



Queensland
Indigenous
Family Violence
Legal Service

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Research Director
Legal Affairs and Community Safety Committee
By email only: lascs@parliament.qld.gov.au

Dear Sir / Madam

CRIMINAL LAW (DOMESTIC VIOLENCE) AMENDMENT BILL (No.2): MATTERS FOR SUBMISSION:

Please find below submissions made on behalf of Queensland Indigenous Family Violence Legal Service that we ask be accepted notwithstanding, the due date of 1 February 2016

1. Clause 3: the inclusion of a new s. 315A: choking, suffocation or strangulation in a domestic setting:
 - Provision should be made to include an attempt specifically within section 315A (attempted offences are generally covered by section 4 of the Criminal Code). The proposed provision (the inclusion of sub paragraph (b)) could read:

315A Choking, suffocation or strangulation in a domestic setting
(1) A person commits a crime if-
(a) The person unlawfully chokes, suffocates or strangles another person without the other person's consent; or
(b) The person attempts to unlawfully choke, suffocate or strangle another person without the other person's consent; and.....
 - An attempt to choke, suffocate or strangle should be incorporated in the same provision so as to attract the same maximum penalty and to give weight to Parliaments intent to punish this category of offending.
2. Clause 5: the amendment to s. 9 of the *Penalties and Sentences Act* (Sentencing guidelines):
 - the term "*act of serious domestic violence*¹" should be defined in the Act. In defining the term act of serious domestic violence, the definition should include the following offences: any physical assault that would fall within the legal definition of assault occasioning bodily harm; unlawful wounding; grievous bodily harm; acts intended to cause grievous bodily harm or attempted murder".

¹ Which is referred to under the heading "*Examples of exceptional circumstances*"

- the term “*act of serious domestic violence*” should also include reference to intimidating, menacing and harassing behavior(s) that would come within the legal definition of stalking.
3. The *Criminal Law (Domestic Violence) Amendment Bill (No.2) 2015* should also consider including an amendment of section 150 of the *Youth Justice Act 1992* which could read as follows:

Insert-

“In sentencing a child for a domestic violence offence, a court must have regard to the fact that a domestic violence offence is an aggravating factor, unless the court considers it is not reasonable to do so because of the exceptional circumstances of the case.

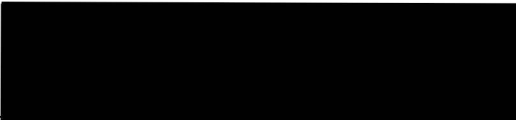
Examples of exceptional circumstances-

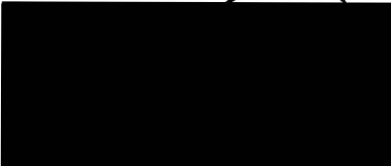
- 1 *the victim of the offence has previously committed an act of serious domestic violence, or several acts of domestic violence, against the offender*
- 2 *the offence of manslaughter under the Criminal Code, section 304B”*

If this amendment is made to the *Youth Justice Act*, then like the proposed amendment to section 9 of the *Penalties and Sentences Act*, the term “act of serious domestic violence” should also be defined in the *Youth Justice Act*.

Yours faithfully

Queensland Indigenous Family Violence Legal Service


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