

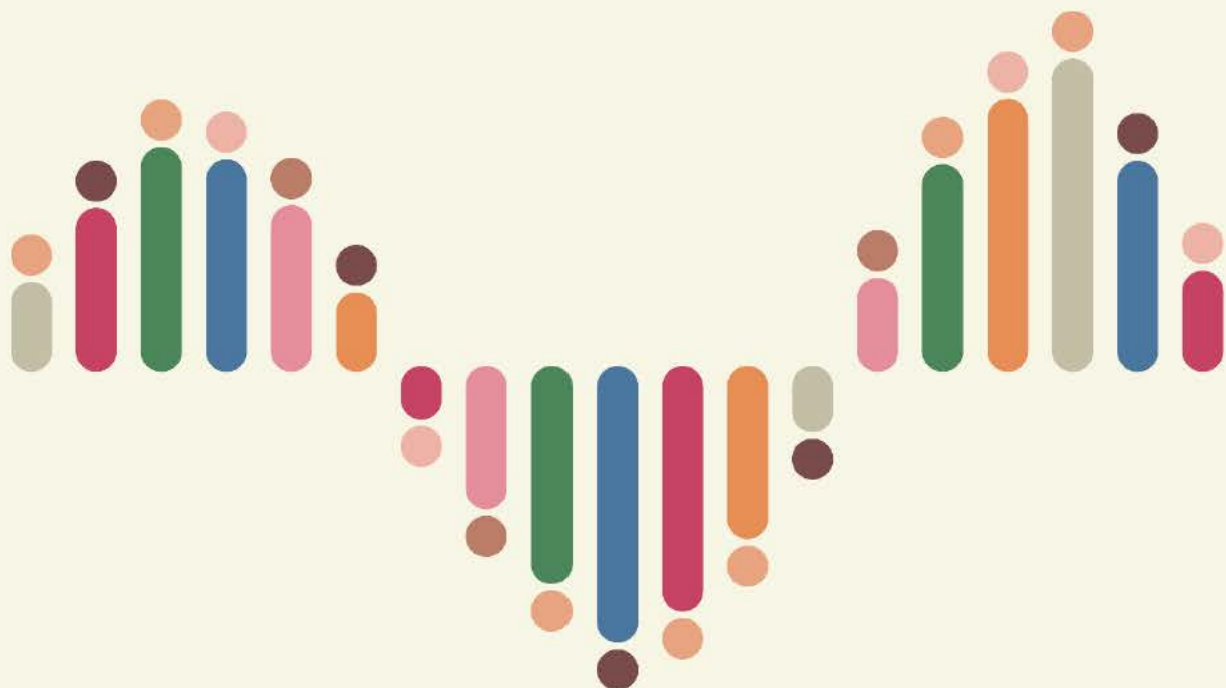
## Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025

<b>Submission No:</b>	8
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<b>Submitter Comments:</b>	

# Submission to the Justice, Integrity and Community Safety Committee

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

June 2025



## Acknowledgement of Country

I pay my respects to the Aboriginal and Torres Strait Islander ancestors of this land, their spirits and their legacy. The foundations laid by these ancestors – our First Nations peoples – give strength, inspiration and courage to current and future generations towards creating a better Queensland.

## Victim recognition

I respectfully recognise all victims of crime.

I see you. I believe you. I acknowledge the harm you have suffered.

I respect your choices in whichever path you may take. Your emotions and reactions are valid.

I see your strength, courage, resilience and vulnerabilities and support your right to self-determination, and to lead lives free from fear.

To loved ones of those who have died, I offer my condolences, and acknowledge the ongoing hurt and pain you experience.

I recognise the important role of people supporting and advocating for victims of crime, both personally and professionally.

I value the experiences you have shared with me as they shape my work.

## Note on language

I use the terms 'children' and 'young people' throughout this submission to refer to Queenslanders who are under 18 years.

I use the terms 'victim' and 'victim-survivor' throughout this submission. I acknowledge the diverse preferences of individuals with lived experience of crime. I recognise that language plays a significant role in shaping narratives and that individuals may have varying preferences regarding their identities. Some individuals may prefer 'victim' as it emphasises their experience of harm, while 'victim-survivor' acknowledges the ongoing effects and harm caused by crime and highlights the strength and resilience of individuals with lived experience. By incorporating both terms, I hope to honour these perspectives and foster an inclusive dialogue.

I may also use the term 'victim' when referring to legislation because it is a term commonly used in legal frameworks.

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## Recommendations

1. I **recommend** the Government immediately progress recommendations 15, 16, 17 and 18 of the QSAC report to improve the experiences of victim-survivors and the Court's understanding of victim-survivors needs and interests, and ensure that the Court, in recognising harm to victims, uses appropriate and trauma-informed language.
2. I **recommend** the Queensland Government respond in full to QSAC's Report, *Sentencing of Sexual Assault and Rape: The Ripple Effect*, so that victim-survivors have transparency and understanding about the Government's intent towards previous recommendations they have been consulted on.
3. Noting that the Independent Implementation Supervisor considered recommendation 3 of WSJT Report 1 fulfilled but not yet closed, I **recommend** the Queensland Government establishes an independent Judicial Commission, which would be responsible for providing ongoing professional development in relation to judicial officers' contemporary understanding of sexual violence.
4. I **recommend** that the Queensland Government, consistent with the Women's Safety and Justice Taskforce (Report 1, Recommendation 89 and Report 2, Recommendation 188) continues to report publicly on the implementation of recommendations arising out of the Women's Safety and Justice Taskforce so that victim-survivors have transparency and understanding about the implementation status of previous recommendations they have been consulted on.
5. I **recommend** that clause 12 of the Bill be amended by amending the PSA section 9 subsections (2A) and (3A) to require that in sentencing an offender, the sentencing court **must not** treat any 'good character' evidence as a mitigating factor in **any circumstance** to better respond to victim-survivors expectations concerning good character evidence.
6. Noting that the Explanatory Notes to the Bill do not provide information about the reasons for inclusion of rape and sexual assault to the exclusion of other sexual violence offences in proposed section 9(9BA) or 9(9BB), I **recommend** the Committee seeks clarification from the Attorney-General and/or Department of Justice about the policy justification for distinguishing between different types of sexual offending.
7. I **recommend** the Committee consider other offences of a sexual nature that may be committed against a 16- or 17-year-old, to which the proposed aggravating factor should apply to ensure that the seriousness of these offences are also recognised by the Court. The Committee should consider the inclusion of offences such as:
  - abuse of persons with an impairment of the mind (section 216, Criminal Code)
  - distributing intimate images (section 223, Criminal Code)
  - observations or recordings in breach of privacy (section 227A, Criminal Code)
  - threats to distribute intimate image or prohibited visual recording (section 229A, Criminal Code).
8. I **recommend** that:
  - a. the Government urgently progresses the implementation of recommendations 21 and 22 of the QSAC report to immediately improve the experiences of victim survivors and provide the necessary support for victim-survivors to engage in the Victim Impact Statement process, and

- b. the Committee seek clarification from the Department of Justice about the proposed timing of the implementation of these recommendations which will support the efficacy of the amendments in this Bill.
9. I **recommend** the Committee seek clarification from the Attorney-General, Minister for Justice and Minister for Integrity and/or the Department of Justice about the meaning of 'victim' as referenced in proposed section 9(1)(ca) to provide clarity to victims, support services, legal stakeholders and the judiciary as to the scope of the amendment.
  10. I **recommend** the Government progress work immediately to define 'victim' across various pieces of legislation to improve clarity about the entitlements, protections and rights of victims within each of those legislative contexts.



# Role of the Victims' Commissioner

My role is established under the *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) (VCSVRBA) to promote and protect victims' rights.

Under section 6 of the VCSVRBA, a victim includes a person who suffers harm because a criminal offence (including domestic violence) is committed against the person. This includes:

- people who have a criminal offence committed against them directly
- family members or dependants of a person who has a criminal offence committed against them
- people who are harmed because they helped another person who had a criminal offence committed against them
- witnesses of crimes.<sup>1</sup>

The VCSVRBA defines harm as including physical, psychological or emotional harm, damage to or loss of property, and financial or economic loss.<sup>2</sup> This definition recognises the range of impacts that a crime can have on an individual.

In my role I must act independently and in the public interest. I must also have particular regard to victims who may be vulnerable to harm due to certain characteristics, including women, girls and children.<sup>3</sup>

My functions include:

- to identify and review systemic issues relating to victims
- to conduct research into matters affecting victims, including particular cohorts of victims
- to consult in relation to matters relating to victims, including a person's experience as a victim and their experience in the criminal justice system
- to deal with complaints about alleged contraventions of the Charter of Victims' Rights
- to publish information in relation to the criminal justice system
- to promote the Charter and rights of victims and to advocate on behalf of victims by making recommendations and providing advice, training, information or other help to government and non-government entities
- to provide advice to the Minister on issues affecting victims and the promotion of victims' rights, including making recommendations about improvements to government policy, practices, procedures and systems to support the rights of victims
- to monitor the implementation of recommendations made.

Through these functions, the purpose of my office is to ensure justice and victim support systems uphold the dignity and rights of victims of crime, within a culture of safety, transparency and accessibility.

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<sup>1</sup> *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) s 6.

<sup>2</sup> *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) s 6.

<sup>3</sup> *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) s 11.

# The Charter of Victims' Rights

The Charter of Victims' Rights (the Charter) is set out in schedule 1 of the VCSVRBA. The Charter describes the way in which a victim of violent crime should be treated, as far as practicable and appropriate, by government and non-government entities. It sets out the rights of an affected victim<sup>4</sup> that are to be upheld by prescribed persons<sup>5</sup> when dealing with the victim.

## Charter of Victims' Rights complaints

In September 2024, my office began receiving complaints from victims about their rights not being upheld under the Charter. Previously, the Victim Services Coordinator, Victim Assist Queensland, had responsibility for receiving Charter of Victims' Rights complaints, however the powers and functions in relation to those complaints are significantly enhanced under the VCSVRBA.

From 2 September 2024 to 31 May 2025, close to 450 Queenslanders have had contact with my office, with over 670 Charter of Victims' Rights complaints, enquiries and feedback. This represents a significant increase in engagement with the Charter, especially noting that Victim Assist Queensland received less than 40 Charter complaints during 2021-2023.<sup>6</sup>

## Review of the Charter of Victims' Rights

In February 2025, I commenced a systemic review of the Charter of Victims' Rights, pursuant to my functions under section 9(a) of the VCSVRBA. The review aims to ensure the Charter of Victims' Rights effectively promotes and protects the rights of diverse victims of crime, in line with recommendations by the Women's Safety and Justice Taskforce<sup>7</sup> and the Legal Affairs and Safety Committee's Inquiry into support provided to victims of crime.<sup>8</sup> The review will be informed by engagement with victims of crime, their advocates, family members and professionals who work with victims of crime.

I will provide a report to the Minister for Youth Justice and Victim Support and Minister for Corrective Services by December 2026.

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<sup>4</sup> *Affected victim* includes a person who has suffered personal harm because of a violent crime or domestic and family violence committed against them, a family member or dependant of that person or a person who dies as a result of the offence, a person who is harmed when intervening to help another person who is harmed or dies because of the offence. See s 38 and 39 of the *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) for more detail.

<sup>5</sup> *Prescribed person* includes government entities, and non-government entities that are funded by government to provide support to victims as its primary function (section 40 and Schedule 2 *Victims' Commissioner and Sexual Violence Review Board Act 2024*).

<sup>6</sup> Department of Justice and the Attorney-General (Qld), *Departmental Briefing Paper #6639836 to Legal Affairs and Safety Committee, Inquiry into Support Provided for Victims of Crime* (30 March 2023) 8.

<sup>7</sup> Women's Safety and Justice Taskforce, *Hear her voice: Women and Girls' Experiences Across the Criminal Justice System* (Report 2, 2021) 14.

<sup>8</sup> Legal Affairs and Safety Committee, *Inquiry into Support Provided to Victims of Crime* (Report No. 48 to 57th Parliament, 2023) vi.



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

## Introduction

As Victims' Commissioner, it is deeply important to me that victim-survivors are seen and heard. This is especially vital when considering reform which may impact upon how victim-survivors experience the justice system and how their rights under the Charter of Victims' Rights<sup>9</sup> are upheld. I strongly support the need for legislative and other reform to ensure that sentencing practices meet the needs, and uphold the rights, of victim-survivors.

It is my vision that all victims be respected, seen and heard in a justice system that anticipates their needs. To achieve this, we must consider how victims' needs are prioritised across five domains:

1. dignity, choice and control
2. accountability and learning
3. safety and protection
4. healing and support
5. system design

While each victim has a unique understanding of what 'justice' means to them, **access to justice** and **equity in justice** are common threads in the experiences shared by victim-survivors with my office. Access to justice relates to victims having access to support following the harm they have experienced, as well as an ability to participate in the systems they have been propelled into. Equity means that, regardless of a victim's background or identity, their unique experiences and needs will be responded to, and their rights will be upheld.

Victim-survivors deserve a justice response that meets their rights and needs and validates their experiences, including fulsome acknowledgment of the harm suffered and the lasting impact this has. The need for meaningful and effective change, grounded in the voices of those with lived experience, is urgent and undeniable.

In providing this submission, I seek to draw on what I have heard in my engagement with victim-survivors, their supporters and those who work with them. Through the lens of these domains, my submission engages with the proposed amendments to the *Penalties and Sentences Act 1992* (the PSA) with the aim of strengthening sentencing provisions to better meet the needs of victim-survivors. This submission makes no comment to the proposed amendments to other Acts contained in the Bill.

## Sexual violence in Queensland

Some of the amendments proposed in this Bill relate specifically to the sentencing of sexual violence offending. Various reports have highlighted the high attrition rates of sexual offences and how very few sexual violence related cases progress through the justice system and result in a conviction.<sup>10</sup> In 2022,

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<sup>9</sup> *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) schedule 1.

<sup>10</sup> For example: Crime and Misconduct Commission, *Seeking Justice: An inquiry into how sexual offences are handled by the Queensland criminal justice system* (Report, June 2023) 157; WSJT, *Hear her voice- Report two- Women and girls' experiences across the criminal justice system* (Report, 2022) 44.

the Women's Safety and Justice Taskforce 'heard that Queensland's criminal justice system is not working for victims of sexual assault'.<sup>11</sup>

The Queensland Sentencing Advisory Council's (QSAC) recent report, *Sentencing of Sexual Assault and Rape: The Ripple Effect*, reflected on the high prevalence and under-reporting of sexual violence, and explored reasons for high attrition rates. It identified a range of systemic shortcomings in how the justice system recognises, understands and responds to sexual violence – shortcomings that contribute to victim-survivors disengaging from the justice system.

Provisions of the *Victims' Commissioner and Sexual Violence Review Board Act 2024* relating to the Sexual Violence Review Board (the Board) recently commenced. The Sexual Violence Review Board is primarily responsible for reviewing systemic issues relating to the reporting, investigation and prosecution of sexual offences. As the Chairperson of the Board, I look forward to leading the Board's work in due course, to drive meaningful change for victims of sexual violence in Queensland.

## Accountability

### Recognition of victim harm as a purpose of sentencing

Victims reasonably expect the person who harmed them to be held accountable, and the harm that they have experienced to be recognised.

Through my engagement with victims of crime, including through my office's Charter of Victims' Rights complaints function, I consistently hear from victim-survivors that the harm they have experienced is not sufficiently acknowledged during sentencing.

Including recognition of harm as an explicit purpose of sentencing through proposed section 9(1)(ca) (Clause 12) will be critical to validating victim-survivors' experiences and promoting accountability of offenders. This approach will also support the principle of proportionality, ensuring that the Court adequately takes into account the harm to the victim in understanding the gravity of the offending behaviour.

I note that QSAC recommended that:

- appropriate and trauma-informed language should be used in courtrooms to support appropriate sentencing practices (recommendation 15),
- the development of resources was needed to assist the courts to respond to the needs of victim survivors of rape and sexual assault within the courtroom (recommendation 17), and
- judicial professional development was needed (recommendation 18).

QSAC also recommended (recommendation 16) that the Queensland Government continue to commit funding and resources in support of specific recommendations of the Women's Safety and Justice Taskforce (WSJT) Report 2 to improve the support for victim-survivors of rape and sexual assault, and the criminal justice system's capacity to respond to victim-survivors and perpetrators of sexual violence. One of the specific recommendations that QSAC referred to included a review of the Charter of Victims' Rights, which I am currently undertaking. In my view, the objectives and intent of the proposed amendment to section 9(1) would be significantly aided by the implementation of these recommendations.

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<sup>11</sup> Women's Safety and Justice Taskforce (WSJT), *Hear her voice- Report two- Women and girls' experiences across the criminal justice system* (Report, 2022) 41.

I **support** the amendment of section 9(1) of the PSA to provide that a purpose of sentencing in Queensland includes recognition of the harm done by the offender to a victim of the offence. This amendment would align sentencing practices with community expectations and promote consistency across the justice system, including with recent changes to section 150(2) of the *Youth Justice Act 1992*, which requires a court to have primary regard to the harm done to a victim when sentencing a young person.

### Recommendation

1. I **recommend** the Government immediately progress recommendations 15, 16, 17 and 18 of the QSAC report to improve the experiences of victim-survivors and the Court's understanding of victim-survivors needs and interests, and ensure that the Court, in recognising harm to victims, uses appropriate and trauma-informed language.
2. I **recommend** the Queensland Government respond in full to QSAC's Report, *Sentencing of Sexual Assault and Rape: The Ripple Effect*, so that victim-survivors have transparency and understanding about the Government's intent towards previous recommendations they have been consulted on.
3. Noting that the Independent Implementation Supervisor considered recommendation 3 of WSJT Report 1 fulfilled but not yet closed, I **recommend** the Queensland Government establishes an independent Judicial Commission, which would be responsible for providing ongoing professional development in relation to judicial officers' contemporary understanding of sexual violence.
4. I **recommend** that the Queensland Government, consistent with the Women's Safety and Justice Taskforce (Report 1, Recommendation 89 and Report 2, Recommendation 188) continues to report publicly on the implementation of recommendations arising out of the Women's Safety and Justice Taskforce so that victim-survivors have transparency and understanding about the implementation status of previous recommendations they have been consulted on.

### 'Good character evidence'

I acknowledge that QSAC recommended amendments to 'good character' evidence be made to make clear that a court in sentencing for sexual offences, must not take into account evidence in the form of character references, evidence of a person's standing in the community, or evidence of significant contributions made to the community by the offender unless it is relevant to assessing the person's prospects of rehabilitation or risks of reoffending.<sup>12</sup>

Recently, the Australian Law Reform Commission also received submissions about the problematic use of 'good character' evidence in their Inquiry into Justice Responses to Sexual Violence. Their final report, *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence*, recognised this is an area under review in other jurisdictions.<sup>13</sup> The 2017 Royal Commission into the Institutional

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<sup>12</sup> Queensland Sentencing Advisory Council (QSAC), *Sentencing of Sexual Assault and Rape: The Ripple Effect* (Final Report, December 2024) Recommendation 5.

<sup>13</sup> Australian Law Reform Commission (ALRC), *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence* (Report, January 2025) 599.



Responses to Child Sexual Abuse also recommended that ‘figures of authority’ also be prevented from using such references.<sup>14</sup>

Proposed new subsections 9(3A) to 9(3D) do not completely address the strong opposition that many victim-survivors, and advocacy and support organisations, shared with QSAC about the use of character evidence, and their call for its complete restriction.

Victim-survivors have shared their distress and trauma about the acceptance and reliance by courts on character references that are unsubstantiated, with little to no effort made by the prosecution or the court to verify the accuracy of their contents. As highlighted by the *#YourReferenceAintRelevant* campaign, character references for convicted sex offenders can be deeply harmful.<sup>15</sup> These references are often presented during sentencing, forcing victim-survivors to sit in court while the person that harmed them is described as a ‘good person’. Victim-survivors have also shared that the use of this evidence can be unfairly used in an attempt to minimise, or counteract, the conduct of the defendant and the harm experienced by the victim, effectively positioning the defendant’s social standing or perceived decency above the victim-survivor’s lived experience.<sup>16</sup> These experiences are not unique to victim-survivors of sexual violence, and are shared by victim-survivors of domestic and family violence and violent offences more broadly.

The proposed reform may have perverse outcomes for victim-survivors, for example, where one offender commits an offence of rape in a domestic and family violence context, and one offender commits an offence of torture in a domestic and family violence context. Under the proposed reforms, the offender convicted of torture would be able to rely on evidence of ‘good character’ more broadly, whereas the offender convicted of rape, would only be able to rely on this as evidence to support rehabilitation prospects. For victim-survivors in both of these scenarios, the use of ‘good character’ evidence is not only distressing but also serves to undermine the seriousness of the offence and the perpetrator’s accountability. In neither scenario, is the good character evidence (which is based on the wholly subjective judgment of one or more laypersons) especially helpful to a judicial officer to make an assessment as to the offender’s risk of future re-offending.

If the intent of character evidence is to truly provide insight into an offender’s prospects of rehabilitation, this should be achieved through validated, professional assessments – as opposed to unverified character evidence that is permissible as ‘good character evidence’.

This imbalance does not reflect the prioritisation of victim rights or reflect community expectations. The continued acceptance of character evidence in sentencing any offence, even with judicial discretion, sends a message that the harm done by victims can be offset by the offender’s social reputation or standing in their community. True prioritisation of the rights and needs of victims would mean courts not taking into account any ‘good character’ evidence for offenders in any circumstance.

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<sup>14</sup> Shari Hams, ‘Victims to meet with Queensland’s attorney-general in push to ban character references for sex offenders’, ABC News (online, 17 December 2024) <<https://www.abc.net.au/news/2024-12-17/campaign-ban-good-character-for-convicted-sex-offenders/104727364>>.

<sup>15</sup> Natalie Brown, ‘Your Reference Ain’t Relevant Campaign launches in South Australia’, News.com.au (online, 31 July 2024) <[Your Reference Ain’t Relevant Campaign launches in South Australia | news.com.au — Australia’s leading news site for latest headlines](https://www.news.com.au/your-reference-aint-relevant-campaign-launches-in-south-australia/news-story/2024-07-31)>.

<sup>16</sup> Queensland Sentencing Advisory Council (QSAC), *Sentencing of Sexual Assault and Rape: The Ripple Effect* (Final Report, December 2024) 211-213.



### Recommendation

5. I **recommend** that clause 12 of the Bill be amended by amending the PSA section 9 subsections (2A) and (3A) to require that in sentencing an offender, the sentencing court **must not** treat any 'good character' evidence as a mitigating factor in **any circumstance** to better respond to victim-survivors expectations concerning good character evidence.

### Aggravating factor for rape and sexual assault committed against 16 and 17 year olds

When the victim of sexual violence is a child, the imperative for offender accountability becomes even more critical.

Children are particularly vulnerable to harm, and their experiences as victims are often minimised, ignored or overlooked. QSAC recognised that sexual offences committed against children are 'particularly serious', due to children's vulnerability, 'the inherently wrongful nature of the offending conduct and the profound ongoing harm these offences cause to children during their formative years'.<sup>17</sup> Sentences for offences of sexual violence against children must reflect this.

I **support** the amendment of sections 9(9BA) and 9(9BB) of the PSA to require courts, when sentencing an offender for an offence of rape or sexual assault committed against a child aged 16 or 17, to treat the child's age as an aggravating factor. However, the heightened vulnerability of older child victims, and the enduring harm sexual offending inflicts across their lifespan, is not confined to the offences of rape and sexual assault. While I recognise that QSAC's Terms of Reference were confined to these specific offences, similar considerations should apply to other forms of sexual offending which may be committed against children aged 16 and 17 years old.

These include, but are not limited to:

- abuse of persons with an impairment of the mind (section 216, Criminal Code)
- distributing intimate images (section 223, Criminal Code)
- observations or recordings in breach of privacy (section 227A, Criminal Code)
- threats to distribute intimate image or prohibited visual recording (section 229A, Criminal Code).

As noted during the introduction of this Bill, sentencing laws already provide specific considerations for offences committed against children under the age of 16, with these operating as aggravating factors.<sup>18</sup>

We must recognise the harm experienced by child victims aged 16 and 17 consistently across all types of sexual offending. Failing to do so risks creating an arbitrary divide in the recognition of harm, especially from the victim's perspective.

### Recommendation

6. Noting that the Explanatory Notes to the Bill do not provide information about the reasons for inclusion of rape and sexual assault to the exclusion of other sexual violence offences in

<sup>17</sup> Queensland Sentencing Advisory Council (QSAC), *Sentencing of Sexual Assault and Rape: The Ripple Effect* (Final Report, December 2024) Key Finding 2.

<sup>18</sup> Explanatory Speech, Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025 (Queensland), 1207 <[https://documents.parliament.qld.gov.au/events/han/2025/2025\\_05\\_20\\_DAILY.pdf#page=30](https://documents.parliament.qld.gov.au/events/han/2025/2025_05_20_DAILY.pdf#page=30)>.



proposed section 9(9BA) or 9(9BB), I **recommend** the Committee seeks clarification from the Attorney-General and/or Department of Justice about the policy justification for distinguishing between different types of sexual offending.

7. I **recommend** the Committee consider other offences of a sexual nature that may be committed against a 16- or 17-year-old, to which the proposed aggravating factor should apply to ensure that the seriousness of these offences are also recognised by the Court. The Committee should consider the inclusion of offences such as:

- abuse of persons with an impairment of the mind (section 216, Criminal Code)
- distributing intimate images (section 223, Criminal Code)
- observations or recordings in breach of privacy (section 227A, Criminal Code)
- threats to distribute intimate image or prohibited visual recording (section 229A, Criminal Code).

## Dignity, choice and control

### Absence of details of harm – victim impact statements

Dignity, choice, and control are fundamental principles that respect an individual's autonomy and empower them to make informed decisions about their next steps.

The Bill provides for the amendment of section 179K of the PSA to ensure courts do not draw any inference about the level of harm caused to a victim based solely on whether a victim impact statement (VIS) was provided, or not provided.

This would implement Recommendation 23 of QSAC's report and also reflects Recommendation 3 from my recent submission to the Justice, Integrity and Community Safety Committee in relation to the Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025.

Providing a VIS is a right – and a choice.

A victim-survivor's decision not to make a statement does not diminish the impact of the offence they have experienced. Under the Charter of Victims' Rights, victims of violent crime, or domestic and family violence, including family members or dependants of those harmed or killed, have the right to make a VIS.<sup>19</sup> I have heard from victim-survivors how critical the ability to participate in the justice process and share their experience, in their own words, is to their empowerment and healing.

However, victim-survivors have also told me of the significant challenges they can face in providing a VIS. Support and information are often inadequate, limiting victims' capacity to understand their rights and options. Some victims' have shared they had insufficient time to prepare a VIS, while other found restrictions on the format in which they can share their experiences to be challenging.

For many victim-survivors, deciding on whether to share their experience in court can be influenced by their stage of healing, emotional readiness and access to support. Many victim-survivors I have spoken to describe feelings of isolation and confusion when navigating the criminal justice system. For

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<sup>19</sup> *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) schedule 1.



some, these encounters can be retraumatising, perpetuating the powerlessness they experienced at the time they were offended against.

These barriers can prevent victims from exercising their right to provide a VIS, which may in turn impede the court's understanding of the full extent of the harm experienced. It is essential that victims are given access to clear information, specialist support and advice, enabling them to make informed choices that promote their safety, healing and address their diverse needs.

I **support** section 179K of the PSA being amended to ensure courts do not draw any inference about the level of harm caused to a victim-survivor from the absence of a victim impact statement (VIS).

I note that in introducing this Bill to Parliament, the Government noted its intention with respect to the following recommendations of the QSAC report:

- the Department of Justice or other appropriate entity conduct a review of the VIS regime (recommendation 21), and
- *As a matter of priority* the Department of Justice or the Office of the Victims' Commissioner conduct a review of the roles and responsibilities with respect to the VIS (recommendation 22).

To date, I have not been contacted about the possibility of my office being involved in the implementation of recommendation 22. I would welcome the opportunity to engage with the Government about this body of work. Regardless of which entity does this work, I support QSAC's recommendation that the work be prioritised.

### Recommendation

#### 8. I recommend that:

- a. the Government urgently progresses the implementation of recommendations 21 and 22 of the QSAC report to immediately improve the experiences of victim survivors and provide the necessary support for victim-survivors to engage in the VIS process, and
- b. the Committee seek clarification from the Department of Justice about the proposed timing of the implementation of these recommendations which will support the efficacy of the amendments in this Bill.

## System Design

### Definition of 'victim'

I note that the Bill does not propose to define 'victim' with reference to proposed section 9(1)(ca).

Within the PSA, 'victim' is defined only for part 10B by section 179I (victim impact statements), which refers to the definition contained within section 39 of the *Victims' Commissioner and Sexual Violence Review Board Act 2024*, being an *affected victim* – i.e a victim of an offence against the person, including domestic and family violence offences.

I have previously recommended that immediate work be undertaken to make consistent, or at least clarify, the definition of 'victim' across various pieces of legislation, including the *Penalties and Sentences Act 1992*, *Youth Justice Act 1992* and the *Childrens Court Act 1992*. This is particularly so noting that 'victim' is not defined in the *Acts Interpretation Act 1954*, and the introduction of two types



of 'victims' within the *Victims' Commissioner and Sexual Violence Review Board Act 2024*, being victims defined by section 6 and the narrower definition of 'affected victims' defined by section 39.

I note that section 9(2)(c) of the PSA presently requires the court to have regard to the nature of the offence, and how serious the offence was, having regard to any physical, mental or emotional harm done to a *victim*, including harm mentioned in information relating to the victim given to the court under section 179K (victim impact statements).

While victims of non-violent, non-DFV offences are not presently eligible to provide victim impact statements under section 179K, the proposed amendments elevate recognition of victim harm as a sentencing purpose further highlighting the immediate need to undertake a review of the Victim Impact Statement regime – ie, a Court will be required to sentence an offender in accordance with the sentencing purposes as amended by this Bill but without appropriate mechanisms in place to receive evidence necessary to inform their understanding or appreciation of that harm.

### Recommendation

9. I **recommend** the Committee seek clarification from the Attorney-General, Minister for Justice and Minister for Integrity and/or the Department of Justice about the meaning of 'victim' as referenced in proposed section 9(1)(ca) to provide clarity to victims, support services, legal stakeholders and the judiciary as to the scope of the amendment.
10. I **recommend** the Government progress work immediately to define 'victim' across various pieces of legislation to improve clarity about the entitlements, protections and rights of victims within each of those legislative contexts.

## Concluding remarks

Victim-survivors have waited far too long for a justice system that truly sees, hears and respects them.

The Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025 offers some important steps toward prioritising the rights and needs of victims. However, this Bill also presents an opportunity for more fulsome and meaningful change – change that victim-survivors in Queensland have been seeking for decades.

I commend the Government for taking the first steps towards implementing QSAC's important report. In this submission I also urge the Government to indicate its intentions with respect to the non-legislative recommendations in QSAC's report – victims of sexual violence will only see the full benefits of the amendments in the Bill if these recommendations are implemented as a package.

Also, in one important respect, I urge the Government to go beyond the recommendation of QSAC and to require that in sentencing an offender for **any offence involving violence against the person**, the sentencing court **must not** treat any 'good character' evidence as a mitigating factor in **any circumstance** to better respond to victim-survivors' expectations concerning good character evidence. Only an amendment in these expanded terms will reflect what victim-survivors have told me is necessary to appropriately reflect the accountability of offenders for their actions.