

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

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

Submission to the Queensland Parliament
Justice, Integrity and Community Safety Committee

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Table of Contents

1. Executive Summary
2. Introduction
3. Overview of the Bill and Objectives
4. Expansion of Sentencing Purposes (Recognition of Harm)
5. Good Character as a Mitigating Factor
6. Statutory Aggravating Factor for Child Victims (16–17 years)
7. Inference from Absence of Victim Impact Evidence
8. New offence for false representations made to government agencies.
9. Amendment to the Queensland Crimes at Sea Act 2001 to align with the Commonwealth legislation.
10. Technical amendments to the Working with Children (Risk Management and Screening) Act 2000 (Blue Card system).
11. Interconnection with Remaining QSAC Recommendations
12. Conclusion

1. Executive Summary

The *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025* proposes targeted amendments to the *Penalties and Sentences Act 1992* to implement four of the 28 recommendations made by the Queensland Sentencing Advisory Council (QSAC) in its report, *Sentencing of Sexual Assault and Rape: The Ripple Effect*. While these reforms are welcomed, they fall short of the systemic change intended by QSAC's comprehensive review.

This submission highlights the need to repeal or more effectively limit the use of “good character” as a mitigating factor in sexual offence sentencing; implement all 28 QSAC recommendations to ensure meaningful reform; and close critical legislative gaps such as Blue Card exemptions for professionals who influence decisions involving children. It also raises concerns about the misuse of section 9(6A), the risk of partial implementation, and ongoing issues with credibility bias and sentencing inconsistency.

2. Introduction

I appreciate the opportunity to contribute to the Justice, Integrity and Community Safety Committee's inquiry into the *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025*. As a survivor of sexual violence and a frontline advocate, I have witnessed firsthand the devastating impacts of sentencing practices that fail to reflect the trauma and lived realities of victim-survivors. This submission is grounded in that lived experience and guided by a commitment to survivor-informed reform. The concerns raised herein reflect not only personal insight but also broader systemic patterns that continue to place victim-survivors at risk and undermine public confidence in the justice system. Legislative reform must be meaningful, holistic, and rooted in the realities of those it aims to protect.

3. Overview of the Bill and Objectives

The Bill seeks to:

1. Implement four QSAC recommendations by amending the *Penalties and Sentences Act 1992* (Qld) to:
 - a. Expand sentencing purposes to include explicit recognition of the harm caused to victims of an offence.
 - b. Restrict the use of “good character” as a mitigating factor in the sentencing of sexual offences, where the good character facilitated the offending;

- c. Introduce a statutory aggravating factor for rape and sexual assault against children aged 16 or 17 years; and
- d. Clarify that no inference may be drawn from the absence of victim impact evidence regarding harm.

In addition to these reforms under the *Penalties and Sentences Act 1992*, the Bill also proposes:

2. A new offence for false representations made to government agencies.
3. Amendment to the Queensland Crimes at Sea Act 2001 to align with the Commonwealth legislation.
4. Technical amendments to the Working with Children (Risk Management and Screening) Act 2000 (Blue Card system) to support recent Blue Card reforms arising from the Queensland Family and Child Commission's recommendations.

While these measures represent progress, this submission contends that the Bill does not go far enough in addressing the systemic shortcomings identified by QSAC or in protecting the rights, safety, and dignity of victim-survivors. A broader legislative response is warranted.

4. Expansion of Sentencing Purposes (Recognition of Harm)

A key finding of the report is that victims frequently experience the sentencing process as one in which they feel unseen and unheard. This sense of invisibility stems from the limited recognition within sentencing considerations of the ripple effects ranging from shattered trust and ongoing fear to societal stigma that permeates victims' lives long after the offense has occurred.

While the proposal is welcome, the effectiveness of this amendment depends on:

- Judicial training and interpretation;
- How "harm" is assessed and defined (especially where there is no victim impact statement) to include not only physical injury but also psychological trauma, emotional suffering, mental health impacts, social disruption, and cultural harm, particularly for First Nations victim-survivors.
- Whether courts meaningfully apply this principle or treat it as symbolic.

Proposed Amendment section 9(1) to explicitly includes the need to recognise the harm caused to a victim as a purpose of sentencing.

5. Good Character as a Mitigating Factor

Jarred Grice and Harrison James co-founded the "Your Reference Ain't Relevant" campaign in May 2023. As survivors of child sexual abuse, they launched the movement to advocate for legislative reform that would prohibit convicted paedophiles and sexual offenders from relying on good character references to reduce their sentences. The campaign is grounded in the principle that an offender's prior reputation or standing in the community should never be used to minimise the seriousness of child sexual abuse or excuse the harm caused. Such references not only risk diminishing the gravity of the offence, but also retraumatise victim-survivors by validating the abuser's character in a context where accountability is paramount.

In their submission, the campaign identified the need to repeal provisions such as section 9(6)(a) and to amend section 9(6)(h) of the *PSA*. While section 9(6)(a) explicitly directs the court to consider the offender's character preserving judicial reliance on subjective testimonials, community reputation, and professional standing, even when these are not related to rehabilitation or risk of reoffending. This is incompatible with QSAC's intent in Recommendation 2 and inconsistent with a trauma-informed, victim-centred sentencing framework.

Section 9(6)(h) compounds this issue by creating an open-ended category allowing the court to consider "anything else" about the offender. This creates a legislative loophole through which inadmissible or irrelevant evidence, including character references, may still influence sentencing outcomes.

To address this, the Act should be amended to:

- Section 9(2)(f) and section 9(6)(a) should be repealed, as they preserve outdated and harmful practices that allow offender-focused narratives to overshadow victim harm. These provisions have enabled courts to reduce sentences for serious sexual offences based on subjective opinions, professional achievements, or community status, factors that are often irrelevant or even directly connected to the offending.
- Section 9(6)(h) should be amended to explicitly prohibit its use as a backdoor for admitting character references or community standing under the guise of "any other relevant circumstance."

The complete abolition of good character references in sexual offence sentencing is necessary to implement QSAC's Recommendation 2 in both letter and spirit. Victim-survivors should never be

retraumatised by hearing their abuser praised in court, and no offender should receive a reduced sentence based on privilege, reputation, or manipulation of trust.

6. Statutory Aggravating Factor for Child Victims (16–17 years)

This recommendation addresses a significant gap in current sentencing legislation, where the nuanced vulnerability of older adolescents is often not explicitly acknowledged in law or reflected in sentencing outcomes. Although 16 and 17-year-olds are above the legal age of consent in Queensland, QSAC recognises that individuals within this age group remain in a developmental stage marked by emotional, psychological, and social immaturity. This transitional phase renders them particularly susceptible to manipulation, grooming, coercion, and abuse of power by adults or authority figures.

QSAC found that offences against 16–17-year-old victims often occur in contexts of power imbalance, emotional dependency, or institutional relationships (such as teachers, coaches, or employers), compounding the harm experienced. Victims in this age group may be less likely to report due to shame, fear of not being believed, or confusion about whether the abuse constitutes a crime.

The proposed statutory aggravating factor would:

- Ensure that sentencing courts formally recognise the heightened vulnerability of 16–17-year-old victims despite the legal age of consent;
- Reflect the serious breach of trust and abuse of power frequently involved in offending against older adolescents;
- Support consistency and transparency in sentencing, by requiring courts to treat the age of the victim as a relevant and aggravating factor when determining penalties;
- Align with community expectations and contemporary understandings of adolescent development and child safeguarding.

By codifying this aggravating factor, Queensland's sentencing framework would better reflect the real-world dynamics of sexual offending against older adolescents, while reinforcing the community's commitment to protecting all children, including those nearing adulthood, from sexual violence and exploitation.

7. Inference from Absence of Victim Impact Evidence

The Council found has significant concerns in the way courts may interpret the absence of a victim impact statement (VIS) or other evidence of harm during sentencing for sexual assault and rape offences. The Council found that some courts infer a lesser degree of harm where no such evidence is tendered, despite the known complexities surrounding victim participation in the criminal justice process.

Victims of sexual violence often face substantial barriers to providing a VIS, including:

- Fear of retraumatisation, particularly in having to relive traumatic events in a formal setting;
- Mental health impacts, including PTSD, depression, or dissociation that impede the ability to articulate harm;
- Distrust of the justice system, especially in cases involving delays, disbelief, or insensitive treatment;
- Desire for privacy or closure, rather than prolonged engagement with legal processes.

These barriers do not indicate an absence of harm but rather reflect the deep and often incapacitating impact of sexual violence. Drawing a negative inference from the absence of a VIS risks misrepresenting the victim's experience and undermining the gravity of the offence. Recognising the trauma-informed realities of victim behaviour is essential to a just and respectful sentencing process. This approach would better align sentencing practice with psychological evidence, community expectations, and a victim-centred approach to justice.

8. New offence for false representations made to government agencies.

A new statutory offence should be introduced to criminalise knowingly making false representations to government agencies in connection with child welfare, domestic and family violence, or legal proceedings. This reform is intended to deter the deliberate misuse of public systems, ensure the integrity of investigative and judicial processes, and protect the finite resources of government bodies.

This issue is particularly acute in family law and child protection contexts, where malicious or strategic false reports may be made to manipulate custody outcomes or retaliate against a parent.

Key Features of the Proposed Offence

- Mens rea (mental element): The offence would require proof that the person knowingly or recklessly made a false representation.
- Scope: The offence would apply to representations made:
 - In written or oral reports;
 - To police, child protection authorities, family courts, Centrelink, or other official bodies;
 - With the intent to mislead, gain advantage, or cause harm.
- Exemptions: Protection for good-faith reports made on reasonable grounds should be preserved to avoid genuine disclosures (e.g., under mandatory reporting or whistleblower protections).

9. Amendment to the Queensland Crimes at Sea Act 2001 to align with the Commonwealth legislation.

Recent changes or interpretations at the Commonwealth level may not yet be reflected in Queensland's Act, risking:

- Jurisdictional inconsistencies, where certain offences may be prosecutable under federal law but not clearly recognised under Queensland law;
- Gaps in enforcement, especially in areas such as trafficking, illegal fishing, or child exploitation occurring on vessels;
- Legal uncertainty for investigators and prosecutors dealing with crimes spanning multiple jurisdictions.

By updating the *Crimes at Sea Act 2001 (Qld)* to reflect any amendments to the *Crimes at Sea Act 2000 (Cth)*, ensuring the legislation remains harmonised and effective across all relevant maritime zones. Clarify definitions, offence of jurisdiction, and intergovernmental cooperation provisions where needed.

10. Technical amendments to the Working with Children (Risk Management and Screening) Act 2000 (Blue Card system).

The Blue Card system, governed by Queensland's *Working with Children (Risk Management and Screening) Act 2000*, mandates that individuals engaged in certain child-related work obtain a Blue Card. However, exemptions exist for specific professions and roles.

The threshold for approving a blue card must consider:

- Patterns of behaviour, not just convictions.

- History of domestic and family violence (DFV) and child protection investigations.
- Police DVO breaches, even if charges were not laid.
- Professionals (e.g. teachers, carers, clergy) who resign or are dismissed after abuse allegations.
- Family report writers, psychologists, lawyers and social workers with family court system or private practice.

Remove automatic exemptions for lawyers, psychologists, and other professionals who work with or around children in court-related or therapeutic contexts.

11. Interconnectedness of Remaining QSAC Recommendations

Only four of the 28 QSAC recommendations have been implemented. However, these are interdependent with the others that have been overlooked. For example:

QSAC Recommendations	Related Bill Objective	Risk if Not Implemented
3–5: Improve victim impact process	1 & 4: Harm recognition & inference	Victims may feel silenced or retraumatised
17–20: Judicial remarks and trauma	1. Recognition of harm	Courts may fail to reflect lived experience of trauma
7–10: Restrict use of character evidence	2. Good character mitigation	Retains loopholes for predators to benefit from social capital
11 & 14: Grooming & coercion	3. Aggravating factor for 16–17yo victims	Ignores power imbalance and manipulation
23–27: Data and oversight	None addressed	No evaluation of impact or equity in sentencing

The four reforms proposed are structurally important, but insufficient in isolation. They should be the foundation of a comprehensive legislative reform program.

12. Conclusion

The proposed Bill makes significant but limited progress toward implementing QSAC's reform agenda. However, failing to properly reference the correct legal provisions and ignoring the broader framework of the remaining 24 recommendations risks undermining its intent. To fully protect victims and restore public confidence in the justice system, the Parliament must expand its scope to include the repeal of s 9(2)(f), adoption of all QSAC recommendations, and a commitment to systemic legislative reform.

1. Implement all 28 QSAC recommendations through staged legislative and procedural reform.
2. Mandate judicial education on trauma-informed sentencing.
3. Limit community-led character submissions in sexual offence cases.
4. Create a review body to monitor sentencing outcomes under the amended Act.

Yours sincerely,

Mel Halliday