



PeakCare

Queensland Inc.

12 March 2019

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

By email: lacsc@parliamentqld.gov.au

Dear Committee Members

Submission to Parliamentary Committee - Inquiry into *Criminal Code and Other Legislation Amendment Bill 2019* and *Criminal Code and Other Legislation (Mason Jett Lee) Amendment Bill 2019*

PeakCare Queensland Inc. (PeakCare) welcomes the opportunity to provide information in response to the Legal Affairs and Community Safety Committee's invitation calling for submissions to their inquiries into two bills being considered by the Parliament - the *Criminal Code and Other Legislation Amendment Bill 2019* and the *Criminal Code and Other Legislation (Mason Jett Lee) Amendment Bill 2019*.

About PeakCare

PeakCare is a not for profit peak body for child and family services in Queensland, providing an independent and impartial voice representing and promoting matters of interest to the non-government sector.

Across Queensland, PeakCare has around 55 members which are a mix of small, medium and large, local and statewide, mainstream and Aboriginal and Torres Strait Islander non-government organisations that provide prevention and early intervention, and generic, targeted and intensive family support to children, young people, adults and families. Member organisations also provide child protection services, foster and kinship care and residential care services for children and young people and their families who are at risk of entry to, or who are in the statutory child protection system.

A network of around 15 supporters made up of individuals and other entities with an interest in child protection and related services and who are supportive of PeakCare's policy platform around the safety, wellbeing and connection of children and young people, also subscribe to PeakCare.

Staff and volunteers of many PeakCare members provide day-to-day care and support to children and young people subject to statutory child protection intervention and to children who have been removed from their parents' care due to the risk of significant harm. The Queensland Sentencing Advisory Council in their 2018 *Sentencing for criminal offences arising from the death of a child: Final report* noted that while there is limited research in this area, previous contact with child protection services is associated with child deaths in Australia. Given this correlation, PeakCare's members have an interest in the proposed bills relating to child homicide.

PeakCare's submission

PeakCare's primary concern is child protection and related services, and as such PeakCare supports the Queensland Government's *Criminal Code and Other Legislation Amendment Bill 2019* which includes recognising the special vulnerability of children as an aggravating factor in child homicide cases.

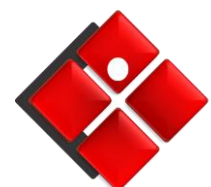
PeakCare also supports the Government implementing other recommendations from the Queensland Sentencing Advisory Council's *Sentencing for criminal offences arising from the death of a child: Final report*, related to the need to ensure there are effective system responses to child homicide, including timely and sensitive information and support offered to family members of child victims.

PeakCare does not support the proposals in the *Criminal Code and Other Legislation (Mason Jett Lee) Amendment Bill 2019*, because of its focus on mandatory sentencing. Mandatory sentencing removes judicial discretion, and all the various factors and circumstances of a particular matter cannot be taken into account during sentencing, which is at the least unfair and may bring about serious injustice in individual cases.

The Queensland Sentencing Advisory Council's *Sentencing for criminal offences arising from the death of a child: Final report* noted that all legal and justice stakeholders strongly argued for the need to retain judicial discretion to enable judges to sentence on a case-by-case basis (p 111). These stakeholders argued that the empirical evidence against mandatory sentencing was well documented and that these schemes have failed in their stated objectives of deterrence and crime reduction in a number of jurisdictions.

Young offenders sentenced as children are subject to different sentencing laws under the *Youth Justice Act 1992* (Qld) rather than the *Penalties and Sentences Act 1992* (Qld), which relates to the sentencing of adult offenders. Those young people subject to statutory child protection intervention as well as youth justice intervention may have particularly complex needs compounded by psychosocial immaturity and other problems such as mental health and alcohol and other drug problems. In the rare instances of child homicide offences committed by other children or young people, it is important to maintain discretion in sentencing so all the complex circumstances of a particular situation can be considered.

PeakCare appreciates the government's focus on ensuring sentencing meets community expectations in relation to child murder and manslaughter cases, however also argues a similar focus



needs to be maintained by government on addressing the circumstances that may lead to such tragedies. The continually increasing levels of socio-economic disadvantage in our society, for many people compounded by adverse life events and intergenerational trauma, which can be seen in rates of homelessness, domestic and family violence, poor physical health, mental health issues and drug and alcohol misuse, can all impact on parenting capacity. PeakCare advocates that these social factors increase vulnerability and require a significant shift in government investment to prevention and early intervention and accessible services to support families, before a crisis point where children may be harmed or killed.

Thank you for the opportunity to submit PeakCare's views for consideration by the Committee.

Yours sincerely,



Lindsay Wegener (Mr)
Executive Director
PeakCare Queensland

