



Submission cover sheet

Inquiry into the Family, Personal and Sexual Violence Legislation Amendment Bill 2025

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Standing Committee on Legal Affairs,
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Submission: Inquiry into the Family, Personal and Sexual Violence Legislation Amendment Bill 2025

To whom it may concern,

We thank you for the opportunity to a submission in relation to the Inquiry into the Family, Personal and Sexual Violence Legislation Amendment Bill 2025.

As a national organisation with more than 25 years' experience in the prevention of child sexual abuse and the support of children, young people and adult survivors, Bravehearts welcomes the opportunity to make a submission to the Inquiry into the Family, Personal and Sexual Violence Legislation Amendment Bill 2025.

Bravehearts strongly supports reforms that strengthen trauma-informed, rights-based justice responses to domestic, family and sexual violence. Children and young people experience sexual violence in distinct and profoundly harmful ways, and for many, the impacts of abuse extend into adulthood, shaping survivors' interactions with legal systems, help-seeking pathways and long-term wellbeing. Consistent with the ACT's commitment to human rights, this Bill presents a critical opportunity to improve legislative clarity, reduce re-traumatisation, enhance accountability for those who use violence, and ensure that justice responses better recognise the developmental, psychological and lived realities of both child victims and adult survivors of child sexual abuse.

Our submission focuses on how the Bill can more effectively achieve its policy objectives for children and young people at risk of, or experiencing, sexual abuse, and for adults seeking justice for harms experienced in childhood and makes recommendations to strengthen the Bill's capacity to deliver safe, accessible and trauma-informed outcomes.

Evidence (Miscellaneous Provisions) Act 1991 (EMPA)

Taken together, our comments below reaffirm the importance of: maintaining confidentiality to support victim engagement with counselling and reporting; extending protections equitably to related offences with similar harms; and incorporating trauma-informed, evidence-based safeguards where disclosure is contemplated.

Amend the protected confidences immunity to allow the counselled person to consent to the disclosure of protected confidence evidence in civil proceedings, thereby waiving the immunity.

Caution: *While consent may seem to empower the individual, in practice victims (especially children or vulnerable adults) may feel pressured to waive confidentiality, potentially exposing them to retraumatisation.*

Recommendation: *Any provision allowing waiver should include strict safeguards — for example, independent legal advice for the person whose confidence is disclosed, and a court assessment of voluntariness. Emphasize that waivers should not be assumed or automatic.*

The proposed amendment to allow a counselled person to consent to the disclosure of protected confidence evidence in civil proceedings raises significant concerns from a trauma-informed and victim-centred perspective.

Confidentiality is a foundational component of therapeutic relationships, and the assurance that disclosures made in counselling will remain private is central to a victim's willingness to seek help (e.g., protected counselling communication privilege as articulated in current evidentiary schemes). Research underscores that victims of sexual violence and family violence frequently experience retraumatisation when their private disclosures are made subject to adversarial scrutiny (Bluett-Boyd & Fileborn, 2014). Consent to waive confidentiality in civil proceedings, particularly where power imbalances exist, can be compromised by pressure, fear of legal consequences, or misunderstanding of legal rights; therefore, any provision permitting such a waiver must include strict safeguards including court oversight and mandatory independent legal advice to ensure that consent is informed, voluntary, and contextualised within a trauma-informed framework.

Clarify that the protected confidences immunity applies in all proceedings where protected confidence evidence is sought to be disclosed, per the original intention of the scheme.

Support: *This aligns with the original intention to protect victims and maintain trust in counselling relationships.*

Rationale: *Consistency across proceedings prevents the erosion of confidentiality protections, which are crucial for victims of sexual abuse to feel safe seeking counselling.*

It is equally important to affirm that protected confidences immunity should apply consistently across all proceedings in which evidence of confidential therapeutic communications is sought, preserving the original intention of these protections to encourage victims to engage with counselling without fear that their disclosures will be accessible in legal contexts. The policy rationale for these immunities is well grounded in evidence suggesting that confidentiality protections can reduce barriers to reporting and treatment after sexual violence, thereby supporting both individual recovery and effective legal processes (Australian Law Reform Commission, 2010).

Clarify that in deciding whether to give leave for the disclosure of a protected confidence, the court needs to consider the impact on victims of family violence offences as well as victims of sexual violence offences.

Strong support: *This ensures the law recognises the trauma and ongoing risk to all victims of violence, not just sexual abuse victims.*

Rationale: Family violence victims face similar risks of retraumatisation and safety concerns; including them reinforces equitable protection and trauma-informed judicial processes.

Clarifying that courts must consider the impact on victims of both family violence and sexual violence when deciding whether to grant leave for the disclosure of a protected confidence is also critical. Sexual violence victims endure complex trauma that can be exacerbated by legal processes that do not recognise their specific needs for safety and privacy; qualitative research with family and intimate partner violence survivors highlights the value of trauma-informed legal approaches that prioritise support, belief, and minimisation of additional harm during court involvement (Bradshaw, Gutowski & Nyenyezi, 2024). Ensuring that decision-makers explicitly assess impacts on both groups aligns with best practice, promotes equitable protection, and reinforces a justice system sensitive to the nuanced experiences of different victim populations.

Provide that the protections which apply in sexual offence proceedings under Chapter 4 of the EMPA are also to apply to proceedings for intimate image abuse offences under Part 3A of the Crimes Act 1900 (Crimes Act).

Strong Support: Intimate image abuse is often a continuation of sexualized abuse and carries significant trauma risks. Equal protections for victims are critical to prevent revictimisation and protect privacy.

Emerging research demonstrates that image-based sexual abuse (IBSA) is a prevalent form of non-consensual intimate image distribution with significant psychological and social harms for victim-survivors, supporting the need to extend existing protections (including privacy and disclosure safeguards) to intimate image abuse offences. Large-scale studies indicate that a significant proportion of individuals experience non-consensual intimate imagery abuse with profound psychological and social impacts, including shame, anxiety, and barriers to seeking support (Umbach, Henry, & Beard, 2025; Qiwei et al., 2025). Extending analogous protective measures acknowledges the severity of these harms, treats intimate image abuse within the broader spectrum of sexual violence, and helps ensure that victims are not re-traumatised by legal disclosures that undermine their privacy.

Facilitate the return of audio copies of recorded statements made in relation to a family violence offence proceeding where they are provided to a self-represented accused person

Caution: While access to evidence supports procedural fairness for self-represented accused, there must be careful consideration to protect victim safety and privacy.

Recommendation: If implemented, safeguards should ensure the material is used solely for court preparation and does not increase risk to the victim (e.g., controlled access, redaction, or supervised viewing).

While procedural fairness for accused persons is an important consideration, trauma-informed research highlights the risk that sensitive material may be misused in ways that intimidate or retraumatise victims (Bluett Boyd & Fileborn, 2014). Any provision of such material should therefore be accompanied by safeguards to ensure it is used solely for court preparation and does not increase risk to the victim. Materials should not be retained, and should involve supervised access, redaction of identifying information, and ongoing judicial oversight. These steps balance procedural fairness for the accused with the protection of victim-survivors, in line with trauma-informed legal practices.

Crimes (Sentencing) Act 2005 (CSA)

Amend the CSA to prevent any reduction of the severity of sentences for all sexual offences against children because of an offender's 'good character'.

Strong support: *This amendment ensures that sentencing for sexual offences against children reflects the severity of the crime and the harm caused to victims, rather than the social standing, reputation, or perceived "good character" of the offender.*

Rationale: *Child sexual abuse causes profound, long-term psychological, social, and developmental harm. Allowing reductions based on "good character" minimizes the seriousness of the offence, risks retraumatizing victims, and may perpetuate systemic bias favouring socially privileged offenders. Removing such discretion aligns sentencing with research evidence on the enduring impact of child sexual abuse and promotes accountability, fairness, and public confidence in the justice system.*

The proposed amendment to prevent any reduction in sentence severity on the basis of an offender's "good character" is strongly supported. Allowing "good character" reductions fails to recognise these harms and undermines principles of accountability and justice. Eliminating this discretionary reduction ensures that sentencing reflects the gravity of the offence and the harm to the child, rather than the offender's social status, thereby upholding both victim protection and public confidence in the justice system.

Recent research indicates that sexual offences against children tend to be recognised by courts as particularly severe and sentencing practices that allow reductions based on an offender's "good character" risk diminishing that severity, despite the profound and enduring harm these crimes cause (Davis & Font, 2025; Walters, 2025). National reviews of child sexual abuse legislation also emphasise the need for legal responses that prioritise the lived experience of victims and protect children's rights to justice (Dowling et al., 2024). Recent policy research from the Queensland Sentencing Advisory Council further supports limiting the mitigating weight of good character evidence in sexual assault and rape sentencing (Queensland Sentencing Advisory Council, 2025).

Family Violence Act 2016 (FV Act) and Personal Violence Act 2016 (PV Act)

Establish the Family Violence Safety Notice Scheme (FVSN) Scheme to enable police officers to issue short-term protection notices where immediately necessary.

Qualified support: *This amendment strengthens the capacity for immediate protective intervention where children are at risk of sexual or family violence, provided it is implemented with robust child-centred and trauma-informed safeguards.*

Rationale: *Child sexual abuse frequently occurs in contexts of coercive control and ongoing risk, where delays in protection can result in continued harm. Empowering police to issue short-term safety notices can provide an essential window of safety for children and non-offending caregivers. However, without clear guidance on identifying child sexual abuse, prioritising child safety, and linking notices to longer-term protections, the scheme risks offering temporary or illusory protection rather than meaningful safety.*

The establishment of a Family Violence Safety Notice Scheme that enables police to issue short-term protections where immediate danger is apparent should be supported only if embedded within a trauma-informed legal framework that prioritises child safety and minimises re-traumatisation. Research consistently highlights that children exposed to family violence, including child sexual abuse, experience profound and long-lasting

psychological harm when protective responses are delayed or ambiguous. Protection notices can serve a critical preventative role by providing immediate safeguards for children at risk; however, they must be accompanied by clear protocols to identify the primary aggressor and avoid misapplication of notices against victim-survivors, a documented risk in civil protection order systems (Reeves, 2020). Moreover, the scheme should explicitly recognise the intersections of domestic and child sexual abuse, ensuring that short-term notices trigger rapid connection with specialised support services and longer-term protections where sexual harm is alleged or suspected (Standing Committee on Social Policy and Legal Affairs, 2025; Dowling et al., 2018). Without these trauma-informed safeguards, on-the-spot notices alone risk providing a false sense of security and could inadvertently extend children’s exposure to harm.

Delay the statutory review of the FV Act to align with the statutory review to be undertaken into the operation and effectiveness of the FVSN provisions.

Do not support: *This amendment risks postponing urgently needed scrutiny of laws that directly affect the safety and wellbeing of children who experience sexual abuse within family contexts.*

Rationale: *Timely legislative review is critical to ensuring that family violence laws reflect contemporary understanding of child sexual abuse, trauma, and risk. Delaying review may entrench existing gaps and procedural failures that already undermine child protection and victim-survivor confidence in the justice system. Administrative alignment should not outweigh the need for prompt reform where children’s safety is at stake*

Delaying the statutory review of the Family Violence Act to align with the FVSN review raises serious concerns from the perspective of child sexual abuse victim-survivors. Legislative reviews are a vital mechanism for identifying systemic barriers to victim safety, including how well current protections address the co-occurrence of family violence and child sexual abuse (Standing Committee on Social Policy and Legal Affairs, 2025; Dowling et al., 2024). Evidence shows that family violence protections, when not routinely examined and updated, can become outdated and may fail to reflect contemporary understanding of risk and trauma (Reeves, 2020). Delays in review perpetuate institutional inertia, exacerbating what advocates describe as “confusing, costly and re-traumatising” systems that trap victim-survivors and their children in process and risk (ABC News, 2025). From a trauma-informed perspective, review processes should not be deferred purely for administrative alignment; rather, they must proceed expeditiously so that gaps — especially those that impact children’s safety and psychological recovery — are addressed promptly.

Simplify and streamline proceedings regarding family violence orders (FVOs) and personal violence orders (PVOs) by: i. Clarifying the status of Interim FVOs and PVOs made by a Registrar where a review of a Registrar’s decision is sought.

Strong support: *This amendment reinforces the protective purpose of interim orders by ensuring they remain effective while review processes are underway.*

Rationale: *Uncertainty about the enforceability of interim protection orders can be exploited by perpetrators, placing children at heightened risk of further abuse, intimidation, or coercion. Clear confirmation that interim orders remain in force unless expressly set aside prioritises child safety, reduces opportunities for systems abuse, and ensures that procedural delays do not undermine protective outcomes*

Clarity that interim protection orders remain in force while a review is sought is essential to safeguarding child sexual abuse victims and their non-abusive caregivers. Research on protection orders notes that ambiguity about their status can significantly reduce their deterrent effect and leave victim-survivors exposed to ongoing threats during legal processes (Dowling et al., 2018; Taylor et.al., 2017). From a trauma-informed justice perspective, the certainty of ongoing protection (without penalties for procedural delays) is not only legal best practice but also a psychological necessity for children whose safety and wellbeing depend on consistent enforcement of protective conditions. Ensuring interim orders remain operative unless and until lawfully set aside respects the protective intent of family violence legislation and aligns with international evidence on effective protective legal frameworks.

Simplify and streamline proceedings regarding family violence orders (FVOs) and personal violence orders (PVOs) by: ii. Clarifying that a person does not need to physically attend court to meet any requirement under the Act they are ‘present’, and that a person may be ‘present’ if they appear in court via remote technology.

Strong support: *This amendment improves accessibility and safety for child sexual abuse victim-survivors and their caregivers engaging with court processes.*

Rationale: *Court attendance can be highly distressing and re-traumatising for children and protective adults, particularly where alleged perpetrators are present. Recognising remote participation as ‘presence’ reduces fear and barriers to engagement, supports trauma-informed justice, and enables victim-survivors to participate in proceedings without compromising safety or wellbeing.*

Clarifying that a person may be considered ‘present’ in court via remote technology is strongly supported, especially for cases involving child sexual abuse where face-to-face proceedings can re-traumatise children and caregivers alike. Contemporary research affirms that trauma-informed approaches in legal settings (including remote engagement options) reduce stress and barriers to participation for victim-survivors without compromising procedural fairness (Standing Committee on Social Policy and Legal Affairs, 2025). Remote attendance empowers children and non-abusive adults to participate in protective order processes safely, reduces the risk of re-exposure to their alleged abuser within court spaces, and increases accessibility for families who might otherwise be prevented from engaging due to fear, geographic barriers, or caregiving responsibilities. It is imperative that the Act also guards against coercive pressure to choose remote participation when in-person presence may be safer or more appropriate.

Resolve inconsistencies and ambiguities regarding the service requirements for FVOs and PVOs by: i. Clarifying that it is an offence for a person to breach an interim and final FVO or PVO served in accordance with the Act, including where served by substituted service.

Strong support: *This amendment strengthens the enforceability and deterrent effect of protection orders, which is essential for child safety.*

Rationale: *Ambiguity around service requirements can undermine the effectiveness of protection orders and be exploited to avoid accountability. Ensuring that breaches apply regardless of lawful service method reinforces that responsibility for compliance lies with the respondent, not the victim, and affirms the seriousness of conduct that places children at risk.*

Protection orders must be enforceable to have real deterrent and protective effects. Research indicates that when abusers perceive procedural loopholes (such as technical

defects in service) they exploit those gaps to continue abusive behaviour, placing children at persistent risk (Taylor et.al., 2017; Dowling et al., 2018). Enforceable breach provisions reinforce accountability for perpetrators and affirm the legal recognition of harm, which is a core component of both victim-centred justice and public safety frameworks.

Resolve inconsistencies and ambiguities regarding the service requirements for FVOs and PVOs by: ii. Clarifying that the original applicant must be served with a copy of the amendment application and either a timing notice or a notice of the return date, if the original applicant for a FVO or PVO is not an applicant for the amendment of a protection order.

Conditional support: *This amendment supports procedural fairness but must be implemented with safeguards to protect child victims and non-offending caregivers.*

Rationale: *While ensuring that affected parties are informed of amendment applications is important, service processes must not expose victims to further intimidation or coercion. In cases involving child sexual abuse, service requirements should be designed to prioritise safety, minimise re-traumatisation, and support informed participation without increasing risk to children or their caregivers.*

Clarifications that require service of amendment applications on original applicants are supported insofar as they ensure procedural fairness and protect the participatory rights of victim-survivors. However, such measures must be balanced against the risk of further intimidation or contact with perpetrators, especially in cases involving child sexual abuse. Trauma-informed legal processes emphasise that victim-survivors' engagement with the justice system must be safe, informed, and free from coercion or further harm. Accordingly, service provisions should be designed to protect children and caregivers from additional stress or manipulation while preserving their right to be informed and involved in proceedings that affect their safety.

Additional Recommendations

1. Embed child-centred and developmentally informed principles across the Bill:
 - Ensure all legislative amendments explicitly recognise children and young people as rights-holders with distinct developmental needs, vulnerabilities and capacities, consistent with the ACT Human Rights Act and the best interests of the child.
2. Strengthen trauma-informed justice responses for child victims and adult survivors of child sexual abuse
 - Amend provisions to minimise re-traumatisation, including through simplified procedures, protective measures, and recognition of the long-term impacts of child sexual abuse on memory, disclosure, and engagement with legal processes.
3. Improve legislative clarity regarding sexual violence against children within family and personal violence frameworks
 - Clarify how sexual abuse of children is captured and responded to within DFSV laws, including where abuse occurs in familial or caregiving contexts, to ensure consistent interpretation and application across justice, child protection and support systems.
4. Enhance accountability mechanisms for persons who use sexual violence against children and young people

- Strengthen mechanisms that hold perpetrators to account while prioritising victim safety, recognising power imbalances in child sexual abuse, and avoiding placing the burden of proof on children or survivors.
- 5. Recognise and support adult survivors of child sexual abuse within DFSV responses
 - Ensure adult survivors can access protection, recognition and justice for abuse experienced in childhood, with legislative responses that are flexible and responsive to delayed disclosure and lifelong trauma.
- 6. Promote integrated, cross-system responses for children and young people experiencing sexual abuse
 - Encourage coordination between courts, police, child protection, health and specialist sexual assault services to reduce system fragmentation and improve outcomes for children and families.
- 7. Provide culturally safe and inclusive responses for First Nations, CALD, and GSD victims
 - Ensure First Nations victims have access to justice responses that respect cultural obligations, connection to community, and the intergenerational impacts of trauma.
 - Ensure CALD victims receive linguistically accessible information, interpreter services, and culturally responsive support.
 - Ensure GSD victims are explicitly included in protections, with recognition of the additional risks, barriers, and discrimination they may face in reporting and accessing services.
- 8. Ensure implementation is supported by specialist training and guidance
 - Accompany legislative reform with mandatory, ongoing training for judicial officers, legal practitioners and frontline responders on child sexual abuse, trauma-informed practice, and working with both child victims and adult survivors, including cultural competence and inclusive practice for First Nations, CALD, and GSD communities.

We thank the Standing Committee on Legal Affairs for the opportunity to provide this submission. Please contact us on research@bravehearts.org.au should you have any questions relating to our submission.

Kind Regards,

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