



LEGISLATIVE ASSEMBLY

FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON THE DRUGS OF DEPENDENCE (PERSONAL USE)

AMENDMENT BILL 2021

Mr Peter Cain MLA (Chair), Dr Marisa Paterson MLA (Deputy Chair),

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Submission Cover Sheet

Inquiry into the Drugs of Dependence (Personal Use) Amendment Bill 2021

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The Committee Chair
Select Committee on the Drugs of Dependence (Personal Use) Amendment Bill 2021
Legislative Assembly for the Australian Capital Territory

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SUBMISSION TO THE SELECT COMMITTEE ON THE *DRUGS OF DEPENDENCE* (PERSONAL USE) AMENDMENT BILL 2021

By Street Law, a program of Canberra Community Law, June 2021

EXECUTIVE SUMMARY

On 11 February 2021, the *Drugs of Dependence (Personal Use) Amendment Bill 2021* (ACT) (**Bill**) was introduced into the ACT Legislative Assembly. On the same day, the Select Committee on the Drugs of Dependence (Personal Use) Amendment Bill 2021 (**Committee**) was appointed to examine the Bill and submissions to the Committee were opened.

Street Law, a program of Canberra Community Law (**CCL**), considers that the vulnerable people that it advises and assists will be affected by the Bill and welcomes the opportunity to provide a submission to the Committee.

The Bill is seeking to amend the *Drugs of Dependence Act 1989* (ACT) (**Act**) by creating decriminalisation thresholds for possession of common illicit drugs. Street Law supports the Bill in principle and supports the intentions behind it. However, we raise the following concerns for the Committee's consideration:

- the punitive nature of penalties for people experiencing homelessness and those on low incomes;
- the lack of alternative mechanisms to discharge a penalty imposed under the Bill for people on low incomes or who are homeless;
- the likelihood that the Bill, as currently worded, may fail to divert particularly vulnerable individuals from the criminal justice system;

Canberra Community Law acknowledges the traditional custodians of the land on which we work in the ACT and surrounding region and pay our respect to their elders past, present and future for they hold the memories, traditions, the cultures and the hopes of Australia's First Peoples. We are grateful that we share this land and express our sorrow for the costs of this sharing to Australia's First Peoples. We will continue to acknowledge the legacy of our history and strive in our goals to empower our community through social justice. We hope that our efforts can contribute to a realisation of equity, justice and partnership with the traditional custodians of this land.

- the current provisions of the Bill do not enable the Police to divert drug users to appropriate treatment services;
- the uncertainty around the applicability of Commonwealth legislation to a simple drug offence in the ACT; and
- that broader policy in the ACT towards homeless people who use drugs and the funding of treatment services does not align with a health approach to drug use.

Recommendations

Having regard to the above concerns and our broader experiences with vulnerable individuals who may be affected by this Bill, Street Law proposes the following recommendations to the Committee:

1. A mechanism be introduced into the Bill, or relevant regulations, providing alternative options for discharging penalties imposed under the Bill. This mechanism could be modelled on that already operating under Part 3 of the *Road Transport (General) Act 1999* (ACT) (**Road Transport Act**). The alternative options for discharging a penalty should include:
 - complete a community work and development program;
 - pay the penalty in instalments; and
 - waive the penalty;
2. The ACT Government and Commonwealth Government enter a Memorandum of Understanding stipulating that a person who commits a simple drug offence under the Bill will not be charged under the *Criminal Code Act 1995* (Cth) (**Criminal Code**);
3. The ACT Government adopt a housing first approach to address substance abuse within the ACT homeless community; and
4. The ACT Government use the funds raised from payments of the prescribed penalty issued under the Bill to fund rehabilitation services in the ACT.

CANBERRA COMMUNITY LAW

Canberra Community Law (**CCL**) is a community legal centre providing free legal advice, assistance and representation to people in the ACT on low incomes for matters relating to tenancy, public housing, social security and disability discrimination law.

CCL also operates:

- Dhurrawang Aboriginal Human Rights Program which provides services in housing, social security and race discrimination law to Aboriginal and Torres Strait Islander communities in Canberra through a human rights framework;
- the Socio-Legal Practice Clinic that combines legal assistance with intensive social work to maximise the prospect of a successful outcome;
- the Night Time Legal Advice Service which provides legal advice to any member of the public on most areas of law from 6pm to 8pm Tuesday nights;
- the Disability Discrimination Law Service which provides legal advice and representation on disability discrimination; and
- the Street Law outreach program which provides legal advice, assistance, and representation on relevant areas of law to people who are, or are at risk of becoming, homeless.

In the 2019-2020 financial year CCL helped 859 clients, 93% of them experienced financial disadvantage and 68% experienced, or were at risk of, homelessness.

STREET LAW CLIENTS

Street Law assists clients with a range of legal issues, including but not limited to certain drug and alcohol related offences. Many of our clients have experienced difficult circumstances, such as, physical and mental disabilities, exposure to abuse and family or domestic violence, which led to their precarious positions. Accordingly, it is not uncommon for our clients to resort to drug use as a way of coping with, or escaping, their situations. This submission is made having regard to the experiences of our clients, particularly vis-à-vis their issues with substance abuse and exposure to the criminal justice system.

Barriers to justice

More generally, people experiencing homelessness, including our clients, encounter many complex barriers to justice including:

- failure to realise that they have a legal issue;
- competing needs;
- difficulty navigating the legal system; and
- high prevalence of psychiatric disorders and substance abuse issues.¹

Failure to realise a legal issue

¹ Justice Connect, *Finding Shelter from the Law: Fairer Responses to Homelessness in our Community* (Position Paper, March 2020), available at <https://justiceconnect.org.au/wp-content/uploads/2020/04/Justice-Connect-Position-Paper-Finding-shelter-from-the-law-March-2020.pdf>, 13-14.

A lack of legal knowledge combined with common interaction with police by virtue of the public nature of their lives inclines people experiencing homelessness to form a view that legal issues, such as fines, are a norm in their life.² Accordingly, they do not realise that when a legal issue arises: they have legal rights, there are alternative options available and there are procedures to follow.³

Competing needs

In addition to legal problems, people experiencing homelessness also need to prioritise access to basic needs and finding a safe place to reside. Unless the legal issue is urgent, for example eviction or police arrest, it is often ignored.⁴

Difficulty navigating the system

Socioeconomic disadvantage is a significant barrier to navigating and accessing the criminal justice system.⁵ Often Street Law has difficulty engaging clients over a sustained period of time, due to problems already mentioned above, and a lack of understanding about the legal process.

High prevalence of psychiatric disorders and substance abuse issues

Substance abuse, psychiatric disorders and trauma are all highly prevalent amongst people experiencing homelessness.⁶ These factors all contribute to an inability to recognise and manage legal issues, especially when they are ongoing.⁷

Public nature of our clients' lives

People with insecure and inadequate housing are at a greater risk of being brought to the attention of, and targeted by, police and fined or charged with poverty related offences because they live their lives outdoors and in public spaces.⁸ Additionally, homeless people cannot carry out their behaviours in the privacy of a home or store items, such as drugs, in a house which increases the chances that a homeless person who uses drugs will be in possession of them.⁹

THE PROPOSED AMENDMENTS TO THE ACT

Street Law generally supports the amendments to the Act contained in the Bill.

² Ibid 14.

³ Ibid 14.

⁴ Ibid 13.

⁵ Ibid 13.

⁶ Ibid 14.

⁷ Ibid 14.

⁸ Ibid 10; Luke McNamara et al, 'Homelessness and Contact with the Criminal Justice System: Insights from Specialist Lawyers and Allied Professional in Australia' [2021] 10(1) *International Journal for Crime, Justice and Social Democracy* 111, 114.

⁹ Ibid.

Currently under the Act a person in possession of a drug of dependence or prohibited substance commits an offence with a maximum penalty of 50 penalty units, imprisonment for 2 years, or both.¹⁰

The Bill is seeking to amend the Act, by creating a simple drug offence which is where a person is in possession of less than a defined personal possession limit of a drug of dependence, cannabis or prohibited substance.¹¹ The penalty for committing a simple drug offence is one penalty unit.¹² Where the Police believe that a simple drug offence has been committed, they have a discretion to serve an offence notice on the offender.¹³ An offence notice provides the offender 60 days to pay a prescribed penalty of \$100 and with respect to the simple drug offence:

- liability is discharged;
- the legal proceeding is ended; and
- the offender is not convicted.¹⁴

Street Law understands that if the offender does not pay the prescribed penalty within 60 days: liability is not discharged, legal proceedings continue, and the offender could still be convicted of a simple drug offence.¹⁵

Street Law also strongly supports the intended purpose behind the Bill which is to:

“bring our drug laws more in line with modern community standards and reflect global trends that seek to treat drug use as a public health problem ... The bill will reduce the burden on our criminal justice system by allowing police to divert drugs users at the first point of contact to appropriate services and avert prosecution”,¹⁶

(emphasis added).

However, Street Law has concerns that the current provisions of the Bill will not:

- prevent our clients from interacting with the criminal justice system; and
- divert our clients to appropriate services.

IMPACT OF THE CURRENT PROVISIONS OF THE BILL ON HOMELESS CANBERRANS

Street Law clients still directed into the criminal justice system

¹⁰ *Drugs of Dependence Act 1989* (ACT) ss 169(1) & 171(1).

¹¹ *Drugs of Dependence (Personal Use) Amendment Bill 2021* (ACT) cl 4, 5 & 11.

¹² *Ibid* cl 4-5.

¹³ *Drugs of Dependence Act 1989* (ACT) s 171A(1); *Drugs of Dependence (Personal Use) Amendment Bill 2021* (ACT) cl 7.

¹⁴ *Ibid* s 171(4)(a)-(c); *Ibid* cl 10.

¹⁵ *Ibid*.

¹⁶ Explanatory Memorandum, *Drugs of Dependence (Personal Use) Amendment Bill 2021* (ACT) 1.

The current provisions of the Bill will not divert people who are: homeless, at risk of homelessness or on low incomes from the criminal justice system. Instead, a penalty of \$100 for a simple drug offence is a potentially oppressive form of punishment for people experiencing homelessness in circumstances where it is not uncommon for them to accrue excessive infringement notices, fines and charges for minor poverty related criminal offending.¹⁷ Specifically for our clients a penalty exacerbates their already difficult living situations by placing them under additional financial strain. Our clients already have limited, or non-existent, incomes. Often their sole source of income, if they have one, is Centrelink benefits. If clients are fined, this compounds the difficulties they face in: trying to find affordable accommodation, obtaining stable employment, repaying other debts and dealing with personal and welfare issues.

The proposed penalty under the Bill is a one size fits all approach which will disproportionately impact our clients in circumstances where they do not have incomes or are on low incomes. While the dollar value of an infringement is the same regardless of who receives it, the impact of receiving a penalty varies greatly depending on the financial circumstances of the person. This creates an unfair and regressive system. The Bill does not provide any mechanisms to counteract the regressive nature of the penalty for a simple drug offence. Rather, if a penalty is not paid on time a person may be prosecuted. Accordingly, under the current provisions of the Bill it will be difficult for our clients to discharge the \$100 penalty in 60 days which makes it likely that they will still be directed into the criminal justice system and convicted of an offence.

The table below illustrates the percentage of income a \$100 fine would be for an average weekly income in the ACT and those whose income is welfare payments. As mentioned, people experiencing homelessness if they have an income at all, tend to only be receiving welfare payments.

Offence	Penalty amount under infringement notice	% penalty is of <u>weekly</u> Jobseeker income for a single person with no children (\$310.40)¹⁸	% penalty is of <u>maximum weekly</u> Disability Support Pension for a single person (\$476.35)¹⁹	% penalty is of <u>average weekly</u> earnings for full time adult in the ACT (\$1890.20)²⁰
Simple drug offence	\$100	32%	20%	5%

¹⁷ Justice Connect, *Finding Shelter from the Law: Fairer Responses to Homelessness in our Community* (Position Paper, March 2020), available at <https://justiceconnect.org.au/wp-content/uploads/2020/04/Justice-Connect-Position-Paper-Finding-shelter-from-the-law-March-2020.pdf>, 10.

¹⁸ <https://guides.dss.gov.au/guide-social-security-law/5/1/8/20>

¹⁹ <https://guides.dss.gov.au/guide-social-security-law/5/1/8/10>

²⁰ <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/nov-2020#state-and-territory-earnings>

Case Study: Jane

Jane (not her real name) lived in public housing. She was at risk of homelessness due to complex mental health issues and trauma arising from being a survivor of child sexual abuse. Jane witnessed a serious crime and after inviting police into her home to make a statement, they noticed that she had cannabis on her table.

Jane was issued a Simple Cannabis Offence Notice (**SCON**) under the *Drugs of Dependence Act 1989* (ACT), which gave her 60 days to pay a penalty of \$100 and have the offence discharged. Jane intended to pay the penalty and received extensions to do so. However, she was ultimately unable to pay the penalty due to financial hardship and difficulty managing her mental health.

The ACT Director of Public Prosecution (**DPP**) then commenced prosecution for cannabis possession due to non-payment of the SCON.

Following Street Law's first appearance the ACT DPP indicated that they would be willing to withdraw the charge if Jane could pay the SCON penalty before the next court date. As Jane was unable to pay the SCON penalty, Street Law sought help from a community organisation who promptly agreed to pay the SCON penalty on Jane's behalf. The charge was withdrawn.

Funding commitments to support drug control and harm reduction

As stated above, the Bill intends to adopt a public health attitude towards drug use and enable police to divert drug users to appropriate treatment services. In its current form the Bill will direct people away from the criminal justice system if they can afford to pay the \$100 penalty. However, it does not provide a mechanism to allow police to divert drug users to an appropriate service. Accordingly, Street Law considers that the provisions of the Bill do not go far enough to recognise drug use as a public health problem, nor does it adequately address harm reduction from drug use.

RECOMMENDATIONS REGARDING THE PROVISIONS OF THE BILL

Mechanism to discharge fines

Recommendation

Amend the Bill to establish a similar system of discharging penalties that exists under Part 3 of the Road Transport Act.

ACT scheme for transport fines

As an alternative to prosecution, the Road Transport Act provides for a system of infringement notices to be issued for certain offences against road transport and other legislation in the ACT (**Infringement**

Notice Offence).²¹ Under this system where a person commits an Infringement Notice Offence they will receive an infringement notice containing a penalty to be addressed within 28 days by either:

- paying the penalty;
- applying for a waiver of the penalty; or
- entering an infringement notice management plan.²²

Infringement notice management plan

A person eligible for an infringement notice management plan under Part 3 of the Road Transport Act can apply to pay their penalty either by:

- instalments; or
- participating in an approved community work or social development program (**CWSD Program**).²³

The types of CWSD Program that a person can participate in, amongst other options, include:

- unpaid community work;
- treatment for mental illness or mental disorder; or
- treatment for addiction to, or abuse of, drugs or alcohol.²⁴

Waiver of penalty

An individual will have their penalty waived under Part 3 of the Road Transport Act in circumstances where:

- the person is unlikely to have the financial ability to pay the penalty; and
- the person has relevant circumstances applying to them; and
- enforcement action is unlikely to result in payment of the penalty; and
- the person is not a suitable person to complete an approved **CWSD Program**; and
- allowing the application is consistent with the Road Transport Act guidelines.²⁵

²¹ *Road Transport (General) Act 1999* (ACT) s22(1).

²² *Ibid* s 26(2)(b)(i)-(iii).

²³ *Ibid* s 31A(2)(a)(i)-(ii).

²⁴ *Road Transport (Offences) Regulation 2005* (ACT) s 16D(1)-(2).

²⁵ *Road Transport (General) Act 1999* (ACT) s 31G(3)(a)-(e).

Cast Study: Jane continued

Following on from the case study above, Jane also presented to Street Law with 10 traffic infringements from two vehicles totalling over \$10,000. Majority of these infringements were incurred after her car was stolen while she was attending the Mental Health Unit. Due to her trauma, she was unable to report her car stolen to Police. The other traffic infringements were from someone declaring her the driver of a vehicle, although she was not the driver and did not know the vehicle in question.

Street Law provided Jane with assistance to make an application to have her traffic infringements waived. Fortunately, all 10 infringements totalling over \$10,000 were waived.

Effect of alternative methods for dealing with penalties

Being able to waive a penalty, pay it in instalments or participate in a CWSD Program would support homeless people and those on low incomes to manage a penalty received under the Bill. Subsequently, it would effectively provide an opportunity for all drug users to be diverted from the criminal justice system.²⁶ Additionally, the option of a CWSD Program would introduce into the Bill a mechanism that diverts offenders into contact with treatment services, therefore, achieving the Bill's purpose of diverting drug users to appropriate services.

To what extent is this change possible through ACT legislation?

To establish this sort of alternative method of discharging penalties would require inserting provisions into the Bill, or the *Drugs of Dependence Regulation 2009* (ACT) (**Regulations**), like the provisions under Part 3 of the Road Transport Act.

APPLICABILITY OF THE CRIMINAL CODE

Commonwealth response to similar legislation

Street Law notes the Commonwealth Government's critical response to the *Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019* (ACT) (**Cannabis Act**).²⁷ The Cannabis Act amended the Act by permitting a person over the age of 18 to possess up to 50 grams of cannabis and to cultivate (non-artificially) 1 to 4 cannabis plants for personal use.²⁸ More specifically, the Commonwealth Government responded to this legislation by stating that Commonwealth laws,

²⁶ Explanatory Memorandum, *Drugs of Dependence (Personal Use) Amendment Bill 2021* (ACT) 1.

²⁷ See for example: <https://www.abc.net.au/news/2019-09-26/commonwealth-considers-overturning-act-cannabis-laws/11549504> and <https://www.theguardian.com/society/2019/oct/16/act-legalising-cannabis-will-not-stop-it-being-a-federal-offence-warns-porter> and <https://www.abc.net.au/news/2019-10-22/will-cannabis-really-be-legal-in-canberra-next-year/11624726>.

²⁸ *Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019* (ACT) s 5 & 6.

namely section 308.1(1) of the Criminal Code, would still apply in the ACT and that there was an expectation that the Australian Federal Police would enforce this Commonwealth Law in the ACT.²⁹

Street Law further notes the ACT Law Society's submission to the Inquiry into the Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018 (**ACT Law Society Submission**) which raised concerns that a person in possession of 50 grams or less of cannabis could still be charged under the Criminal Code.³⁰

Disproportionate impact on homeless clients

In circumstances where the Bill does not address the inconsistency raised above, Street Law has concerns that the Commonwealth Government could have a similar response to this Bill. Subsequently, the unresolved issue of the applicability of the Criminal Code could have a disproportionate or adverse impact on our clients when, for the circumstances outlined above, they are more likely than a person with a private home to be brought to the attention of, and deal with, the Police. Additionally, as mentioned, Street Law clients have trouble accessing justice and therefore, would not be equipped to deal with a charge received under the Criminal Code if the situation arose.

Recommendation

CCL recommends, consistent with the recommendation in the ACT Law Society Submission, that the ACT Government enter a Memorandum of Understanding (**MOU**) with the Commonwealth Government making it clear that under the ACT policing framework a person who commits a simple drug offence will not be charged under section 308.1 of the Criminal Code.

BROADER POLICY ISSUES

Terms of Reference

We confirm that the terms of reference for the Committee's inquiry include an examination of the following issues:

- The health, criminal justice and societal impacts of current policy and legislative approaches to drug use in the ACT; and

²⁹ See for example: <https://www.abc.net.au/news/2019-09-26/commonwealth-considers-overturning-act-cannabis-laws/11549504> and <https://www.theguardian.com/society/2019/oct/16/act-legalising-cannabis-will-not-stop-it-being-a-federal-offence-warns-porter> and <https://www.abc.net.au/news/2019-10-22/will-cannabis-really-be-legal-in-canberra-next-year/11624726>.

³⁰ ACT Law Society, Submission to Standing Committee on Health, *Inquiry into the Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* (20 March 2019), 2.

- the adequacy and implementation of the ACT Government's current funding commitments to support drug control and harm reduction.

Policy approaches in the ACT

Current impact of policy

Street Law considers that current policy towards homelessness in the ACT does not align with a health approach to our clients who engage in drug use. It is almost impossible to engage with support services and overcome significant challenges that contribute to a person using drugs without the support that living in a home provides because:

- the stress associated with 'sleeping rough' or in non-permanent accommodation render our clients too vulnerable to receive effective drug treatment;
- as outlined above, people experiencing homelessness have competing needs, such as the necessity of finding a safe place to reside; and
- without a fixed address our clients cannot demonstrate their ability to 'sustain a tenancy' (discussed below) rendering them unlikely to obtain housing and creating a sense of hopelessness within our clients directing them to drug use as a coping mechanism.

Street Law has been informed by clients that currently in the ACT:

- they are forced to 'sleep rough', couch surf or sleep in their cars because of a lack of available beds within ACT crisis housing accommodation;
- clients with drug addictions who are housed, whether in crisis accommodation, or long term accommodation, are unable to recover as they are often housed near other drug users; and
- people recovering from drug overdoses are released from hospital or prison into homelessness.

Additionally, the criteria for the most urgent housing list (**Priority Housing**) are particularly difficult for our clients who use drugs to satisfy. As part of this criteria, applicants will only be considered for Priority Housing if they:

- are capable of independent living; and
- have the capacity to undertake a public housing tenancy to address their long term housing needs.³¹

These requirements are difficult for a homeless person with a drug addiction to satisfy because they: require support to address their drug use, lack a rental history and cannot demonstrate their ability

³¹ *Housing Assistance Public Rental Housing Assistance Program (Housing Needs Categories) Determination 2011 (No 2) (ACT) s 4.*

to undertake a tenancy. Accordingly, our clients require the support of housing to effectively address their drug use, however, because of their drug use and homelessness they cannot obtain housing.

Best practice approach to reduce harm from drug use

A housing first approach prioritises permanent housing for people experiencing homelessness.³² Once a house is secured, individuals are supported by support workers to engage in rehabilitation efforts, such as drug and alcohol treatment which is intended to assist the person to sustain their housing tenancy and reintegrate with the community.³³ Overseas trials of the housing first model indicate that it is more successful at reducing the rate of homelessness than a crisis-driven approach currently adopted in the ACT.³⁴ Street Law also considers it to be a more suitable and effective approach to reduce the societal harm from drugs arising from people experiencing homelessness because it is supportive and holistic in its approach.

Recommendation

The ACT Government should adopt a housing first approach to resolve drug use within the homeless community in Canberra.

Current funding commitments

It is essential that if the Bill is to effectively divert drug users to treatment services, that those services are appropriately funded to enable drug users to access treatment quickly. In the ACT specialist alcohol and other drug services cannot meet demand due to a current funding and infrastructure crisis.³⁵ Already 700 people access specialist alcohol and drug services a day in the ACT, and more people who want to access these services are subject to substantial wait times of up to 3 months.³⁶ In particular, the COVID-19 pandemic has exacerbated waiting times, which in the context of alcohol and drug rehabilitation is particularly concerning as it is not uncommon for people seeking treatment to lose interest in wanting to get help.³⁷ Accordingly, if the Bill is to successfully divert drug users to

³² Angela Spinney et al, *Ending Homelessness in Australia: A Redesigned Homelessness Service System* (AHURI Final Report No. 347, 2020) 49.

³³ Ibid.

³⁴ Ibid.

³⁵ <http://www.atoda.org.au/wp-content/uploads/2020/12/ATODA-Media-Release-AOD-Demand-v1.0.pdf>;
<http://www.atoda.org.au/wp-content/uploads/2020/12/ATODA-media-release-Drug-policy-21-Dec-2020.pdf>

³⁶ <http://www.atoda.org.au/wp-content/uploads/2020/12/ATODA-Media-Release-AOD-Demand-v1.0.pdf>

³⁷ <https://www.canberratimes.com.au/story/6876955/rehab-centre-wait-times-increase-due-to-covid-19/>

treatment services, the ACT Government will need to appropriately fund these services so that people who want to seek treatment can access it reasonably quickly.

Recommendation

The ACT Government use the funds raised from the simple drug offence penalty to fund rehabilitation services in the ACT.

Directing funds received from the payment of simple drug offence penalties ensures that rehabilitation services are continuing to receive funding enabling the Bill to achieve its intentions more effectively.

CONCLUSION

Street Law, a program of CCL, in principle supports the Bill. Street Law considers that currently the Bill will divert people, who can afford the infringement penalty, from the criminal justice system. However, Street Law has concerns that:

- the financial penalty for a simple drug offence is a punitive form of punishment for our clients;
- without alternative ways of discharging the penalty, people experiencing homelessness will not be diverted from the criminal justice system; and
- the Bill does not divert drug users towards treatment providers.

To address these concerns arising from the Bill, Street Law has recommended:

- A mechanism allowing for alternate ways of discharging penalties be introduced into the Bill or its Regulations;
- The ACT Government enter a MOU with the Commonwealth Government outlining how Commonwealth legislation will apply to a simple drug offence;
- The ACT Government adopt a housing first approach; and
- The ACT Government direct funds raised from the payment of infringement penalties under the Bill into funding rehabilitation services in the ACT.

Street Law thanks the Committee for the opportunity to provide a submission on this Bill. Should you wish to discuss this submission further, please contact CCL on the details below.

Kind regards

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