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Natasha Tanirau-Stanley



Legal Affairs and Safety (LAS) Committee  
By email: [lasc@parliament.qld.gov.au](mailto:lasc@parliament.qld.gov.au)

Dear LAS Committee

***Youth Justice and other Legislation Amendment Bill 2021 ('the Bill')***

Thank you for the opportunity to provide feedback on the Bill. Our submission responds to aspects of the proposed amendment to the sentencing principals of the *Youth Justice Act 1992 (Qld)* ("the Act"). Specifically, Clause 96 amendments to section 150 Sentencing Principles of the Act. We make no comment about the other amendments.

YFS legal is a community legal centre in Logan, representing children and young people in Court in the criminal justice system. YFS Legal delivers the Children's Court Duty Lawyer service in alternate weeks with Youth Legal Aid at the Beenleigh Children's Court.

YFS Legal supports the amendment in principle to the Act, that it should be a mitigating factor in sentencing if the child or young person is a victim or exposed to domestic violence. However, it is our submission, that the "specific mitigatory circumstances" or preconditions for that mitigating factor to be applied is problematic.

As we read the amendment, the mitigating factor is only relevant if the offence is partly or wholly attributable to the domestic violence or the exposure to the domestic violence. Further, when determining the appropriate sentence, the Court is to determine the above, but further determine the extent to which the commission of the offence is attributable to the effect of violence or exposure.

In our practice experience the casual link is rarely nice and tidy as set out in the proposed amendments.

It is well known that the effect of violence or exposure to violence changes the brain development for a child and has significant effects on their responses to situations and often promotes significant trauma responses. Further, a significant portion of children in care of the Department of Children, Youth Justice and Multicultural Affairs, are victims of domestic violence and/or have been exposed to domestic violence.

The issue YFS Legal anticipates with adding conditions to the mitigating factor is that it will be difficult for a child to articulate in their instructions, the impact the violence or the exposure to the violence that it has had on their behaviour.

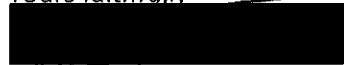
Further, children likely be reluctant to talk about the nature and impact of that violence and therefore that information will not be before the Court.

Also, it requires the Court to value and devalue the impact of violence or exposure to the child and the offending.

In our submission, it should be a mitigating factor to consider domestic violence and exposure to domestic violence without any conditions attached to that.

We ask that the LAS Committee accepts the amendment but without the preconditions.

Yours faithfully



Natasha Tanirau Stanley

Principal Solicitor

YFS Legal