

Submission on Behalf of Her Story Mparntwe

**Re: Domestic and Family Violence and Victims Legislation Amendment Bill 2025
(Serial 22)**

To: Secretary, Legislative Scrutiny Committee

From: Her Story Mparntwe

Date: 3 April 2025

Her Story Mparntwe, based in Mparntwe /Alice Springs, is dedicated to empowering women, children, and gender-diverse individuals by addressing discrimination and preventing domestic, family, and sexual violence (DFSV). Her Story works alongside other Centralian and national organisations to design and deliver programming, evaluate existing programs, develop meaningful participatory action research projects that build the Territory evidence base and advocate for evidence-based approaches to addressing and preventing DFSV. Notable projects include the "Jealousy Project" in collaboration with World Vision Australia and the Lajamanu community, which aims to understand and address the impact of jealousy on relationships in remote Aboriginal communities; "U Right Sis? Staying Safe Online" program which delivers in-person workshops and co-produces culturally and contextually relevant resources to empower First Nations communities to identify and respond to technology-facilitated abuse; the "Girls Can Boys Can and Future Yawes Evaluation," focusing on promoting gender equality and respectful relationships among Aboriginal youth in Central Australia; and the "Men's Behaviour Change Peer Support Evaluation" that examines the impact of peer educators in a men's behaviour change context.

The following submission responds to the proposed *Domestic and Family Violence and Victims Legislation Amendment Bill 2025* (Serial 22), with a particular focus on the introduction of mandatory sentencing for breaches of Domestic Violence Orders (DVOs) under Section 122.

1. NT incarceration rates are the highest in the country and among the highest globally

The Northern Territory already experiences extreme levels of incarceration. As of 2024, more than 1% of the NT population is in prison. If the NT were an independent nation, its imprisonment rate would rank second in the world after El Salvador¹. The NT's prison system is over capacity, and any additional influx of prisoners would further exacerbate this pressure.

2. Mandatory sentencing has been tried before—and failed

Mandatory sentencing has not demonstrated effectiveness in reducing DFSV recidivism in the Northern Territory. Comparative studies show that individuals receiving short custodial sentences exhibit similar reoffending rates as those given suspended sentences. For instance,

¹ <https://www.theguardian.com/australia-news/2025/jan/09/northern-territory-prison-population-watch-houses#:~:text=There%20were%20%2C613%20people%20locked,the%20population%20is%20behind%20bars>

Trevena and Poynton (2016) found one-year recidivism rates of 20.3% across both cohorts, with three-year rates at 34.2% for suspended sentences and 32.3% for imprisonment. Furthermore, data indicate significant disparities based on ethnicity. Indigenous offenders face recidivism rates of up to 45% over two years, compared with 15% for non-Indigenous counterparts (Willis, 2008), highlighting that incarceration alone does not address the underlying causes of violence nor provide equitable outcomes.

Research also raises concerns about the potential counterproductive effects of mandatory sentencing. Several studies point to systemic issues such as trauma, alcohol and other drug use, and socio-cultural disconnection as central drivers of DFSV offending, particularly within Indigenous communities (Clifford et al., 2022). These underlying factors are not effectively addressed through incarceration. In fact, Keyzer and McSherry (2013) report that preventive detention may heighten the risk of reoffending. Similarly, Barnett and Fitzalan Howard (2018) suggest that some court-mandated interventions may be ineffective or even harmful, underscoring the need for tailored, trauma-informed, and culturally appropriate alternatives to punitive measures.

Alternative approaches, such as Indigenous sentencing courts and intervention programs for users of violence, show more promise in influencing long-term behavioural change. Marchetti (2019a, 2019b) found that sentencing processes involving Elders can have a more meaningful impact on offenders, while Dobash et al. (2005) report that structured programs for users of violence are associated with reductions in violent behaviour. These findings support the view that prevention and rehabilitation efforts grounded in cultural safety and community involvement are more effective than mandatory sentencing. Additionally, Collins (2015) notes that punitive reforms tend to disproportionately impact Indigenous peoples, further entrenching systemic inequalities without delivering improved community safety outcomes.

3. Prisons in the NT are not equipped to deliver domestic and family violence programming

Overcrowding in NT correctional facilities has limited the capacity to provide men's behaviour change programs (MBCPs) or other rehabilitation efforts. ANROWS reports that currently, very few programs are delivered in-prison, particularly for those serving short sentences (ANROWS, 2025). This turns imprisonment into a punitive "holding cell" rather than a rehabilitative space, with no behavioural interventions occurring.

Moreover, men often continue patterns of coercive control from within prison, through manipulation, jealousy and intimidation of their partners. Release from custody often corresponds with increased risk of serious violence, including homicide (ANROWS, 2025).

4. Fear of imprisonment deters some victim-survivors from reporting

For many victim-survivors—particularly Aboriginal women—the threat of their partner being imprisoned is a barrier to reporting. While some women feel safe only when the perpetrator is incarcerated, many seek safety without the consequences of imprisonment. Further, incarceration can lead to retaliatory violence from the perpetrator's family as well as from the perpetrator upon release, creating ongoing risk (ANROWS, 2025).

5. Risk of misidentification and criminalisation of victim-survivors

Police misidentification of the predominant aggressor remains widespread, especially among Aboriginal women (Nancarrow et al, 2020). Misidentification refers to the incorrect identification of a victim-survivor of DFSV as the perpetrator. This often occurs when law enforcement or legal authorities fail to recognise the dynamics of coercive control, misinterpreting a victim's self-defensive or retaliatory behaviour as aggression (Nancarrow et al., 2020). There are particularly high rates of misidentification of First Nations women, who are more likely to be both respondents on domestic violence orders (DVOs) and subject to breaches and arrests stemming from these orders (Nancarrow et al., 2020). The consequences of misidentification are serious. Approximately 44% of women who died from domestic violence in Queensland had previously been misidentified as the respondent to a DVO (Nancarrow et al., 2020). Misidentification also erodes trust in the justice system, particularly among communities already affected by systemic racism and marginalisation. Police-initiated DVOs can be applied against women who are in fact the victim-survivors of violence. Introducing mandatory sentencing for breaches of these orders significantly increases the risk that victim-survivors, particularly Aboriginal women, will be criminalised for their own victimisation.

6. Increased risk of harm at point of release

There is strong evidence that the risk of serious harm to victim-survivors peaks when a perpetrator is released from custody. Without resourcing community-based protective services, mandatory sentencing increases danger for women and children at this critical time (ANROWS, 2025).

7. Mandatory sentencing reduces judicial flexibility and prevents referral to behaviour change programs

Section 122 of the Bill mandates imprisonment for DVO breaches, removing the capacity for judges to consider alternative sentencing options—including referral to behaviour change programs or intensive community corrections. This contradicts best practice, which stresses the importance of discretion in sentencing, especially where rehabilitation is possible. Her Story Mparntwe recommends the roll out of Prevent.Assist.Respond.Training (PART) across the NT's legal system, including the judiciary, in order to support evidence-based risk assessment and sentencing, informed by a comprehensive understanding of the complex dynamics of DFSV.

8. Incarceration is an expensive and inefficient response

Imprisonment costs approximately \$400 per person per day in the NT (Morgan, 2018). With justice reinvestment principles gaining traction, this funding would be better allocated to expanding MBCPs, including culturally safe, community-controlled residential models, and developing alternatives to custody with proven outcomes.

9. Quality practice standards already exist for MBCPs—these should be resourced and expanded

The ANROWS-led evaluation of NT MBCPs identifies nine quality practice elements, including risk management, cultural safety, and community accountability (ANROWS, 2025). Current programs in the NT, particularly that operated by Tangentyere Council, demonstrate strong foundations but are limited in reach. Rather than invest in punitive responses, funds should be used to scale these evidence-based programs.

10. We support enhanced information sharing and collaboration

Her Story Mparntwe supports enhanced information-sharing provisions in the Bill, particularly regarding the release of perpetrators from custody. These measures can improve victim-survivor safety when properly implemented. There is also a strong case for improved interagency coordination to provide wraparound services at high-risk periods.

Recommendations

We do not support the introduction of mandatory sentencing for breaches of DVOs. It is not evidence-based, will disproportionately harm Aboriginal people, increases risk for victim-survivors, and removes vital sentencing discretion from the judiciary.

We recommend:

- Removing Section 122 from the proposed Bill;
- Redirecting resources to the expansion of culturally safe, community-based MBCPs and alternatives to custody;
- Improving access to therapeutic and rehabilitative programs in custody;
- Investing in workforce capacity and cross-agency collaboration;
- Centre policy reform on evidence, lived experience, and the expertise of the specialist DFSV sector.

The lives of women and children should not be used to make political points. Evidence-based reform must be led by those who work in and are affected by domestic, family, and sexual violence every day.

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