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The Justice and Community Safety Committee
ACT Legislative Assembly
Canberra ACT 2601

Via email: LACommitteeJCS@parliament.act.gov.au

Dear Committee,

Family Violence Legislation Amendment Bill 2022

Thank you for inviting feedback on the Family Violence Legislation Amendment Bill 2022. The ACT Council of Social Services (ACTCOSS) welcomes the opportunity to speak on this matter.

ACTCOSS is largely supportive of the Bill. We believe it will help reduce the serious harm that family and domestic violence inflicts on survivors, families, and the broader community.

Limiting cross-examination on the contents of Victim Impact Statements will have a positive effect and minimise the potential for re-traumatisation of survivors. Similarly, the extension of counselling protections already available in sexual violence cases to family violence offence proceedings is welcome.

ACTCOSS also welcomes the change of the name of the offence of 'sexual relationship with a child or young person under special care' to 'persistent sexual abuse of child or young person under special care'. It is important to recognise abuse as a serious misuse of power, rather than a relationship.

It is also appropriate to include certain family violence offences into the schedule of disqualifying offences in the *Working with Vulnerable People (Background Checking) Act 2011*.

ACTCOSS strongly supports the legislative requirement that the *Family Violence Act 2016* be reviewed every three years. The nature of family violence can shift as cultural norms shift (as, for example, with technologically facilitated abuse) and it is

important that legislation remains responsive. Further, we must ensure that the legislation is working as intended: to reduce prevalence of domestic and family violence and provide support to survivors as they navigate legal recourse.

While no one deserves to experience the horror and life-long damage of family violence, ACTCOSS does not believe the introduction of higher maximum penalties for certain offences will have a measurable deterrent effect.

There is substantial evidence that severity of punishment has negligible effect on possibility of reoffending or rehabilitation.ⁱ Introducing the aggravated offence scheme risks increasing the length of time people spend behind bars with no real therapeutic or rehabilitative value, especially given that rehabilitative programs for family violence offenders in the Alexander Maconochie Centre are currently limited.

We are concerned that this provision will lead to increased incarceration of Aboriginal and Torres Strait Islander people. Indigenous people are more likely to receive harsher sentences and less likely to receive bail and that pattern would likely be repeated here.

Recent research in Queensland showed that a disproportionate number of Aboriginal and Torres Strait Islander people are named on domestic violence protection orders (DVOs) and are significantly more likely to receive a sentence of imprisonment for a contravention of a DVO compared to non-Indigenous people. Aboriginal women are particularly overrepresented in this system.ⁱⁱ

Given the ACT Government's commitment to reducing the number of Aboriginal and Torres Strait Islander people in the criminal justice system, we would caution against the use of expanded sentencing for family violence. Rather we recommend additional investment in family violence rehabilitation programs alongside culturally appropriate and safe restorative justice processes.

We appreciate the consultation the Committee is doing with the community sector on this issue. Please feel free to contact me on the details below, or on (02) 6202 7200 to discuss further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Adam Poulter', with a long horizontal stroke extending to the right.

Adam Poulter
Deputy Chief Executive Officer

Email: adam.poulter@actcoss.org.au

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- ⁱ Nagin, D. (2013), 'Deterrence in the Twenty-First Century' *Crime and Justice*, Vol 42(1), pp. 199-263.
- ⁱⁱ Douglas, H., Fitzgerald, R. (2018) 'The domestic violence protection order system as entry to the criminal justice system for Aboriginal and Torres Strait Islander people' *International Journal for Crime, Justice and Social Democracy*, Vol 7(3), pp. 41-57.