

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

**Submission No:** 13  
**Submitted by:** Queensland Indigenous Family Violence Legal Service (QIFVLS)  
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11 June 2025

Committee Secretary  
Justice, Integrity and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000  
By Email: [JICS@parliament.gov.au](mailto:JICS@parliament.gov.au)

**QIFVLS Submission - *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Legislation Bill 2025***

Dear Committee Secretary,

The Queensland Indigenous Family Violence Legal Service (QIFVLS) welcomes the opportunity to provide a submission in relation to the *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Legislation Bill 2025* (the Bill).

Our submission is from the standpoint of being an Aboriginal and Torres Strait Islander Community Controlled Organisation (ACCO) and Family Violence Prevention Legal Service provider (FVPLS), dedicated to ensuring that families and households are safe. In that regard, as a proud member of the national Coalition of Peak Aboriginal and Torres Strait Islander peak organisations (Coalition of Peaks) and the Queensland Aboriginal and Torres Strait Islander Coalition of community-controlled organisations (QATSIC), we are dedicated to achieving the priority reforms and socio-economic targets outlined in the [National Agreement on Closing The Gap](#) (the National Agreement), particularly Target 13 (ensuring families and households are safe and that domestic and family violence against Aboriginal and Torres Strait Islander women and children is reduced by at least 50% by 2031 as we progress towards 0) among the other inter-related targets.

Sexual violence offences experienced by Aboriginal and Torres Strait Islander victim-survivors are compounded by intersecting factors grounded in the historical and ongoing impacts of colonisation, intergenerational trauma, systemic racism and inequality. We also highlight that violence against Aboriginal and Torres Strait Islander women and children is perpetrated by men of all backgrounds, non-Indigenous as well as Indigenous.

From the perspective of victim-survivors of sexual violence offences, the criminal justice system is not fit for purpose and in many cases, only serves to further re-traumatise victim-survivors. This has been highlighted by the Queensland Women's Safety and Justice Taskforce in their two *Hear Her Voice* reports, alongside the Queensland Sentencing Advisory Council's 2025 report, *Sentencing of Sexual Assault and Rape: The Ripple Effect* (QSAC Report). We note the Bill contains amendments to the *Penalties and Sentences Act 1992* (PSA) based on recommendations outlined in the QSAC Report.

We support the proposed amendments to the PSA and believe the QSAC's Report represents a considered and contemporary understanding of sexual violence and the impacts on victim-



survivors. While the amendments only relate to 4 out of the 28 recommendations in the QSAC Report, we believe these reforms are critical and will contribute to the ongoing work in recognising and acknowledging the vulnerability and trauma experienced by victim-survivors.

## Summary of submission

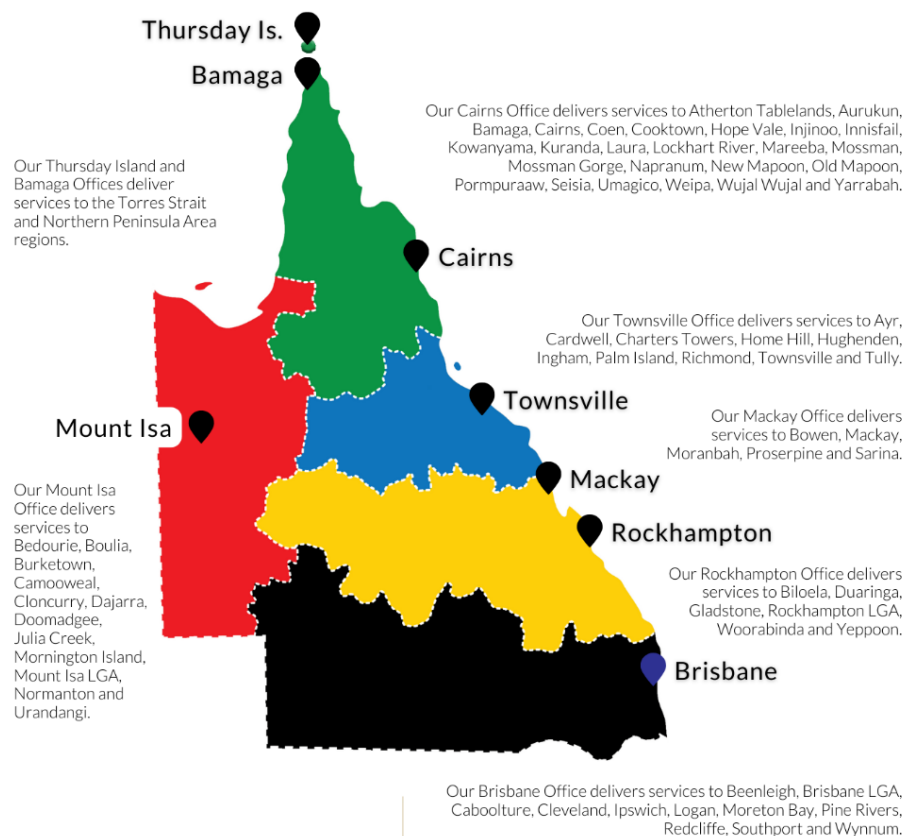
After considering the Bill, we wish the Committee to consider the following:

- We believe the amendments to the PSA have the potential to contribute towards establishing a trauma-informed decision-making framework that includes the victim-survivor's experiences, the trauma they endure and the reverberating effects of the sexual violence offence on their family and community.
- In addition to legislative amendments, we advocate for increased wraparound supports for victim-survivors of sexual violence offences. We have supported the Women's Safety and Justice Taskforce recommendations in their two *Hear Her Voice* reports and particularly support the development of a culturally safe victims' advocate service to assist victim-survivors/complainants navigate through the criminal trial process.
- While the Bill incorporates 4 out of the 28 recommendations made in the QSAC Report, we encourage the further implementation of additional recommendations made by QSAC, particularly recommendations 13, 16 – 20 and 25.
- We support the proposed amendments relating to the *Working with Children (Risk Management and Screening) Act 2000*. We note the Queensland Family and Child Commission's (QFCC) is in support of the amendments.

## About QIFVLS

The Queensland Indigenous Family Violence Legal Services Aboriginal Corporation (QIFVLS) is a Family Violence Prevention Legal Service (FVPLS) and an Aboriginal and Torres Strait Islander Community Controlled Organisation (ACCO) that fills a recognised gap in access to culturally appropriate legal and wraparound support services for Aboriginal and Torres Strait Islander victim-survivors of family and domestic violence and sexual assault.

QIFVLS is primarily an outreach service. As can be seen from the map below, we operate out of eight offices across Queensland, delivering services to over 90 communities, from the urban south-eastern corner of the state, out west to communities surrounding Mount Isa, reaching the Northern Territory border, and north to the outer islands of the Torres Strait, neighbouring Papua New Guinea. Our services extend from domestic and family violence to family law; child protection; sexual assault, minor civil matters (ie appeals to QCAT) and Victims Assist Queensland (VAQ) applications.



## Family violence as a cornerstone

It may be startling for some to learn that 3 in 5 First Nations women have experienced physical or sexual violence<sup>1</sup>. This speaks to the crisis we witness as a family violence prevention legal service daily across our offices in Queensland.

It should be noted that family violence was identified by the Australian Institute of Health and Welfare (AIHW) as the primary driver of children being placed into the child protection system with 88% of First Nations children in care having experienced family violence<sup>2</sup>. The AIHW also found that First Nations women are 34 times more likely to be hospitalised due to family violence than non-Indigenous women and 11 times more likely to die due to assault<sup>3</sup>.

The scale of this problem, however, is far greater because it is known that First Nations women are less likely than other women to report family violence or seek support because of a range of factors including judgment, discrimination, shame or fear.

<sup>1</sup> Australian Human Rights Commission (2020), *Wiyi Yani U Thangani Report*, [https://humanrights.gov.au/sites/default/files/document/publication/ahrc\\_wiyi\\_yani\\_u\\_thangani\\_report\\_2020.pdf](https://humanrights.gov.au/sites/default/files/document/publication/ahrc_wiyi_yani_u_thangani_report_2020.pdf), page 44

<sup>2</sup> Australian Institute of Health and Welfare (2019), *Family, domestic and sexual violence in Australia: continuing the national story*, <https://www.aihw.gov.au/getmedia/b0037b2d-a651-4abf-9f7b-00a85e3de528/aihw-fdv3-FDSV-in-Australia-2019.pdf.aspx?inline=true>

<sup>3</sup> Australian Institute of Health and Welfare (2019), *Family, domestic and sexual violence in Australia: continuing the national story*, <https://www.aihw.gov.au/getmedia/b0037b2d-a651-4abf-9f7b-00a85e3de528/aihw-fdv3-FDSV-in-Australia-2019.pdf.aspx?inline=true>, page 113



This speaks to the crisis we witness as a family violence prevention legal service daily across our offices in Queensland and sadly informs QIFVLS' experience that family violence is the cornerstone or intersection, that links an Aboriginal and Torres Strait Islander person's connection to the child protection system, the youth justice system, adult criminal justice system, housing and/or homelessness, health, and the family law system.

While advocating for policy and legislative reform, we also hold to the belief that there is no magic legislative pill to overcome family violence and the intersecting factors faced by Aboriginal and Torres Strait Islander peoples. Our consistent position is that uniform, holistic, and consistent strategies that will improve responses in the family violence, policing and criminal justice, child protection system, housing and corrective services are a more effective pathway in contrast to siloed government responses.

### **Our response to the Bill**

We believe these amendments have the potential to contribute towards establishing a trauma-informed decision-making framework that includes the victim-survivor's experiences, the trauma they endure and the reverberating effects of the sexual violence offence on their family and community.

We are mindful of the Queensland Family and Child Commission's (QFCC) support for the Bill insofar as it enhances the blue card system as a frontline safeguarding tool. Considering our ongoing support for the QFCC's advocacy seeking reform of the blue card system, we likewise support the Bill's WWC reforms and support the submissions made by the QFCC in this regard.

We note the key amendments to the Bill as they affect QIFVLS' clients will consist of:

- Expanding the sentencing purposes of the PSA to include recognition of harm caused to a victim of an offence.
- Qualify the court's treatment of good character as a mitigating factor in sentencing persons convicted of offences of a sexual nature.
- Introduce a statutory aggravating factor for rape and sexual assault against children aged 16 or 17 years.
- Clarify that no inference may be drawn from the absence of details of harm caused to a victim.
- Introduce a new offence for false misrepresentation in relation to government agencies.
- Ensure the blue card system operates as intended.

### **Additional support for victim-survivors beyond the Bill's amendments**

In addition to the legislative amendments, we advocate for a culturally safe, wraparound framework of support for our clients who are navigating the criminal trial process as victim-survivors of sexual violence offences.

Our observations from our clients who are either complainants and/or prosecution witnesses or family members of complainants and prosecution witnesses is that it is not uncommon to be left out as far as the progress of a sexual offence prosecution. In this regard, we reiterate our support for the recommendations made in the Women's Safety and Justice Taskforce's second report, *Hear Her Voice Report Two*, regarding the establishment of a victims' advocate. We note



that a process to establish a Victims' Advocate Service is currently underway with the state government and stakeholders. Ideally, we would like to see space for the provision of culturally safe victims' advocate services provided by Aboriginal and Torres Strait Islander Community-Controlled Organisations.

To further bolster support for victim-survivors, we would like to see additional recommendations from the QSAC Report implemented namely:

- **Recommendation 13** – Cultural reports – consider the preparation of cultural reports for defendants from an Aboriginal or Torres Strait Islander background as well as separate reports for victim-survivors, to better articulate the harm caused and the broader impacts of the person's offending.
- **Recommendation 16** – Improving 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.
- **Recommendation 17** – Resources to assist the courts to respond to the needs of victim-survivors of rape and sexual assault within the courtroom.
- **Recommendation 18** – Resources and professional development for judicial officers – to assist with national judicial officer training programs focused on sexual violence.
- **Recommendation 19** – Resources for prosecutors - to enable training on the importance of employing trauma-informed practices and language in the context of rape and sexual assault matters.
- **Recommendation 20** – Resources for defence practitioners – to enable training on the importance of employing trauma-informed practices and language.
- **Recommendation 25** – Adult restorative justice program – the pilot adult restorative justice program should be co-designed with people with lived experience, Aboriginal and Torres Strait Islander peoples and service and legal system stakeholders, adopting a victim-centric approach.

## **Clause 12 of the Bill**

### **QSAC Report Recommendation 1 – a new statutory aggravating factor**

We support the introduction of a new statutory aggravating factor in section 9 of the PSA. We support treating the age of the victim as an aggravating factor, unless the court considers it unreasonable due to exceptional circumstances of the case. The new aggravating factor would reflect that while 16- and 17-year-olds may be at the age of consent, they are still vulnerable to exploitation, manipulation, coercion and grooming, especially from adults.

### **QSAC Report Recommendation 2 – sentencing purposes**

We have heard from victim-survivors that they can feel left out of the criminal justice process. Thus, amending section 9(1) of the PSA to expand the purposes of sentencing to include recognition of the harm done by the offender to the victim will contribute to acknowledging the long-standing psychological trauma and emotional upheaval on victim-survivors. This takes a step in the direction of realising a victim-centric criminal justice system and criminal trial process.



## **QSAC Report Recommendation 5 – Good character evidence**

We support the proposed amendment restricting the use of good character evidence as a mitigating factor on sentence in sexual violence offences.

QIFVLS further notes that the use of good character evidence in the sentencing process is highly traumatic for victim-survivors. Furthermore, given what we know about manipulation and grooming of victims of sexual violence offences, good character is one of the factors used by calculating offenders to gain trust and ultimately, commit crimes.

We would also support a review of the use of character references in the sentencing process, noting that specialist experts may be better placed to determine the question of character in contrast to an offender's friends and family. Additionally, the criminal justice system does not have the expertise in identifying the grooming tactics of sexual violence offenders and it may be difficult for a court to ascertain when grooming tactics have been or haven't been used in each case.

## **Clause 13 of the Bill**

### **QSAC Report Recommendation 23 – Absence of details of harm in a victim impact statement**

We support the amendment of s179K(5) of the Act to clarify that the absence of a victim impact statement or other details of harm to the victim at sentencing does not give rise to any inference that the offence caused little or no harm to the victim due to the lack of a victim impact statement.

We believe this is a long overdue amendment that takes a trauma-informed approach to the impacts of harm to a victim-survivor. As primarily an outreach service that caters to 90+ communities in Queensland, QIFVLS observe that Queensland's geography and lack of ready access to services, particularly in rural and remote communities can impede the ability of a victim-survivor in a remote area from providing the court with a victim impact statement. This amendment goes some way to removing that particular disadvantage.

## **Amendments to the *Working with Children (Risk Management and Screening) Act 2000***

QIFVLS supports the amendments to the WWC Act. QIFVLS supported the advocacy of the QFCC during last year's reforms regarding the WWC Act. From the perspective of our clients, QIFVLS was particularly supportive of Blue Card Reform amendments under the WWC Amendment Act which saw that kinship carers will no longer be required to hold a blue card when caring for kin. Noting the QFCC's support for the WWC amendments, QIFVLS similarly support these amendments.

## **Conclusion**

We take this opportunity to thank the Committee for considering our feedback. We trust that the Committee will appreciate our viewpoint as both an Aboriginal and Torres Strait Islander Community Controlled Organisation and Family Violence Prevention Legal Service.



# QIFVLS

Queensland Indigenous Family Violence Legal Service

If you would like to discuss our response further, please don't hesitate to contact me at



Yours faithfully

**Queensland Indigenous Family Violence Legal Service**



**Thelma Schwartz**

Principal Legal Officer