



Submission cover sheet

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

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Submitter: Survivors and Mates Support Network

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SURVIVORS & MATES SUPPORT NETWORK

**Submission to the Standing Committee on
Legal Affairs, ACT Legislative Assembly;
*Inquiry into the Family Personal and Sexual
Violence Legislation Amendment Bill 2025***

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Background

SAMSN is the only specialist service in Australia dedicated to assisting male survivors of child sexual abuse (CSA), their families and supporters. SAMSN is a NSW Redress Support Service funded by the Commonwealth Department of Social Services. This funding enables SAMSN to provide access for male survivors to specialist trauma-informed and culturally appropriate support as they engage with the National Redress Scheme. This funding also enables SAMSN to capacity build Redress Support Services in New South Wales, South Australia and Tasmania.

SAMSN is funded by NSW Health, NSW Department of Communities and Justice and receives Commonwealth funding as Redress Support Service, as noted above.

SAMSN is survivor led and believes male survivors can heal from child sexual abuse, support others to thrive and be leaders for change. Over the past fifteen years SAMSN has been offering programs and services for victim-survivors and their supporters, together with training, community engagement, advocacy, and research work. The services SAMSN provides are based on SAMSN's model of professionally facilitated peer support.

Combining lived experience and professional expertise, SAMSN has established itself as an essential service that is in high demand. Details of the programs offered by SAMSN [can be found here](#).

SAMSN also provides tailored training to health professionals, community organisations and government departments who are supporting people impacted by CSA.

SAMSN is grateful for the opportunity to respond to the Inquiry into the Family, Personal and Sexual Violence Legislation Amendment Bill 2025. SAMSN notes that while the amending legislation seeks to amend seventeen pieces of legislation, SAMSN's expertise relates to the proposed amendments to some of the sections in two of those pieces of legislation, being the *Crimes (Sentencing) Act 2005* (CSA) and the *Evidence (Miscellaneous Provisions) Act 1991* (EMPA).

Submission in relation to proposed amendments to the *Crimes (Sentencing) Act 2005 (CSA)*

The current legislation in the ACT states that good character evidence can be introduced to mitigate the sentence of a child sexual abuse offender except in situations where the offender's good character enabled the offender to commit the offence.

In May 2024, SAMSAN raised concerns about the impact of this legislation, in that the legislation in its current format:

- Fails to acknowledge that grooming is a criminal offence.
- Allows for two classes of victims/survivors - those abused by someone who was a community leader compared to those victim/survivors abused within a family, where it was the relationship to the offender that was allegedly the enabler of the abuse.
- Allows for two classes of offenders – those who offended within an institution or community context and those who abused within a family or family like relationship.

SAMSAN knows from its clients that what victim/survivors are looking for from the criminal justice system is:

- Validation – that they are believed; and
- Vindication – the condemnation of the Court for what has happened.

Furthermore, in situations where good character is allowed by courts (where the court is satisfied that the good character of the offender was not of assistance in the offence) the victim/survivor must hear what a 'good person' their offender has otherwise been, reinforcing their feelings of shame and guilt. Many of SAMSAN's clients have told us that the severity of the crime has been diminished by these references, leaving them feeling they were not believed and were somehow partly to blame.

By prohibiting any consideration of ‘good character’ during the sentencing for all child sexual abuse matters, the proposed amendment addresses the concerns SAMSAN has raised and ensures that all child sexual abuse offenders regardless of their relationship status to the victim/survivor will be treated in the same way. It is noted, that Section 34A(b) of the *Crimes (Sentencing) Act 2005* under the proposed amendment will read:

34A Sentencing—sexual offences against children

For a sexual offence against a child, a court—

- a) must sentence the offender in accordance with sentencing practice, including sentencing patterns, at the time of sentencing; and
- b) must not reduce the severity of a sentence it would otherwise have imposed on an offender because the offender has ‘good character’.

SAMSAN would like to acknowledge the important advocacy of Harrison James, Jarad Grice and Josh Byrnes in promoting the need for this amendment.

Submissions in relation to the *Evidence (Miscellaneous Provisions) Act 1991 (EMPA)*

Intimate image abuse

SAMSAN notes the proposed amendment of Section 41(a) of the EMPA will expand the definition of ‘sexual offence’ for this Act, to include Part 3A of the *Crimes Act 1900* being intimate image abuse. SAMSAN is becoming increasingly aware of young men in their late teens and early 20’s who are victims of intimate image abuse. SAMSAN is also aware of victims of this abuse who have died by suicide. The inclusion of Part 3A in this Act in the definition of ‘sexual offence’ acknowledges the importance of this new type of offending.

Protection of counselling communications

SAMSAN is pleased to see the relocation of Division 4.4.3 ‘Sexual and family violence offence proceedings – protection of counselling communication’ from Chapter 4 of the

EMPA to a new Chapter being Chapter 6B, with a new heading ‘Protection of counselling communications about sexual and family violence’.

The relocation and renaming ensure the immunity provided for protected counselling communications will apply to all proceedings, not just sexual offence proceedings. This recognition by the legislature, is very important, showing as it does an understanding of the pervasiveness of requests made by defendants in different proceedings, for counselling notes/communications related to sexual and family violence.

Waiver of the protected confidence immunity in civil proceedings

The amendment in relation to the waiver of the protected confidence immunity in civil proceedings is significant. However, SAMSAN accepts that the comments made by the ACT Supreme Court in *BJT v. Australian Capital Territory* [2025] needed to be addressed.

The proposed amendment of section 79J (and section 79D(2)) states subject to certain conditions being met, this section will not prevent the production, inspection and use of protected confidence evidence in civil proceedings.

SAMSAN has advocated for many years that the protected counselling immunity needs to be available in criminal and civil proceedings. Over the years, especially more recently with the increase in civil proceedings related to historical child sexual abuse claims, SAMSAN has received many subpoenas from defendant’s representatives for client’s files. In states where this immunity does not exist for civil proceedings, SAMSAN has seen the distress the handing over of files causes plaintiff victim/survivors.

However, SAMSAN also recognises that the ACT Supreme Court has raised specific concerns about this immunity being available in civil proceedings. Given these circumstances SAMSAN is pleased to see the very detailed conditions in section 79J(1) to be met before the counselled person (including where the counselled person is under 14) can provide consent to the use of this evidence.

In relation to section 79J(c)(ii), SAMSAN would suggest that the reference to legal advice be strengthened by changing ‘seek’ to ‘obtain.’ The sub-section would then read

(ii) has been given a reasonable opportunity to obtain legal advice in relation to consenting to the production, inspection or use of the evidence.

This proposed change of wording would help people to whom this section applies, realise that this is an important legal issue; that they may be consenting to something that may have significant ramifications to their wellbeing.

Conclusion

SAMSN acknowledges the important work done by the legislature in making amendments to the *Crimes (Sentencing) Act 2005* and the *Evidence (Miscellaneous Provisions) Act 1991*. The changes SAMSN has commented on, reflect the expectations of victim/survivors and their families, that the justice system will be as trauma-informed as possible; that they will not be subjected to institutional abuse at the hands of the justice system.