



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

15th Assembly

LEGISLATIVE SCRUTINY COMMITTEE

Public Briefing Transcript

10.00 am Tuesday 1 April 2025

Litchfield Room, Level 3, Parliament House

Members: Mrs Oly Carlson MLA, Chair, Member for Wanguri
Mr Andrew Mackay MLA, Deputy Chair, Member for Goyder
Justine Davis MLA, Member for Johnston
Mr Clinton Howe MLA, Member for Drysdale
Mr Chanston Paech MLA, Member for Gwoja

Witnesses: *Attorney-General's Department*
Janet Hanigan: Executive Director, Strategic Policy Coordination
Hannah Clee: Acting Director, Legal Policy

The committee convened at 10 am.

DOMESTIC AND FAMILY VIOLENCE AND VICTIMS LEGISLATION AMENDMENT BILL 2025

ATTORNEY-GENERAL'S DEPARTMENT

Madam CHAIR: On behalf of the committee, I welcome everyone to this public briefing on the Domestic and Family Violence and Victims Legislation Amendment Bill 2025.

I welcome to the table to give evidence to the committee, from the Attorney-General's Department, Ms Janet Hanigan, Executive Director Strategic Policy Coordination and Ms Hannah Clee, Acting Director Legal Policy.

Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public briefing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website.

If, at any time during the hearing, you are concerned that what you say should not be made public you may ask that the committee goes into a closed session and take your evidence in private.

Could you each please state your name and the capacity in which you are appearing.

Ms HANIGAN: Janet Hanigan, Executive Director Strategic Policy Coordination of the Attorney-General's Department.

Ms CLEE: Hannah Clee, Acting Director Legal Policy, Attorney-General's Department.

Madam CHAIR: My name is Oly Carlson, I am the Member for Wanguri and the Chair. Today I have with me the Member for Johnston, Justine Davis; the Member for Drysdale, Clinton Howe; and joining us by telecast is the Member for Gwoja, Chansey Paech and the Member for Goyder, Andrew Mackay.

Would you like to make an opening statement?

Ms CLEE: Thank you to the committee for the opportunity to brief on the Domestic and Family Violence and Victims Legislation Amendment Bill 2025.

There are three key purposes of this Bill: to insert a mandatory sentencing provision for certain breaches of domestic violence orders; to expand some of the functions of the victims register to ensure registered victims can be notified when a relevant offender breaches various orders; and to address some minor technical and administrative anomalies which require amendment, including converting the Victims of Crime Levy to revenue units.

The Bill, therefore, amends the *Domestic and Family Violence Act 2007*, the *Domestic and Family Violence Regulations 2008*, the *Victims of Crime Rights and Services Act 2006*, the *Victims of Crime Rights and Services Regulations 2010* and the *Victims of Crime Assistance Act 2006*.

For this briefing our intention is to provide the committee with a short overview of each of the key amendments contained in the Bill.

Firstly, dealing with mandatory sentencing, this bill inserts a requirement for the court to impose an actual term of imprisonment for breach of domestic violence orders committed in certain circumstances.

Section 121 of the Act provides that the penalty for an ordinary breach of a domestic violence order is a maximum of two years' imprisonment. Section 121 does not currently provide any mandatory sentencing to impose for breaches of domestic violence orders. The section also outruns the circumstances where that maximum penalty increases to three years and the circumstances where that maximum penalty increases to five years. These are the maximum available penalties and the relevant circumstances for those penalties are found in sections 121(2), (4) and (5) of the *Domestic and Family Violence Act 2007*.

This bill introduces a requirement by introducing a new section 122 for the court to sentence an offender to a term of actual imprisonment if the offender is found guilty of breaching a domestic violence order, and any of the circumstances in section 121(2), (4) and (5) apply. I will just briefly outline each of those circumstances.

Section 121(2) addresses the situation where there are three or more breaches of domestic violence order occurring in a 28-day period. The maximum penalty that the court may impose increases to three years and this Bill now requires the court to impose a term of actual imprisonment in those circumstances.

Section 121(4) addresses the situation where there has been a prior breach of domestic violence order. The maximum penalty that the court may impose where the offender has previously breached a domestic violence order increases to three years and this Bill now requires the court to impose a term of actual imprisonment in those circumstances.

Section 121(5) addresses the situation where the breach of a domestic violence order involves harm or a threat to commit harm to the protected person. The maximum penalty that the court may impose where the offender has harmed or threatened to commit harm to the protected person increases to five years. This Bill now requires the court to impose a term of actual imprisonment in those circumstances.

Imposing a term of actual imprisonment is defined in the *Sentencing Act* at section 78CB. It means the court must record a conviction against the offender and sentence the offender to a term of imprisonment. In addition to the conviction and term of imprisonment, the court may make an order suspending part but not whole of, the term of imprisonment or the court may make an intensive community correction order subject to a home detention condition in relation to the offender.

I note that the terms of reference for the committee is to consider if there is regard for rights and liberties of individuals, including relating to opposing allegations respectively. Importantly, in relation to the mandatory sentencing provisions in this Bill, the Bill contains transitional provisions which ensure that the new sentencing provisions will only apply to offences committed after commencement, so there is no issue regarding retrospectivity.

I now move to talk to the amendments relating to victims. This Bill amends the *Victims of Crime Assistance Act 2006* to allow for electronic lodgement of victim-of-crime application forms. This will approve accessibility for victims in making applications for financial assistance. The *Victims of Crime Assistance Act 2006* is also amended to remove the requirement that victims of crimes assessors must be lawyers. This is aimed at increasing the number of available assessors, improving processing time and generally improving efficiency.

The Bill also modernises section 61 of the *Victims of Crime Assistance Act 2006*, which provides for the imposition of the victim's levy on a person by the court found guilty of an offence but not imprisoned, in infringement notices or in an enforcement order. Currently section 61 provides the amount as a monetary figure; for example, \$200 for an adult following prosecution or indictment, or \$40 in an infringement notice.

The Bill modernises section 61 by updating it to provide the victim's levy is calculated by applying revenue units. In doing so, the monetary value has been converted to revenue units. The current value of a revenue unit, as applied since 1 July 2004, is \$1.41, and this will increase to \$1.45 on 1 July 2025. The value of a revenue unit increases each financial year based on the annual percentage change of the consumer price index. As a result the victims of crime levy amount will increase, so that what was a \$200 levy will become 200 revenue units or \$282 based on the current value of a revenue unit.

The money that is paid in victims levies provides a source of revenue for the victims assistance fund, which is used to fund financial assistance provided to victims of crime under the *Victims of Crime Assistance Act 2006*. The amounts imposed as victims levy have not changed since 2013.

Amending section 61 to express the levy in revenue units allows the levy amount to change in line with the annual percentage change of the consumer price index and remain relevant.

The Bill also amends Part 4 of the *Victims of Crime Rights and Services Act 2006*, which provides a framework for the victims register. The victims register allows a registered victim to receive certain information from the Crimes Victim Services Unit of the Attorney-General's Department (the CVSU) about a relevant offender. The CVSU administers the victims register.

Section 17 of the *Victims of Crime Rights and Services Act 2006* currently provides that information available from the register is only in relation to an offender who is sentenced to a term of imprisonment. This Bill amends the *Victims of Crime Rights and Services Act 2006* to remove the reference to a term of

imprisonment. This means it will apply to sentences which do not involve a term of imprisonment, such as the Community Corrections order, which are already included within the information regarding relevant offenders to be given to registered victims.

The Bill also addresses a concern related to information that can be made available regarding breaches of orders. Section 22 in the *Victims of Crime Rights and Services Act 2006* sets out the information that can be given to registered victims. If there is information available that is not prescribed regarding a relevant offender, the CVSU is not able to notify a registered victim regarding that information.

Currently, the CVSU is unable to notify registered victims regarding certain breaches in a timely manner. The Bill includes an amendment to the *Victims of Crime Rights and Services Regulations 2010*, which will authorise the CVSU notifying a registered victim in particular circumstances. New regulation 5 provides that a registered person must be notified by CVSU if the relevant offender breaches or fails to comply with, or is alleged to breached or fail to comply with an electronic monitoring condition of a parole order, a suspended sentence order, an intensive Community Corrections order or a supervision order.

CVSU is only required to notify the registered person if the CVSU is made aware of the alleged breach or failure to comply. The provision is intended to allow the CVSU to pass on relevant information and circumstances of it being made aware of that information.

There are also some technical amendments made in the Bill so that it corrects some ambiguity in the *Domestic and Family Violence Act 2007* to ensure that the same status for domestic violence orders imposed by police and subsequently confirmed by the court whether or not the court confirms the DVO with or without any variation.

The Bill amends the *Domestic and Family Violence Regulations 2008* in order to correct some anomalies identified by the Office of the Parliamentary Counsel in relation to definitions. The Bill also corrects some other outdated references to repeal sections in some Acts.

That is the scope of the Bill. I thank the Office of the Parliamentary Counsel for its assistance in drafting the Bill, as well as the action officers from Legal Policy involved in the drafting of the Bill.

Mr PAECH: Did the Attorney-General's Department work with Correctional Services on getting an understanding of the forecasting of the scope or the number of people who this would affect and result in a term of imprisonment?

Ms HANIGAN: Managing the demand and the impact to legislation is a collective effort across the justice continuum. It is a daily matter. We have been in consultation with our colleagues and that would be taken into account once the Bill is passed and commences.

Mr PAECH: In understanding these changes we are already able to see from the data the people who are either incarcerated, or have not been and have been sentenced to an alternative order would be impacted by the mandatory sentencing provisions. Has the department look at the fines recovery? There are obviously a number of outstanding fines already, so what mechanisms has the department considered in ensuring that people are not just accruing more debt?

Ms HANIGAN: That is certainly an operational question by one that we are live to. That is an ongoing consideration of our processes. We work closely with our CVSU colleagues in working through the backlog and the workloads. Again, we have consulted with them. As part of the operational response to implementation that will be considered in how we can make the processes more efficient.

Madam CHAIR: How many DVO orders are in effect on any given day in the Territory?

Ms HANIGAN: Apologies. We will need to take that one on notice. I am happy we have a series of data and we can take that on notice.

J DAVIS: Following up from Chansey's question. How will this change—no, maybe not following up. In terms of the mandatory sentencing aspect of it, how will that change the impact of judges to order offenders to attend a men's behaviour change program?

Ms HANIGAN: We can take that one on notice. I am not sure, we would have to look into the scope of responding to that question, taking into account judicial discretion. Certainly, we can look at that. It should be within scope, but we can double check and take that on notice so we provide you with an accurate response.

J DAVIS: I appreciate that. More broadly in mandatory sentencing, I am interested in knowing what data you have relied on in reintroducing mandatory sentencing as an effective response to what is happening in the justice system.

Ms HANIGAN: There are a number of policy considerations that are taken into account when legislation is brought forward. In this instance, government has been consistently clear on its focus on accountability and consequences for offenders, so this Bill takes that into effect, specifically in the context of a term of actual imprisonment for certain DVO breaches.

J DAVIS: It is policy driven rather than data drive? Would that be correct?

Ms HANIGAN: Not solely. We work on data as well. I do not have the data in front of me, but that is government's policy position on the consequences and accountability. Mandatory sentencing is not a new concept and is being pursued in the context of this Bill.

J DAVIS: Understood. I am interested—I can take it on notice—if there is any data that you are able to provide that shows the usefulness of mandatory sentencing in our current system.

Ms HANIGAN: We will accept that question on notice.

J DAVIS: Thank you very much.

Mr HOWE: Thanks for coming in and for that opening brief; it was quite good. Thank you for the work on this. It is an issue plaguing the Northern Territory. I appreciate all the work going into it.

I have three questions. Does the mandatory sentencing kick in when there are three or more breaches in the 28-day period?

Ms CLEE: Are you referring to section 121(2) where it talks about multiple ... Yes. The requirement to impose a term of actual imprisonment will come into effect if there are three or more breaches of DVO within a 28day period—three or more offences.

Mr HOWE: Cool. I feel that is rather lenient. Is there quite a scope of what a breach can encapsulate? Does it aim to balance that?

Ms CLEE: In terms of the offences, I guess that is a matter in terms of police charging breaches and offences, so it is more an operational issue, but once it is before the courts, the provisions of the Act will apply in terms of when it comes to sentencing on these matters.

Mr HOWE: Moving to financial assistance, I think that increase is good. My question is, how does that money—how is it used to help the victims? I know there are other services available, and Commonwealth funding, but that \$282, what does that go towards for the victims?

Ms CLEE: It goes into the Victims of Crime fund, which is where all the monies are held that are used for Victims of Crime applications and the financial assistance provided to victims through the *Victims of Crime Assistance Act*.

Ms HANIGAN: There is a variety of compensation and support provided to victims, and our CVSU—I think it is available online as well. There are a number of different supports and services available that would be funded through that fund.

Mr HOWE: In regard to information provided to victims, what kind of information is made available? I guess, the heart of the question is, is that to assist to victims in making decisions for their own safety? Potentially, when someone is released, will they get to know where that person will be residing, or even a general area? We want to see victims able to make safe decisions for themselves.

Ms CLEE: Section 22 in the *Victims of Crime Rights and Services Act* sets out all the information that can be provided.

Ms HANIGAN: Do you mind if we get that passed through, and we can go through it?

Ms CLEE: It is quite broad in terms of what can be provided. It relates to what date they might be released on parole; when the Parole Board might be considering release; if there has been any revocation or cancellation of a parole order, whereby they are already on parole but have been brought back in; any conditions of a suspended sentence order, which might include a home detention order or that they are to reside at a certain—whatever the conditions in the order are, they can be made aware of that; any conditions relating to administration home permit. There is quite a lot of information that can be provided, but it is all prescribed.

Mr HOWE: I imagine it is a very high anxiety time for a victims, understandably, when someone is being released. What is available—do we have anything where the information is provided? What is in place that can support a victim with that information?

Ms HANIGAN: That is an operational question that we can take on notice or provide you with—there are a number of supports available, but that sits within the operational response to victims more broadly than what is covered through this Bill.

Mr HOWE: For victims anxious and scared, understandably, they can contact and get supports for it?

Ms HANIGAN: Yes. That is through the CVSU, our victims of crime unit.

Mr PAECH: I have a question about the mandatory sentencing provisions for the department. I understand that the department has looked at mandatory sentencing for alternative to custody and rehabilitation programs.

Ms HANIGAN: Sorry, Member for Gwoja. Do you have ...

Mr PAECH: The question is, has the department, at the time of drafting the legislative amendment, considered providing an option to the core or making it a mandatory sentence for rehabilitation program or an alternative-to-custody facility rather than imprisonment?

Ms CLEE: In terms of the mandatory sentencing provisions, it allows for intensive community correction order to be made which allows the court to impose conditions, including attending alternatives to custody and other arrangements through that order.

Mr PAECH: The questions is framed at the mandatory sentencing provisions that are being proposed—terms of imprisonment of two, three and five years. That is imprisonment. Rather than a mandatory sentence of imprison, is there consideration of a mandatory sentence of a rehabilitation program, men's behavioural change or mandatory sentence to an alternative-to-custody facility?

Ms CLEE: To clarify, the two years, three years and five years are all maximum penalties that might be imposed. It is not mandating that they must sentence them to that particular period; that is the maximum that might be imposed in imposing a term of actual imprisonment.

In terms of alternatives, there is the capacity for an ICCO. We have not gone down the path, in this instance, of mandating particular types of orders.

Mr PAECH: Okay. For point of clarification, part of the reason why mandatory sentencing has not been or is not effective is the mandatory provisions. You highlighted the maximum terms, but what is the minimum term of imprisonment under a mandatory sentencing provision that is being proposed?

Ms CLEE: There is no minimum that is mandated, so it is just that there is an actual term of imprisonment imposed.

Mr PAECH: The judiciary could look at a mandatory sentencing provision, send someone there for a breach of DVO and it be seven or 14 days?

Ms CLEE: That would be a matter for the court to determine in sentencing.

Mr PAECH: Thank you for clarifying.

J DAVIS: I have a few more questions. Following up on Clinton's questions about the CVSU, I wonder whether there will be any increase in funding for that unit, given that this will be increasing demand, presumably. There are currently delays in notifying victims within the prescribed times.

Ms HANIGAN: We are looking at the operational functioning and resourcing of all of our areas. The CVSU is part of that in how it can best provide the service that it is required to.

J DAVIS: In terms of people being able to get information, you said you were looking at it. I echo what Clinton said: obviously this is an area of huge concern to all of us in the Territory and whatever we can do about we need to do. When you say you are looking at people getting information, what might that look like?

Ms HANIGAN: To clarify, we are looking at the resourcing capacity—specifically to your question about extra resources. Resources across our department—we are in a budget process; that is the name of the game. In terms of specific efforts across the CVSU in its efficiency, the manner in which it can provide a service to victims in a timely manner, that work has been ongoing for many years and will continue to be a matter of continuous improvement and adjustment as we see necessary.

J DAVIS: Is there a recognition that this will be providing additional strain on that service?

Ms HANIGAN: We recognise that the CVSU needs to be able to respond to the services that it is required to provide under the Act.

J DAVIS: Coming back to the questions about mandatory sentencing, I asked whether you could provide some data on evidence around that, specifically I am interested in any data that might show that mandatory sentencing assists with domestic, family and sexual violence resolution, whether it is something that is of use in this space. I also would be interested in knowing which services you consulted with in the development of the legislation, whether you consulted with judges, lawyers and with DV services and what their responses were in relation to the development.

Ms HANIGAN: I will just seek clarity on the first part of the question. That is a very specific request about data in terms of the impact on domestic and sexual violence resolution. I am just flagging that may or may not be available in the context in the way that question has been asked. We are happy to take that one on notice and see what response we can provide back.

J DAVIS: Are you clear about what it is that I am trying to understand?

Ms HANIGAN: I am happy for you to add a bit more. What is the problem, or what is the solution you are looking for from the data so we can ensure we are going down the right path?

J DAVIS: What evidence is there that this particular piece of law, as in mandatory sentencing, will assist in reducing and impacting on our domestic, family and sexual violence rates in the Territory? Does that make sense?

Ms HANIGAN: Yes, I am happy to take that one on notice. With respect to consultation, the department was not able to consult during the drafting phase of the Bill, but that is why we welcome the scrutiny and submission process. It was for operational and timing reasons we were not able to engage with our relevant stakeholders, but this process will certainly allow for our stakeholders to contribute to this next phase.

J DAVIS: I understand there has not been any consultation to date, is that right?

Ms HANIGAN: From a department point of view, with formal consultation regarding the nature of this Bill, we did not have the ability to do that in a formal way during the drafting process. I will clarify, internally we did consult, but when I talk to stakeholders I am saying, external to the department.

J DAVIS: Understood. I may be misquoting but I think I heard in parliament someone, maybe the Chief Minister, that future consultation from here will happen through the domestic, family and sexual violence forum. Are you able to advise on that?

Ms HANIGAN: That forum is coordinated through the Department of Children and Families. I am not able to offer comment on that. Apologies, that is not in our area.

J DAVIS: What evaluation will you do in terms of the impact of this Bill

Ms HANIGAN: I will take that on notice because it is part of a broader evaluation of legislative reform more generally.

J DAVIS: You may not be able to answer this, but when you said given the timeframes, it was not possible to consult, what was the reason for the rush development of this piece of legislation?

Ms HANIGAN: I would not say it is rushed.

J DAVIS: The speedy development.

Ms HANIGAN: At the end of the day, we were very keen to have it introduced, so we followed the drafting process to the best of our ability to get it in.

Mr HOWE: On the purpose of mandatory sentencing, would you say it is fair to say it is my opinion, and I am wondering what the department thinks, if the abusers are locked up, then they cannot hit women. Would that be a fair assessment?

Ms HANIGAN: Thank you, but we are not in a position to offer commentary of opinion.

Mr HOWE: Fair enough, that is my opinion. The second point is, the speed at which the department has worked on this, would you say it is in line with community expectations of how bad this issue is?

Ms HANIGAN: Again, that would be a matter of opinion, and that is not something we would provide.

Mr HOWE: I think it is, so good work. Thank you.

Madam CHAIR: Are there any other questions?

J DAVIS: No, but thank you for your work on the Bill, and I look forward to receiving whatever I can in relation to the questions on notice.

Madam CHAIR: On behalf of the committee, thank you for appearing.

The committee suspended.
