

Law Reform Family Violence Legislation Amendment Bill 2022

This report has been written as if the bill has been passed and proposed changes to the relevant Legislation have begun.

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Acknowledgement of Country

XYZ Legal Service acknowledges and pays respect to the past, present and future Traditional Custodians and Elders of this nation and the continuation of cultural, spiritual and educational practices of the Aboriginal and Torres Strait Islander peoples.

Introduction

In March 2022 the Family Violence Legislation Amendment Bill 2022 was passed.¹ The changes to the relevant Legislation are set to begin on the 1st July 2022. In this report we take a further look at these changes & what they mean for XYZ, our clients and the local community. It is important that all staff at XYZ remain upto date and understand any changes to legislation in the ACT.

¹ ACT Government, *Family Violence Legislation Amendment Bill 2022*, https://www.legislation.act.gov.au/b/db_65584

Relevant Legislation

Crimes Act 1900

Crimes (Sentencing) Act 2005

Evidence (Miscellaneous Provisions) Act 1991

Family Violence Act 2016

Working With Vulnerable People (Background Checking) Act 2011

Crimes Act 1900²

Changes to the Crimes Act are as follows (short versions)

New section 9A *Meaning of aggravated offence - part 2.*

Sections 15(3), 19(2), 20(2), 23(2), and 24(2), note.

Section 26(2) *Common Assault* - new maximum penalty for an aggravated offence is imprisonment for 3 years.

Section 27(3) *Acts endangering life etc* - maximum penalty for an aggravated offence is imprisonment for 13 years, in any other case the maximum remains at 10years.

Section 28(2) *Acts endangering health etc* - maximum penalty for an aggravated offence is imprisonment of 7 years, in any other case the maximum remains at 5 years.

² Crimes Act 1900 (ACT).

Crimes (Sentencing) Act 2005³

New section 51A, *victim impact statements - adjournment of proceeding to allow preparation*.
Sections 53(3) & (4), amended

Evidence (Miscellaneous Provisions) Act 1991⁴

Section 38(2) Amended
Section 43 Amended
Table 4.3.1, item 1, column 3, New insert
Part 4.4 Heading
Division 4.4.3 Heading
Section 79A(1), Changes to meaning of protected confidence.
Section 79A(2) amended
Section 79A(5) new definition of family violence
Sections 79K & 79L, Amended
New chapter 6A, *victim impact statements*.

³ Crimes (Sentencing) Act 2005 (ACT).

⁴ Evidence (Miscellaneous Provisions) Act 1991 (ACT).

Dictionary, updated definitions.

Family Violence Act 2016⁵

New section 8(2)(f), meaning of family violence

Ne3w section 156

Dictionary, new definitions

Working with Vulnerable People Act⁶

Class A, *disqualifying offences*, amended.

Class B, amended

Other acts consequently amended;

Children and Young People Act 2008⁷

Section 246, definition of privileged, paragraph (b)

Crimes (Child Sex Offenders) Act 2005⁸

Schedule 1, part 101, item 12, amended

Evidence Act 2011⁹

Section 126F(3), except note, amended

Sex Work Act 1992¹⁰

Schedule 1, item 16, updated

Supreme Court Act 1933¹¹

Schedule 2, part 2.2, item 12, amended.

The passing of the bill ,& above changes to legislation, has introduced harsher penalties for some offences when committed in a family violence context. These changes also aim to improve access to justice for survivors of family violence.¹²

There is potential, however, for these legislative changes to contribute to further overrepresentation of Indigenous peoples, as well as those with underlying mental health, addiction,homlessness & general health issues.¹³ It is of high importance that all members of XYZ understand these changes and the potential implications they may have on the Justice System as a whole.

⁵ Family Violence Act 2016 (ACT).

⁶ Working With Vulnerable People (Background Checking) Act 2011 (ACT).

⁷ Children and Young People Act 2008 (ACT).

⁸ Crimes (Child Sex Offenders) Act 2005 (ACT).

⁹ Evidence Act 2011 (ACT).

¹⁰ Sex Work Act 1992 (ACT).

¹¹ Supreme Court Act 1933 (ACT).

¹² Legislative Assembly for the Australian Capital Territory, Inquiry into Family Violence Legislation Amendment Bill, 14th April 2022.

<https://www.parliament.act.gov.au/parliamentary-business/in-committees/committees/jcs/inquiry-into-family-violence-legislation-amendment-bill-2022#tab1949125-2id>

¹³ ACT Council of Social Service (ACTCOSS), submission to Justice and Community Safety Committee, Act Legislative Assembly, 2022.https://www.parliament.act.gov.au/_data/assets/pdf_file/0007/1967380/Submission-2-ACT-Council-of-Social-Service.pdf

Impact on Clients, the Organisation and the local Community

XYZ is now facing a range of challenges when it comes to representing clients who may be convicted under the above changes. This may include, but is not limited to, longer hours, heavier workload, higher rate of lack of engagement from clients, further difficulties gaining clients trust in the Legal system, the need to implement further training & programs surrounding the changes, and potential increase in poor mental health of staff dealing with clients facing these charges.

All clients, facing higher penalties under the legislative changes, are at risk of facing heavy time incarcerated & as we know, this will impact not only on the client, but also their families and communities, particularly Aboriginal and Torres Strait Islander peoples. The flow on effect of any length of imprisonment is felt heavily throughout families and their local communities.

Suggested Changes

We strongly encourage the implementation of training sessions to familiarise staff with the changes, as well as distribution of flyers and emails within the workplace. We encourage staff to reach out to their supervisor or the practice manager to express any concerns or issues that may arise. We acknowledge that workload is extremely high and commend all staff for their continued support of XYZ and our clients, past, present and future, as well as their dedication to providing high levels of service. Clients need to be aware of the potential consequences, we suggest that emails & flyers are sent out to any clients in our system that have been before the court with a matter that falls under the changes. We also suggest a community open day to go over all areas of criminal and family law that have been changed over the past 12 months, to give an opportunity for the community to be up to date & to put forward any questions or concerns.

Lastly we strongly urge the XYZ board, put in a submission to the Justice and Community Safety Committee, outlining concerns surrounding increased penalties, as it will only further negatively impact on the justice system. The main priority should be rehabilitation and reintroduction into the community. Spending longer amounts of time incarcerated has a very negative impact on rehabilitation.

Conclusion

There is non denying that the ACT Government is taking positive steps towards attempting to discourage family violence through legislative changes. However, we cannot help but be concerned of the negative impacts these changes will have on our organisation, clients & the community.

It is highly important that everyone within our organisation, as well as other services we liaise with, are upto date with any legislative changes that may impact on our business, clients & the community as a whole. These changes will also mean that we will have to look at other preventative measures that can be taken within our community. We are open to any feedback and suggestions from our members.

Bibliography

Articles/Journals/Websites

ACT Council of Social Services (ACTCOSS), submission to Justice and Community Safety Committee, *Inquiry into Family Violence Legislation Amendment Bill 2022*. 2022. https://www.parliament.act.gov.au/data/assets/pdf_file/0007/1967380/Submission-2-AC T-Council-of-Social-Service.pdf

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Legislation

Children and Young People Act 2008 (ACT)

Crimes Act 1900 (ACT)

Crimes (Child Sex Offenders) Act 2005 (ACT)

Crimes (Sentencing) Act 2005 (ACT)

Evidence Act 2011 (ACT)

Evidence (Miscellaneous Provisions) Act 1991 (ACT)

Family Violence Act 2016 (ACT)

Sex Work Act 1992 (ACT)

Supreme Court Act 1993 (ACT)

Working With Vulnerable People (Background Checking) Act 2011 (ACT)