



**Criminal Lawyers Association of the Northern Territory (CLANT)**



Submissions on behalf of:

**Northern Territory Women Lawyers' Association**

**Criminal Lawyers Association of the Northern Territory**

**Law Society Northern Territory**

To: Secretary, Legislative Scrutiny Committee

Via email: LA.Committees@nt.gov.au

RE: Domestic and Family Violence and Victims Legislation Amendment Bill 2025

Date: 4 April 2025

## **Introduction**

The Northern Territory Women Lawyers Association (NTWLA), Criminal Lawyers Association of the Northern Territory (CLANT) and the Law Society Northern Territory (LSNT) welcome the opportunity to contribute to the review of the Domestic and Family Violence and Victims Legislation Amendment Bill 2025 (the Bill). Our members include legal professionals across private, public and community sectors, many of whom work directly with women who have experienced domestic and family violence (DFV).

NTWLA's objects and purposes include making suggestions and working for the reform of the law and the administration of the law particularly as affecting women and children.

CLANT is committed to promoting and advancing the administration of the criminal justice system and development and improvement of criminal law throughout the Northern Territory.

LSNT is a statutory body constituted under the *Legal Profession Act* (NT), which controls and regulates the affairs of the legal profession in the Northern Territory and offers services to the public and to lawyers, including commenting on law reform as it affects its members and the public.

While we collectively support the NT Government's stated intent to improve the safety of victim-survivors, and aspects of the Bill which improve victim-survivors access to information, we hold serious concerns about the inclusion of mandatory sentencing provisions and a lack of meaningful consultation with the specialist DFV legal and support sector.

We strongly recommend the withdrawal of the mandatory sentencing provisions from the Bill and further consultation with frontline organisations and legal experts.

## **Key concerns**

The Bill has been developed without adequate consultation from sector experts, it is inconsistent with the findings of the 2024 NT Coroner's Inquest into the deaths of four Aboriginal Women due to domestic violence, and fails to address social determinants and root causes of DFV including inadequate housing, food insecurity, and insufficient access to culturally safe services.

We hold serious concerns the proposed mandatory sentencing provisions will:

1. Disproportionately impact Aboriginal women;
2. Undermine judicial discretion;
3. Risk deterring victim-survivors from reporting;
4. Increase pressure on already-overcrowded correctional facilities;
5. Divert resources away from prevention, rehabilitation, and victim support; and
6. Potentially increase the risk of harm or death to victims.

## **Expert and frontline opinion**

NTWLA, CLANT and LSNT endorse the joint statement issued by KWILS, CAWLS and TEWLS dated 25 March 2025, which outlines several critical concerns in relation to the Bill, namely:

- Mandatory sentencing is “a blunt and ineffective instrument” that fails to address the complexity of DFV;
- The 2024 NT Coroner's Inquest strongly recommended uplift in specialist services and alternatives to custody;
- Jails are already over-capacity, and further custodial reforms will exacerbate access, visitation, and program delivery issues;
- Imprisoning perpetrators without addressing root causes such as those mentioned above heightens risk of continuous and exacerbated DFV;
- The reforms ignore commitments in the National Plan to End Violence Against Women and Children.

We further endorse the position of the Law Council of Australia, who have consistently opposed the use of mandatory sentencing regimes and adopted a formal policy outlining same.<sup>i</sup> In the Law Council's view (which we share), mandatory sentencing laws are inherently arbitrary and limit an individual's right to a fair trial by preventing judges from imposing an appropriate penalty based on the unique circumstances of each case.

These views are supported by the Australian Law Reform Commission, which in a 2018 Report said: “Evidence suggests that mandatory sentencing increases incarceration, is costly and is not effective as a crime deterrent. Mandatory sentencing may also disproportionately affect particular groups within society, including Aboriginal and Torres Strait Islander peoples.”

This is of serious concern in the Northern Territory, where 25.9% percent of our population are Aboriginal and Torres Strait Islander people and yet Aboriginal adults account for 84% of the NT's prison population.

## Recommendations

1. Remove all mandatory sentencing provisions from the Bill;
2. Convene urgent, inclusive consultation with specialist DFV services, Aboriginal legal services, frontline community legal centres and victim-survivor advocates;
3. Align reforms with the NT Coroner's recommendations, especially regarding:
  - Funding for therapeutic and culturally safe responses
  - Alternatives to custody
  - Victim-centred and trauma-informed practices
4. Invest in prevention and early intervention, including:
  - Safe housing and crisis accommodation
  - Legal assistance and safety planning
  - Expansion of the Victims Register and DVO monitoring systems
5. Monitor and evaluate the impacts of sentencing on women, especially Aboriginal and Torres Strait Islander women, through transparent data collection and reporting

## Conclusion

The NTWLA, CLANT and LSNT strongly support action to protect women and children from domestic and family violence. However, we do not support measures that will increase incarceration rates, reduce judicial discretion, and undermine the complex and often precarious safety strategies of victim-survivors.

In its current form, the Bill will risk further harm, rather than enacting harm-prevention. By introducing mandatory sentencing provisions which prioritise retribution over rehabilitation, the Bill may actually lead to more reoffending, making our communities less safe in the long run. There is also a real risk it will result in women who have been mis-identified as perpetrators being incarcerated in circumstances where the law prevents judges from imposing an appropriate penalty based on the unique circumstances of each case.

Law reform must be informed by those working with, and for, the women most affected. Further, law reform must rely on expert evidence rather than 'tough on crime' political stances.

We urge the Committee to recommend substantial revisions to the Bill and to engage in a collaborative, evidence-based approach to reform.

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<sup>i</sup> See Law Council of Australia, 'Policy Discussion Paper on Mandatory Sentencing', May 2014.