilitation or risk of reoffending.
- The new subsections also provide that the court may decide not to treat an offender's good character, to the extent it has been established by a restricted form of character evidence, as a mitigating factor. In deciding whether or not to treat the good character as a mitigating factor the court must have regard to the nature and seriousness of the offence, including any physical, mental or emotional harm to the victim and the vulnerability of the victim.
- If the offender is being sentenced for an offence of a sexual nature against a child under 16, the new qualifications on the court's treatment of good character apply subject to the requirement that the court must not treat an offender's good character as a mitigating factor if it assisted them to commit the offence.

QSAN does not agree with the use of good character references in the sentencing of any sexual violence matters for the following reasons and therefore seeks an amendment to restrict their use altogether.

Our reasons are:

- Those of good character do not engage in sexual violence.
- The use of the good character evidence is highly traumatic for victim-survivors and is offensive to them.
- Sexual offenders are highly calculating and manipulative and groom the victim-survivors, the family/friends of the victim-survivor and the community by carefully curating their public persona in a way that gives them access to the victim-survivor and makes it difficult for the victim-survivor to ever report the crimes to the police. It is therefore completely inappropriate to use the very same "presentation" as a mitigating factor in sentencing.
- The legal system does not have expertise in identifying the grooming tactics of sexual offenders and it may be difficult for them to ascertain when grooming tactics have been or haven't been used in each case.
- Victim-survivors must prove their case to the highest evidentiary level, and it is then galling for them to see how easily a convicted rapist/sex offender can rely on the uninformed, opinion evidence of family and friends of the offender and that these references can influence sentencing outcome. (QSAC found ¼ of good character references were relied on in the sentencing of sexual violence matters in Queensland).

- The prospects of rehabilitation and the risks of reoffending of convicted rapists/ sex offenders are areas of specialist expert knowledge and the uninformed opinions of friends and family of the rapist/ sex offender should be irrelevant on these issues.
- The factual information about the offender that may be relevant to sentencing eg. employment status can be provided by the defence counsel to the court and are not required to be contained in good character references.
- QSAN holds grave concerns that these exceptions will not limit the use of good character references much, if at all, and these references will continue to be used in the usual way, only now they will be handed up to the court, with the proviso they relate to risks of reoffending and rehabilitation.

Sentencing purposes

QSAN agrees to with the Bill amending section 9(1) of the Penalty and Sentences (PS) Act to expand the purposes of sentencing to include recognition of the harm done by the offender to a victim.

Statutory aggravating factor

QSAN supports the Bill amending section 9 of the PS Act to introduce a new statutory aggravating factor. The Bill provides that in determining the appropriate sentence for an offender convicted of an offence of rape or sexual assault (sections 349 or 352 of the Criminal Code) against a child aged 16 or 17 years, the court must treat the age of the victim as an aggravating factor, unless the court considers it is not reasonable because of the exceptional circumstances of the case. In deciding whether there are exceptional circumstances, the court may have regard to the closeness in age between the offender and victim.

Absence of details of harm

QSAN supports the Bill amending section 179K(5) of the PS Act to clarify that the absence at sentencing of a victim impact statement or other details of harm caused to a victim, does not give rise to any inference that the offence caused little or no harm to the victim.

If you require any further information, please do not hesitate to contact the Secretariat.

Kind Regards,

Angela Lynch
Executive Officer
QSAN.