



16 July 2020

Committee Secretary
Legal Affairs and Community Safety Committee Parliament House
George Street
Brisbane Qld 4000

Email: lacsc@parliament.qld.gov.au

Dear Committee Secretary

Submission on the Criminal Code (Choking in Domestic Settings) and Another Act Amendment Bill 2020

Thank you for the opportunity to make a submission on the Criminal Code (Choking in Domestic Settings) and Another Act Amendment Bill 2020 ("**the Bill**").

Relevance of proposed legislative amendments to Act for Kids

Act for Kids is an Australian charity providing therapy and support services to children and families who have experienced, or are at risk of experiencing, child abuse and neglect. Act for Kids provides services in over 26 centres for over 30 years with a team of over 400 staff from Adelaide to the Cape York Peninsula.

In partnership with the Queensland Government, Act for Kids employs Specialist Domestic and Family Violence Practitioners ("**SDFV Practitioners**") in every funded Intensive Family Support ("**IFS**") and Family and Child Connect ("**FaCC**") service to consult on high risk and complex domestic and family violence issues. Our practitioners who work within these services are trained in the Safe & Together™ Model, which is an internationally recognised suite of tools and interventions designed by the Safe & Together Institute to help child welfare professionals become domestic violence-informed.

In the 2019-2020 financial year alone, our practitioners in IFS and FaCC participated in 10,000 specialist consultations in relation to vulnerable families who were experiencing multiple and complex issues (for example mental health concerns, homelessness risks, drug and alcohol addiction, childhood or intergenerational trauma). Of those identified, 29% of consultations were specific to complex and potentially high-risk domestic and family violence concerns.

The above data shows that in two of our Queensland service types alone, our teams have consulted on domestic and family violence related concerns on almost 3000 separate occasions in one year.

Strengthening the offence of choking, suffocation or strangulation in a domestic setting

Act for Kids supports the Bill's proposal to strengthen the offence of choking, suffocation or strangulation in a domestic setting (non-lethal strangulation offence) by providing definitions of the words 'choke', 'suffocate' and 'strangle'.

We have learnt that strangulation, choking, and suffocation are not usually isolated events but occur *in the context* of domestic violence. It is an ultimate form of power and control within a pattern of violent and coercive behaviours. We have further learnt from those such as Professor Heather Douglas of the University of Queensland that, like many forms of domestic violence, strangulation, choking, and suffocation often goes unreported but can ultimately have serious consequences.¹ It is possible that the inability to clearly define strangulation, choking, and suffocation as a crime contributes to this underreporting and difficulty establishing the offence if indeed reported.

Being on the front line supporting families to safety and healing after strangulation, choking, and suffocation incidents, we supported the criminalisation of non-lethal strangulation in Queensland following the 2016 *Not now, not ever report*. Our SDFV Practitioners were tasked with educating colleagues, clients, and community members on the relevancy of the new law in the context of the advocacy and support work we provide to families but recognised the legislation still required strengthening.

Defining 'choke', 'suffocate' and 'strangle' in legislation in conjunction with education for communities and professionals will improve identification, assessment, and treatment for survivors and their families for the physical and psychological trauma they experienced.

Increasing the maximum penalty for the non-lethal strangulation offence and classification of the offence as a serious violent offence

Act for Kids supports the Bill's proposal to increase the maximum penalty for the non-lethal strangulation offence from 7 to 14 year imprisonment. We also support the re-classification of the offence as a serious violent offence, which will require the prisoner to serve 80% of their sentence of imprisonment.

In our work with families, survivors of domestic violence include the non-offending parent (statistically higher cases of women as the non-offending parent)² and their children. If we are to work collectively to achieve justice, safety, and healing for survivors and their families, courts responsible for sentencing perpetrators must consider the significant barriers that survivors need to overcome (both practically and emotionally) after such a violent trauma.

Strangulation (and in this context, suffocation and choking) is known as the "last warning shot" prior to homicide. The average custodial sentence for strangulation finalised in Queensland courts between 2016-17 and 2017-18 was 1.9 years (the shortest being just two months), with 49% of all cases breaching domestic violence orders.³

Act for Kids provides therapy and support to a significant number of children presenting with trauma related to domestic and family violence. A core element required before any

¹ Professor Heather Douglas, School of Law, The University of Queensland; Dr Robin Fitzgerald, Lecturer, School of Social Science, The University of Queensland, 'Strangulation, Domestic Violence and the Legal Response' (2014) Volume 36, Number 2 *The Sydney Law Review* 231-254.

² See, for example, DV Connect, *Domestic Violence Statistics* (page updated 2020) DV Connect <<https://www.dvconnect.org/about/domestic-violence-statistics/>>

³ Queensland Sentencing Advisory Council, *Sentencing Spotlight on choking, suffocation or strangulation in a domestic setting*, (Version 1, May 2019) 2, 9.

therapeutic work can begin is establishing safety. Healing from this trauma can take up to 40 hours of therapy over nearly two years, depending on the child and their experiences.

The data reporting a custodial sentencing range between two months and four years and the average time served for those with partially suspended sentence before release being 6.7 months⁴ seems highly inadequate. It highlights the near impossibility for survivors and their families to establish safety in that timeframe (which may involve moving homes and schools, finding new employment, applying for financial relief, and seeking family support and/or therapeutic services).

Re-classifying the offence as a serious violent offence, which will require the perpetrator to serve 80% of their sentence of imprisonment may provide survivors and their children more time to establish safety and seek critical and specialised support from services.

In summary, Act for Kids is in full support of the proposed amendments under the Bill.

We hope to hear of this legislative amendment passing as soon as possible.

Yours sincerely



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⁴ Queensland Sentencing Advisory Council, *Sentencing Spotlight on choking, suffocation or strangulation in a domestic setting*, (Version 1, May 2019) 9.