



Legislative Assembly for the
Australian Capital Territory

Standing Committee on Legal Affairs

Submission cover sheet

Inquiry into the Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025

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The Chair
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Dear Chair

**Submission to the Inquiry into the Civil Law (Wrongs) (Organisational Child Abuse Liability)
Amendment Bill 2025**

The Scout Association of Australia ACT Branch Inc. (Scouts ACT) welcomes the opportunity to provide input to the Standing Committee on Legal Affairs Inquiry into the Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025.

As a youth organisation committed to child safety and justice for survivors, we acknowledge the importance of legislative reform in this area. However, we hold serious concerns about the bill as currently drafted and respectfully recommend that it not proceed in its current form.

We hope our submission contributes to a balanced and constructive discussion about how best to protect children while supporting the sustainability of community-based organisations.

Thank you for considering our submission. We look forward to the outcomes of this important inquiry.

Yours sincerely,

The Scout Association of Australia ACT Branch Inc.

30 July 2025





Scouts ACT Submission to the Inquiry into the Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025

Executive Summary

The Scout Association of Australia ACT Branch Inc. (Scouts ACT) welcomes the opportunity to contribute to the Inquiry into the *Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025*. As a leading youth organisation committed to child safety, Scouts ACT supports efforts to strengthen protections for children and acknowledges the deep and lasting harm caused by child abuse within institutions, including our own.

However, we hold serious concerns about the proposed legislation and its potential to undermine the viability of volunteer-based organisations that serve young people. The bill's expanded liability provisions, encompassing individuals "akin to employees" or merely "associated with the organisation", introduce legal uncertainty and expose community organisations to significant financial and operational risk.

These provisions risk capturing individuals not formally engaged, vetted, or accountable to the organisation - such as casual volunteers, parents assisting at events, or external partners - despite our robust safeguarding protocols. The result is a framework that is legally ambiguous, operationally burdensome, and financially unsustainable. It risks deterring informal community participation, reducing volunteerism, and compromising the inclusive, community-driven nature of our programs.

Scouts ACT strongly recommends that the bill not proceed in its current form. However, should the Committee choose to advance the legislation, we urge that this only occur following:

- **A Regulatory Impact Assessment (RIA)** to evaluate the bill's financial, operational and legal implications for community organisations, in line with ACT Government best practice
- **National coordination** to ensure consistency with legal developments across jurisdictions and to avoid fragmented or conflicting liability standards
- **Consideration of alternative legal mechanisms** that strengthen child safety without imposing disproportionate burdens on volunteer-led organisations

Scouts ACT remains committed to working constructively with government and the broader community to uphold child safety. We ask the Committee to reconsider the proposed legislation and ensure that any reform protects children while preserving the inclusive, community-based frameworks that support their development.

1. Introduction

Scouts ACT welcomes the opportunity to contribute to the inquiry into the *Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025*. As a youth-focused organisation committed to child safety and continuous improvement, we support reforms that strengthen protections for children and promote institutional accountability.

However, we have serious concerns about the bill's practical implications, particularly the scope of proposed liability, and its impact on community-based, volunteer-led organisations like ours.

2. Expanding Organisational Liability to Unaffiliated Individuals Creates Significant Risk

The bill's definition of "employee" under Section 114BC includes individuals "akin to employees" and those "associated with the organisation," such as volunteers, contractors, and potentially others as prescribed by regulation. This expansive and imprecise definition risks exposing Scouts ACT to vicarious liability for the actions of individuals who:

- Are not members of our organisation
- Have not undergone child safety screening, vetting, or training
- Are not bound by our codes of conduct or child protection policies
- Are involved on a casual, incidental, or one-off basis - such as guest speakers, visiting facilitators, tradespeople, community partners, or parents helping informally

Scouts ACT takes child safety extremely seriously and has well-established safeguarding protocols for members, employees, and regular volunteers. However, this legislative shift could hold us legally responsible for individuals over whom we have little or no control - individuals who may not even know our expectations, let alone be subject to them.

It is neither feasible nor appropriate to require every person who steps onto a Scout site to complete child safety protocols and training. For example:

- A plumber repairing a bathroom
- A parent flipping sausages at a fundraiser
- A visiting musician leading a one-off workshop
- A community member sewing costumes for a performance

If these individuals are captured under the expanded definition of "associated persons," organisations like Scouts ACT would be forced to impose formal vetting and compliance processes on all such contributors, regardless of their role, duration, or risk level.

The proposed change risks fundamentally altering the character of community participation in youth programs. Informal, goodwill-based contributions, vital to the success of Scouts ACT, would become subject to formal compliance obligations, regardless of the level of risk or duration of involvement. The likely impacts include:

- A significant reduction in volunteerism
- Increased administrative burden on already stretched organisations
- Loss of community goodwill and engagement
- Reduced capacity to deliver programs
- A chilling effect on the informal, inclusive and collaborative culture that enables youth development

Volunteer-based organisations such as Scouts ACT are already under pressure to recruit and retain volunteers. If participation becomes contingent on time-consuming compliance processes, especially for low-risk, incidental involvement, many people will simply choose not to help.

3. Difficulty in Managing Risk

The bill does not provide clear boundaries or criteria for determining who is considered “associated” with an organisation. This ambiguity presents significant challenges for Scouts ACT in fulfilling our duty of care while maintaining operational clarity and legal compliance.

In particular, the lack of definitional precision makes it difficult to:

- **Identify for whom we are legally responsible:** Without a clear framework, Scouts ACT cannot reliably determine which individuals fall within the scope of organisational liability. This uncertainty extends to casual contributors, parents, external facilitators, and others who may be present at events but are not formally engaged.
- **Implement effective risk management strategies:** Risk management depends on knowing who is subject to organisational oversight. If the law does not clearly delineate who is “associated,” it becomes nearly impossible to apply consistent vetting, training, and supervision protocols. This undermines the integrity of child safety systems and increases exposure to legal risk.
- **Ensure compliance across diverse and dynamic program settings:** Scouts ACT operates in a wide range of environments, from weekly meetings and camps to large-scale productions like Gang Show. The fluid nature of participation in these settings means that contributors often vary in role, duration, and proximity to children. Without legislative clarity, applying uniform compliance measures becomes impractical and may lead to over-regulation or inadvertent gaps in protection.

The practical consequence of this ambiguity is that organisations may be forced to limit community engagement, reduce volunteer participation, or exclude informal contributors altogether. These measures, while protective, would come at the cost of accessibility, inclusivity, and program richness, undermining the very community-based model that benefits children.

In short, the bill’s failure to clearly define the scope of organisational responsibility creates a compliance burden that is disproportionate to the actual risk posed by informal or incidental involvement. It places organisations like Scouts ACT in an untenable position: either assume liability for individuals beyond their control or restrict participation in ways that diminish the quality and reach of youth programs.

4. Financial Implications and Sustainability

The broadened scope of organisational liability proposed in the bill carries significant financial implications for community organisations like Scouts ACT. If the legislation is enacted without clear boundaries or exemptions, Scouts ACT may face:

- Increased insurance premiums due to expanded liability exposure
- Higher legal costs associated with defending claims involving loosely affiliated individuals
- Additional administrative expenses to implement more rigorous vetting, training, and compliance protocols for all participants, including casual contributors
- Potential reputational damage, which could affect funding, sponsorship, and community trust

These financial pressures are not theoretical. They represent an immediate and growing threat to the viability of volunteer-based organisations like Scouts ACT. Unlike large institutions, we do not have the resources to absorb sudden increases in operational costs or legal exposure. The expansion of liability to include individuals over whom the organisation has little, or no practical control creates a serious legal and financial vulnerability.

In the absence of clear statutory boundaries, there is also a risk that community organisations may be drawn into litigation where their connection to the alleged perpetrator is minimal or incidental, simply because they are perceived as having the capacity to contribute to a settlement or judgement. Even when such claims are ultimately unsuccessful, the costs of legal defence, reputational damage, and operational disruption are substantial and potentially crippling.

This is already placing unsustainable pressure on community-based organisations. In this context, the bill's broadening of liability, while well-intentioned, risks destabilising organisations that are already deeply committed to child safety.

5. Retrospective Application and Legal Certainty

Scouts ACT notes with concern the retrospective elements of the bill, particularly:

- Section 262, which applies the new liability provisions to proceedings commenced but not yet decided; and
- Section 114J(1)(b)(iii), which allows for past abuse settlement agreements to be reconsidered if the perpetrator would now be considered an "employee" under the amended definitions.

While we acknowledge the intent to ensure justice for survivors, retrospective legislation must be approached with caution. It risks undermining legal certainty and reopening matters that were resolved under the legal standards and definitions in place at the time.

For Scouts ACT, this creates the possibility of renewed exposure to claims involving individuals who were not considered employees or formally associated with the organisation under previous law. This could result in:

- Unanticipated legal liability for historical cases
- Financial strain due to reopened claims and legal defence costs
- Reputational risk, even where the organisation acted in good faith under prior legal frameworks

Importantly, while Scouts ACT has strengthened our child safety policies and procedures in line with evolving best practice and is committed to continuous improvement, we cannot apply these changes retrospectively. Organisations can only be held accountable for the standards and controls that were reasonably available and applicable at the time.

6. National Legal Context

Scouts ACT notes that the High Court's decision in *Bird v DP* [2024] HCA 41 significantly narrowed the scope of vicarious liability to formal employment relationships. This judgment reflects a considered legal position on the limits of organisational control and responsibility, providing much-needed clarity for institutions operating in complex environments.

The ACT bill departs from this precedent by creating a broader statutory liability framework that includes individuals “akin to employees” and those “associated with the organisation.” This expansion introduces uncertainty and inconsistency into an area of law where clarity is essential.

Recent developments in other jurisdictions reinforce the need for caution. In New South Wales, the *Civil Liability Amendment (Organisational Child Abuse Liability) Bill 2025*, which sought to expand institutional liability in response to *Bird v DP*, [was defeated in June 2025](#) following concerns about legal overreach and unintended consequences. At the national level, the issue was raised at the Standing Council of [Attorneys-General in February 2025](#), reflecting growing recognition of the need for a consistent and coordinated approach to reform in this area.

Scouts ACT urges the ACT Government to prioritise national consistency and a coordinated approach. Fragmented legal obligations across jurisdictions create significant compliance challenges for community organisations, increase the risk of unintended consequences, and cause uncertainty for survivors seeking justice through clear and predictable legal processes. Diverging from established national legal standards risks confusion and uneven obligations. Scouts ACT remains committed to aligning with national legislation and best practice standards, and to upholding strong child safety frameworks across the organisation.

7. Acknowledging Historical Harm and Protecting the Future

Scouts ACT recognises the deep and lasting harm caused by child abuse within institutions, including our own. We acknowledge the pain experienced by survivors and support efforts to ensure accountability and justice.

However, we are concerned that the proposed legislative changes, particularly the expansion of organisational responsibility, may unintentionally shift the burden of past failures onto today's youth and the community organisations that serve them. The risk is that, in seeking to address historical wrongs, we create new barriers to participation, engagement, and support for children and young people.

It is essential that reforms strike a balance between recognising and responding to past harm and ensuring that current and future generations are not deprived of safe, inclusive, and enriching opportunities. We urge the Committee to consider whether the bill, as drafted, achieves this balance.

8. Recommendations

Scouts ACT acknowledges the deep and lasting harm caused by child abuse within institutions, including our own. We support efforts to ensure accountability and justice for survivors and recognise the importance of legislative reform that strengthens child safety.

However, we believe the *Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025*, as currently drafted, presents significant risks to the viability of volunteer-based organisations and may unintentionally undermine the very community structures that provide safe and enriching environments for children today.

A key concern is that the bill's broad liability provisions risk capturing individuals and relationships that fall well outside the scope of reasonable institutional responsibility. By extending liability to those "associated with" or "akin to employees," the bill introduces legal uncertainty that could encompass:

- Casual volunteers with minimal contact or oversight
- Parents assisting occasionally at events
- External contractors or community partners
- Former members or affiliates with tenuous links to the organisation

This overreach could have serious unintended consequences, including:

- Escalating insurance premiums due to expanded liability exposure
- Legal costs defending claims involving loosely affiliated individuals
- Administrative burdens from implementing complex vetting and compliance systems
- Reduced volunteer engagement, as individuals may be deterred by perceived legal risks
- Diversion of resources away from frontline child safety initiatives toward legal and risk management functions

These impacts would disproportionately affect community-based, volunteer-driven organisations like Scouts ACT, which already operate under tight resource constraints while maintaining strong child safety standards.

We respectfully recommend:

- 1. That the Bill Not Proceed in Its Current Form**

The proposed framework introduces legal ambiguity, disproportionate liability, and operational burdens that are unworkable for community organisations and risk undermining child-focused service delivery.

- 2. That a Regulatory Impact Assessment (RIA) Be Undertaken**

A formal RIA should be conducted to assess the bill's practical impacts, particularly on

volunteer-based organisations. This aligns with ACT Government best practice and would support evidence-based, proportionate reform. It could also inform the development of exemptions, safe harbour provisions, or support mechanisms to assist with compliance.

3. **That National Coordination Be Pursued**

The ACT Government should engage with other jurisdictions and the Commonwealth to ensure consistency in legal standards and avoid a fragmented approach. Divergence from High Court precedent and national trends risks confusion and uneven obligations.

4. **That Alternative Legal Mechanisms Be Explored**

Rather than expanding statutory liability in ways that may be unworkable, the Government should consider strengthening existing child safety frameworks, providing clearer guidance, and supporting organisations already committed to safeguarding children.

Scouts ACT remains committed to constructive engagement and continuous improvement. We urge the Committee to explore reforms that enhance child safety while supporting the sustainability of the volunteer-led environments that help children thrive.