

## FACT SHEET

### ***Sentencing Amendment (Good Character) Bill 2026***

The Sentencing Amendment (Good Character) Bill 2026 amends the *Sentencing Act 1997* to restrict an offender's ability to rely on evidence of their good character as a mitigating factor in some sentences and decisions about recording convictions.

This reform has been driven by victim-survivor advocate groups concerned that good character evidence can further traumatise victim-survivors by implying an offender's reputation is more important than the harm they caused.

#### New provision – section 11AA

The Bill creates a new s 11AA which applies to courts sentencing an offender for a defined serious offence. The court must not take into account, as a mitigating factor, any personal references in support of the offender or evidence or submissions about an offender's standing within, or positive contributions to, the community.

Section 11AA contains an exception to that rule which allows the court to consider that information if certain criteria are met. First, the information must be relevant to the offender's prospects of rehabilitation or risk of reoffending. Second, the court must also consider it appropriate having regard to the nature and circumstances of the case, and any harm caused to, and the vulnerability of, a victim of the offence.

This section contains a definition of a 'serious offence'. This both incorporates and expands on an existing 'sexual offence' definition in s 11A of the *Sentencing Act 1997*. A 'serious offence' means:

- a sexual offence;
- a family violence offence within the meaning of the *Family Violence Act 2004* (except for breaches of orders in s 35 of that Act) or an attempt to commit such an offence;
- offences under sections 178 or 192 of the *Criminal Code* (ill-treatment of children; stalking and bullying) or an attempt to commit such an offence;
- an offence of violence by one person against another that is dealt with on indictment or an attempt to commit such an offence; and
- an offence or crime under Commonwealth legislation that is substantially similar to an offence or crime referred to in the definition.

In sentencing an offender for a serious offence, a court must not take into account as a mitigating factor submissions or evidence that are personal references in support of the offender or that are in support of the offender's standing within, or positive contributions to, the community.

The Bill creates an exception allowing the court to take the evidence or submissions into account where it considers it is relevant to the court's consideration of an offender's prospects of rehabilitation or risk of reoffending and the court considers it appropriate to do so having regard to the nature and circumstances of the offence and any harm caused to, and vulnerability of, a victim of the offence.

This new prohibition in s 11AA only applies to adult offenders. It does not apply to an offender who committed a serious offence when they were under 18.

Section 11AA also confirms that a court sentencing an offender for an offence that is *not* a 'serious offence' is not required to treat good character evidence as a mitigating factor if it would be inappropriate to do so.

#### Extended definition of 'sexual offences'

The Bill expands the definition of 'sexual offence' in section 11A(1) of the *Sentencing Act*. It adds offences under sections:

- 125D, 125E, 130B, 130C and 130D of the Criminal Code;
- 35(3) of the *Police Offences Act 1935*;
- 9 of the *Sex Industry Offences Act 2005*; and
- attempts to commit them.

#### Section 11A

The Bill consequentially amends section 11A(2)(b) by clarifying that, despite new section 11AA, a court is not to take into account an offender's good character (or lack of previous convictions) in relation to a sexual offence when satisfied that the good character or lack of previous convictions assisted the offender in committing the offence.

#### Amendment to section 9

The Bill amends existing s 9, which relates to courts deciding whether or not to record a conviction. The amendment applies the same test as s 11AA. **Like new s 11AA, these new parts of s 9 only apply to adult offenders. They do not apply to an offender who committed a serious offence when they were under 18.**

#### Commencement

The Bill is to commence on Royal Assent and the reforms will apply to relevant court sentences and orders regarding offences committed both before and after commencement.