



31 January 2013

Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE Q 4000

Criminal Law Amendment Bill
(No. 2) 2012
Submission 002

Dear Sir/Madam

Re: Criminal Law Amendment Bill (No. 2) 2012

We refer to the letter from the Chair dated 4 December 2012 seeking submissions on the above-mentioned Bill by 8 February 2013.

Protect All Children Today Inc. (PACT) is a non profit community organisation established in 1986 as a service provider of court support and therapy as well as advocating for abused and neglected children/young people and their families.

PACT's Child Witness Support Program provides support for children and young people who are required to give evidence in the courts, either as victims of, or witnesses to, a crime.

We offer the following comments in relation to the proposed amendments to the Criminal Law Amendment Bill (No. 2) 2012:

Proposed amendment to the **Bail Act 1980**: PACT is supportive of defendants participating in rehabilitation, treatment or other intervention programs to reduce recidivism rates.

In relation to the proposed amendments to the **Drugs Misuse Act 1986**, whilst PACT is generally supportive of legislation that better protects children and young people, it is concerned as to the likelihood of fewer guilty pleas and the impact that this may have, including more children and young people being required to give evidence as victims or witnesses. Increased penalties for drug related matters may further disadvantage vulnerable populations; such as mentally ill, intellectual disability, young people or victims of crime.

In regard to the proposed amendments to the **Criminal Code**, PACT expresses concern about the increased maximum penalty for the offence of wilful damage under section 469, special case 9 (Graffiti) from five to seven years imprisonment, specifically in regard to **juvenile defendants**. PACT does not believe that harsher sentences will address the issue of graffiti. Instead, PACT considers that there should be a greater focus on crime prevention, restorative justice and early intervention to prevent crimes of this nature.

PACT's Vice Regal Patron: Her Excellency, Ms Penelope Wensley, AC, Governor of Queensland

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Harsher sentences across a range of offences are likely to lead to fewer people pleading guilty, which will place a greater burden on the current Criminal Justice System, members of the judiciary and the financial cost to the State in housing increased prisoner numbers.

PACT is very supportive of the proposed amendments to the ***Victims of Crime Assistance Act 2009*** which allow for a victim impact statement to be read aloud in Court in a manner that protects the victim from further trauma. However, the following aspects need to be considered in relation to crimes against children and young people:

- All children, and some young people, are reliant upon adults to assist them to prepare the Victim Impact Statements (VIS) and there is a real potential for the information provided, to be misinterpreted or distorted depending on the views of the assisting adult. Therefore, the VIS should be properly considered in this light, and where appropriate, the VIS should not be the main consideration in the sentencing of offences against children.
- Children are often unable to articulate the effect of the crime and the potential impact this may have on their future development. Again, PACT considers it important to ensure that any legislative changes do not diminish the ability of the Court to ascertain the true effect of a crime on a child. Keeping in mind that it is extremely difficult to determine the level of harm to a child at the time of the crime, as impacts may not become evident until the child becomes an adult.
- Evidenced based research findings and studies on the impacts which illustrate the different ways that trauma may manifest should be released to the judiciary so that the judiciary is informed of these potential future impacts.
- Children react differently to situations and child witnesses of crime can be as traumatised as the victims themselves. Similarly, trauma can be demonstrated in different ways with no obvious signs to indicate the level of internal stress.
- Judicial discretion is imperative in the sentencing of all child related offences. The Judiciary should be provided with as much information as possible to make adequate sentencing recommendations.
- The potential for victims of crime to take the opportunity to voice grievances not previously captured in their written VIS, may lead to negative impacts on the outcomes of the case.

In regard to the ***Youth Justice Act 2009***, PACT is supportive of the mandatory community based order called a Graffiti Removal Order to apply to any child aged 12 to 16 years who is convicted of a graffiti offence under the Criminal Code. We are particularly supportive of this initiative occurring without court involvement.

Please note, these comments reflect PACT's child focussed philosophy, which is mandated by: **Convention on the Rights of the Child -**

- **Article 3.1** *"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration".*
- **Article 19** *"Children must be protected against all forms of physical and mental violence".*

Section 21 AA of the Evidence Act 1997 – *States that with respect to a child witness the court is; "to require wherever practicable that an affected child's evidence be taken in an environment that limits, to the greatest extent practicable, the distress and trauma that might otherwise be experienced by the child when giving evidence."*

Part 2 of the Child Protection Act 1999 – *having regard to the principle that it is in the best interests of the child for the application to be heard as soon as possible.*

We greatly appreciate the opportunity to provide comment on these valuable pieces of legislation.

Yours sincerely



Alexandra Marks
Chairperson



Jo Bryant
Chief Executive Officer