

TERMS OF REFERENCE

QUEENSLAND SENTENCING ADVISORY COUNCIL

THE PENALTIES IMPOSED ON SENTENCE FOR CRIMINAL OFFENCES ARISING FROM THE DEATH OF A CHILD

I, Yvette D'Ath, Attorney-General and Minister for Justice and Minister for Training and Skills, having regard to:

- commentary expressing that penalties currently imposed on sentences for criminal offences arising from the death of a child may not always meet with the Queensland community's expectations;
- the Queensland Government and community expectation that penalties imposed on offenders convicted of criminal offences arising from the death of a child are appropriately reflective of the community's views that sentencing must punish the convicted offender, protect children from the offender and restate the community's abhorrence for such offending;
- the complexities involved in a court's structuring of an appropriate sentence, taking into account the sentencing options and governing principles for sentencing in the *Penalties and Sentences Act 1992*;
- the importance of maintaining flexibility in the sentencing process to enable the imposition of a just and appropriate sentence in any individual case, taking into account an offender's culpability;
- the maximum penalties provided in the Criminal Code for offences arising from the death of a child; and
- the significance of supporting and promoting public confidence in the criminal justice system to the overall administration of justice

refer to the Queensland Sentencing Advisory Council, pursuant to section 199(1) of the *Penalties and Sentences Act 1992*, a review of the penalties imposed on sentence for criminal offences arising from the death of a child.

In undertaking this reference, the Queensland Sentencing Advisory Council will:

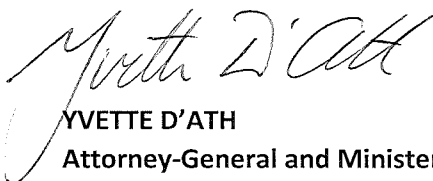
- consider and analyse the penalties currently imposed on sentence for criminal offences arising from the death of a child and report on current sentencing practices including types of sentencing orders, duration and (any) time ordered to be served in custody prior to the offender being released into the community or being eligible for release on parole;
- determine whether the penalties currently imposed on sentences for criminal offences arising from the death of a child adequately reflect the particular vulnerabilities of the category of these victims, such as including the relationship of dependence which may commonly exist

between the victim and the offender, the victim's often young age and associated limitations on their autonomy;

- identify any trends or anomalies that occur in such sentencing, for example the nature of the criminal culpability which forms the basis of a manslaughter charge which may affect any sentence imposed;
- assess whether the existing sentencing considerations of deterrence, denunciation, rehabilitation, punishment and the protection of the community are adequate for the purpose of sentencing this cohort of offenders, and identify if specific additional legislative guidance is required;
- identify and report on any legislative or other changes required to ensure the imposition of appropriate sentences for criminal offences arising from the death of a child;
- identify any ways to enhance knowledge and understanding of the community in relation to penalties imposed on sentence for criminal offences arising from the death of a child, for example strategies to develop better communication with the community about these sentences;
- examine the approach to sentencing for criminal offences arising from the death of a child in other Australian jurisdictions;
- have regard to any relevant research, reports or publications regarding sentencing practices for criminal offences arising from the death of a child;
- consult with the community and other key stakeholders, including but not limited to the judiciary, legal profession, victim of crime groups, child protection advocacy groups, or any relevant government department and agencies; and
- advise on any other matters relevant to this reference.

The Queensland Sentencing Advisory Council is to provide a report on its examination to the Attorney-General and Minister for Justice and Minister for Training and Skills by **31 October 2018**.

Dated the 25th day of OCTOBER 2017



YVETTE D'ATH

Attorney-General and Minister for Justice and Minister for Training and Skills