

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

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Justice, Integrity and Community Safety Committee
Queensland Parliament
e-mail: jicsc@parliament.qld.gov.au

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

To whom it may concern,

We thank you for the opportunity to a submission in relation to the *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025*.

As an agency that is focussed on the prevention of sexual harm against children, and the protection of all children in our communities, Bravehearts' focus is on ensuring, first and foremost, that systems and legislation are established to increase the safety of children and young people (at all levels, primary, secondary, and tertiary level prevention and intervention). As such, our responses to the proposed amendments are specific to sexual crimes against children and young people.

We note that the *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025*, includes four recommendations from the recent Queensland Sentencing Advisory Council's report into sentencing practices for rape and sexual assault (*Sentencing of Sexual Assault and Rape: The Ripple Effect*, December 2024).

Responses to Amendments

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| 1. The court to treat the fact that an offence of rape or sexual assault was committed in relation to a child as an aggravating factor in sentencing (QSAC Recommendation 1) |
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We acknowledge and fully support the proposal to amend s.9 of the *Penalties and Sentences Act*, to include the age of the victim as an aggravating factor for the offences of rape and sexual assault (s.349 and s.352 of the *Criminal Code*).

Child sexual abuse is a hidden but significant problem in every community in Australia. As revealed by the first ever national Australian Child Maltreatment Study (Mathews et.al., 2023), 28% of Australians experienced child sexual abuse (1 in 3 girls and 1 in 5 boys).

While there exist special considerations in relation to sexual offences against a child under the age of 16 (e.g.: that imprisonment is not considered a last resort; that for purposes of declaring an offender a serious violent offender the age of the victim, if under 12, should be considered an aggravating factor), this amendment recognises that where the victim is aged 16 or 17, unless

there are exceptional circumstances, there a level of vulnerability and that age should be considered an aggravating factor.

2. Recognition of the harm done to a victim in the sentencing purposes (QSAC Recommendation 2)
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It is Bravehearts position that a judge should determine the appropriate sentence based on the objective seriousness of the offence committed; and that actual sentences being imposed and served must be reflective of the harm caused and the seriousness of child sexual offending.

Consideration of the impacts of sexual offences against children and young people, is critical to a fair and just system. Victim Impact Statements are vital for the engagement of victims and survivors, providing them with an opportunity to lay bare their experiences and the impact on their lives during the crucial sentencing stage. We note that written victim impact statements are often heavily redacted prior to being made available to the Court. Redactions can undermine the feeling of being heard, especially if victims feel their words are sanitised or censored, and in relation to sentencing redaction it may reduce the emotional weight or specific harms considered during sentencing.

We would advocate that general statements about the short- and long-term impacts of sexual offending be considered in the sentencing process. We note that Community Impact Statements provide an opportunity to provide information to the Court about how victims and survivors may experience the impact of the crime (such as ongoing mental health challenges, the impact on relationships, work, school, the worry of not knowing who has seen online abuse material). In addition to offering context for sentencing judges, a Community Impact Statement can also inform prosecutors, defence attorneys, and even offenders about the broader implications of child sexual abuse (see: <https://www.carlyryanfoundation.com/posts/2021/04/29/what-is-a-community-impact-statement>).

The short- and long-term impacts of child sexual abuse are a result of not just the nature and seriousness of the offence, but of the grooming process undertaken by offenders, the silence, shame and secrecy that victims and survivors live with, and the often-complex relationships with offenders (we know that most offenders are known, loved and trusted by the victim and his or her family).

Childhood trauma can impact on children's development across a range of domains including physical, emotional, social and cognitive (Marshall, Fernet, & Langevin, 2022; Nagtegaal & Boonmann, 2021; Ochoa & Constantin, 2023). Child sexual assault has also been linked with long term poor mental health outcomes, with those who experienced child sexual assault at greater risk of mental health issues.

There are a number of well researched and documented long term impacts of child sexual assault affecting adult survivors. Individuals with a history of child sexual assault are at an increased risk for:

- mental illness
- substance abuse
- homelessness
- suicidality
- revictimisation, including domestic violence and sexual assault
- parenting difficulties, and

- health issues.

Diagnoses of anxiety, depression, personality disorders and complex trauma are common in adults with a history of child sexual assault (Boumpa et.al., 2024; Gerke, Gfrorer, Mattstedt, Hoffmann, Fegert & Rassenhofer, 2023; Scott, Malacova, Mathews, et al., 2023). Forty-seven articles included in a recent systematic review, covering a range of topics related to child sexual abuse and later substance use issues, found a clearly supported link between child sexual abuse and substance use issues later in life (Fletcher, 2020).

3. Qualify the treatment of good character evidence in sentencing offenders convicted of sexual offences (QSAC Recommendation 5)

While the Queensland Sentencing Advisory Council's report into sentencing practices for rape and sexual assault found that the use of good character references was an area needing urgent reform, recognising the impact of this on victims and survivors, we are concerned that this is not adequately dealt with in the recommendations.

Recommendation 5, states that "We recommend the use of some types of 'good character' evidence should be limited. They should only be used if they help the court decide whether the person can be rehabilitated or may repeat their actions".

Our view is that good character references, typically given by family member or friends, would be of little assistance in helping assess the future desistence from offending. There are more appropriate and accurate ways of assessing prospects for rehabilitation, including (as the report acknowledges) reports from professionals.

Child sexual offenders often present as trusted and good members of the community; while for other offender-types evidence of good character and conduct may be a redeeming feature, this very aspect of a sex offender's public image is about gaining the trust of children, parents and carers and the community generally. It allows sex offenders to perpetrate their crimes.

As an agency that works around child sexual abuse and exploitation and advocates with and for victims and survivors, Bravehearts advocates that the consideration of good character should be abolished in all cases of child sexual offences. We would also note that the use of good character references in other matters involving sexual offences against other vulnerable individuals, sexual or domestic/family violence generally or where there is a breach of trust or authority, the use of good character references is similarly problematic.

These offences are often perpetrated under a guise of good character and reputation, and similarly to child sexual offences, this perceived status of the offender as a good person impacts on victims and survivors in multiple ways: from decreasing the likelihood of disclosure, to facilitating ongoing and persistent harms, to disbelief when a survivor bravely speaks out, and to ongoing trauma.

Courts have traditionally held that the otherwise "good character" and "good works" of an offender may carry some weight by way of mitigation of sentence. An offender's prior good works, good reputation, or absence of any earlier involvement with the criminal justice system are accepted as indicative of good character, and as such warrant consideration in sentencing. This may be true for some offence types, but for child sex offences, as well as other sexual offences against vulnerable persons or adults, and domestic and family violence, where

perceived good character is an integral component of grooming, the offending itself, and of the silence and secrecy surrounding it, the use of good character references should be abolished.

4. Ensure the court does not draw any inference about whether the offending caused little or no harm to a victim from the fact a victim impact statement was not given (QSAC Recommendation 23).

Bravehearts fully supports the amendment of s179K(5) of the *Penalties and Sentences Act*.

Sexual abuse victims may choose not to provide a victim impact statement (VIS) for a variety of deeply personal, psychological, legal, and social reasons. While for some victims, writing a victim impact statement may be an important aspect of healing, for many writing or delivering a victim impact statement can force them to recall painful and traumatic events, which may feel like reliving the abuse. Others may fear being blamed, disbelieved, or shamed by the public, community, or even family, as sexual abuse still carries a significant social stigma.

As noted above (under 2), Bravehearts would advocate that general statements about the short- and long-term impacts of sexual offending be considered in the sentencing process. We note that Community Impact Statements provide an opportunity to provide information to the Court about how victims and survivors may experience the impact of the crime (such as ongoing mental health challenges, the impact on relationships, work, school, the worry of not knowing who has seen online abuse material). In addition to offering context for sentencing judges, a Community Impact Statement can also inform prosecutors, defence attorneys, and even offenders about the broader implications of child sexual abuse.

We thank you for the opportunity to provide this submission. Please contact us on [REDACTED] should you have any questions relating to our submission.

Kind Regards,

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