

To whom it may concern,

### Statutes Amendment (Domestic Violence) Bill 2018

#### Who we are:

The National Council of Single Mothers and their Children Incorporated (NCSMC) is an organisation dedicated to single mothers. The Council has become a platform whereby both the community and the Government can communicate. NCSMC can comment on policy and legislation and ensure that the lived experience is heard. NCSMC provides information, referrals and assistance to single mothers through our electronic platforms. In the past year we have responded to tens of thousands individual requests whilst our information post can reach up to 100,000+ per week. One of our greatest strengths is our expertise and commitment in working with and for the advancement of women and children who are affected by poverty, hardship and or domestic violence.

#### Non-fatal force by strangulation

NCSMC welcomes the decision that non-fatal force by strangulation is an offence in its own right and therefore it would have its own penalty. Subsequently, this makes the offence more straightforward to prosecute, to obtain a conviction, to have clear evidence to support intervention orders and/or parenting orders. Women who are affected and harmed by domestic violence can gain trust and build connections to the socio-legal environment and the formal domestic violence service system, if there is a resolution and or a conviction.

It's an important outcome steeped in evidence as non-fatal force by strangulation is a behaviour that frequently escalates to more severe violence or homicide. A conviction is not only a 'red flag' but a signal to the whole community that non-fatal force by strangulation is a crime.

Strangulation is an act that exerts terror, control and intimidation by the perpetrator over their victim. Struggling to breathe, dipping in and out of consciousness, rendered to helplessness, is terror. The tools of harm, the perpetrators hands, are accessible and available whenever the perpetrator is present.

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National Council for Single Mothers and their Children Inc.

Eliminate and respond to violence, hardship and inequality for single mothers and their children

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It can take less than 10 seconds for a person to lose consciousness as a result of strangulation, and death can occur in just under five minutes. Nearly four in five victims of strangulation are strangled manually (with hands). Almost all, or 97 percent of strangulation attempts, also involve blunt force trauma according to the Training Institute on Strangulation [Prevention](#)

NCSMC completely endorses the prospect that the changes would make this new offence a maximum of 7 years imprisonment, we know that the odds of becoming an attempted homicide increased by about seven-fold for women who had been strangled by their partner<sup>1</sup>. Lessons were learned when similar offence was introduced in Queensland in 2016, with almost 800 people charged within the first 12 months.

*‘Here she comes the woman with the most amazing scarfs’*

*‘This would be a usual catch cry from my local community. I lived in the hills, it was cold, there were craft shops with handmade local scarfs. Scarfs became my identity as I hid his marks as they turn from red to black to a lingering sallow shade. Mostly I could hide the trauma, the abuse and my fear. I had three children to protect’.*

### Repeated breaches of intervention orders

NCSMC endorses increasing penalties for repeated breaches of intervention orders. The proposed changes double the current maximum penalties so that someone who breaches their intervention order 3 or more times could be jailed for 4 years or fined \$20,000. Acknowledging the need for greater legal deterrents and outcomes is positive. However, NCSMC believes that the first time that an intervention order is breached it should also be subject to increased legal penalties. NCSMC would further welcome exploration of safety strategies when an intervention order is made. This could include monitoring devices on the perpetrator as well as access to experts who can check the victim’s home to ascertain if surveillance equipment has been installed. NCSMC has knowledge of women who have had spy-cams installed on children’s toys, Xbox etc.

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NCSMC seeks that the onus is on the restrained person to refute evidence or complaints of breaches rather than on the Crown to prove they did breach it. This practice would support current evidence. The myth that ‘women often make false or exaggerated claims of domestic and family violence to obtain a tactical advantage in parenting proceedings’ has well and truly been discredited and replaced with accurate evidence. The accurate [evidence](#), gained by a 2015 evaluation of the 2012 Family Violence Amendments found that false denials of true allegations are more common. Furthermore, in making an intervention order NCSMC wants to ensure that the court be obliged to check if there are dependent

<sup>1</sup> The Training Institute on Strangulation Prevention (Institute), 2011, Impact of Strangulation Crimes, <https://www.strangulationtraininginstitute.com/impact-of-strangulation-crimes/>

children of either party and if there are that specific provision be made for their safety in consideration of any orders. More than two-thirds (68%) of mothers had children in their care when they experienced violence from their previous partner. <sup>2</sup>

It was a little after 8:40 am, the mother with her two primary school boys in grade three and five were doing their usual drop-off to a small school in the western suburbs of Adelaide. However, the mother knew that this was not an ordinary day as it was a day that her intervention order was going to finish. It was revoked. The car was parked, the boys were a few steps ahead when Joseph\*<sup>3</sup> the oldest boy aged 10 years, saw the familiar form of abuse, his father, punch his mother. Police were called, the ambulance were called, the school with 400 primary school children and an on-site Children's Centre went into lockdown.

Shrewd steps by the respondent resulted in him listing his 'change in circumstances since the intervention order was made' on the form. The mother who was the 'protected person', stated there had been no change to her level of fear and concern, her position was a product of a history of abuse. However, the order was revoked. The perpetrator was charged with assault but not breaching the order and therefore the trauma that the children experienced was invisible to the law. Based on the most contemporary available research we know that women under-report violence and that false denials of true allegations are more common than exaggerated claims. Consequently, we must shift the burden of proof, and that women's fears and their history of abuse needs to be validated and allowed to transcend from the past to the present without the need to 'produce' further incidences.

### **Clare's Law & Intervention Orders**

NCSMC congratulates the South Australian government on the introduction of Clare's Law. Clare's Law enables people to ask police about the criminal history of their partner if they are concerned by their behaviour. The next progressive step aligned to the principles of Clare's Law is to provide speedy and affordable intervention orders if the person is already known to have had a criminal history including domestic violence. People with a history that poses safety risks to women and children should receive increased penalties upon their first breach. This could be a small step in the right direction to stop the revolving door of perpetrators of domestic violence just moving onto the next victim.

### **Video evidence recorded by the Police**

NCSMC welcomes the use of video evidence recorded by police to be used in court. It seems a sensible and a progressive step. Alternatively, not to include video evidence as recorded by the police limits the evidence that is before the courts. In the context where women are most likely to know the perpetrator (often their current or a previous partner) and the

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<sup>2</sup> Australian Institute of health and welfare, pg x 2018 Family, domestic and sexual violence in Australia

<sup>3</sup> \* name changed

violence usually takes place in their home<sup>4</sup>, every source of evidence must be used. The domestic dwelling can be a fortress of secrecy that protects the perpetrator. It is the prevalence of women being harmed and or killed in their home that led NCSMC to embark on a national campaign known as [Silence Kills](#). A campaign which seeks to encourage bystanders to act and seek help if they hear screams or cries of distress in homes. A video spearheads this campaign but it has not been uploaded onto the website until there is an opportunity to premiere and to formally thank those who participated.

### **The Expansion of the Definition of Domestic Relationships**

NCSMC also endorses the expanding of the definition of domestic relationships Criminal Law Consolidation Act 1935 to include relationships, such as a grandchild, sibling, carer, person related according to Aboriginal or Torres Strait Islander kinship rules as well as member of some other culturally recognised family group, all of which is contained in the Consultation [Fact Sheet](#).

The expansion of the definition of domestic relationships Criminal Law Consolidation Act 1935 should include family pets. It is now recognised that victims of domestic and family violence may rely on family pets for emotional support especially when trying to cope with the abusive relationship, all of which can be exploited by the perpetrator. Furthermore, the perpetrator may expose children to animal abuse in the context of domestic and family violence. The inclusion of the family pet and or a service/assistance animal to be recognised in the relationship, and subsequently in intervention orders, has the potential to limit the harm to the animal and or the threat of harm.

The National Domestic and Family Violence Bench Book states:

“It is recognised that perpetrators may initiate or continue animal abuse post separation; and that threats of abuse may contribute to some victims delaying leaving or returning to the abusive relationship due to concerns for the welfare of family pets, thus increasing the victim’s exposure to the possibility of further violence. Abuse or threats of abuse have particular implications if the victim has a disability or mental illness and the and the animal is a service or assistance animal such as a guide do.”<sup>5</sup>

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<sup>4</sup> Australian Institute of Health and Welfare, pg ix 2018, Family, Domestic and Sexual Violence in Australia

<sup>5</sup> National Domestic and Family Violence Bench Book, 3.1.10, Animal Abuse  
<http://www.dfvbenchbook.aija.org.au/understanding-domestic-and-family-violence/animal-abuse/>

NCSMC has promoted the Stronger Domestic Violence Protections consultation including the survey, combined it reached a little over 1250 women.

Our response to the Stronger Domestic Violence Protections Consultation is steeped in our connection with women and the provision of information, support and assistance including women affected by domestic violence. It is a unique and often tragic perspective that we offer.

NCSMC sincerely acknowledges and thanks the women who have trusted us to share their opinions and experience.



NCSMC wishes the South Australian Government well with this consultation and would be honoured to provide any further information if required. We appreciate the consultation and hopeful that it will result in the proposed changes becoming law. Ending violence against women and children is everybody's business.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Terese Edwards'.

Terese Edwards

Chief Executive Officer

***To all our sisters, our mothers, our children and our friends. You are all irreplaceable and we will not stay silent***