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Mr Peter Russo MP,  
Chair,  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

By email:

[LACSC@parliament.qld.gov.au](mailto:LACSC@parliament.qld.gov.au)

10<sup>th</sup> September 2019

**RE: INQUIRY INTO THE COMMUNITY BASED SENTENCES (INTERSTATE TRANSFER) BILL 2019**

Dear Mr Russo (Peter),

We welcome and appreciate the opportunity to make a submission in relation to the *Community Based Sentences (Interstate Transfer) Bill 2019*.

**Preliminary Consideration: Our background to comment**

The Aboriginal and Torres Strait Islander Legal Service (Qld) Limited (ATSILS), is a community-based public benevolent organisation, established to provide professional and culturally competent legal services for Aboriginal and Torres Strait Islander people across Queensland. The founding organisation was established in 1973. We now have 26 offices strategically located across the State. Our Vision is to be the leader of innovative and professional legal services. Our Mission is to deliver quality legal assistance services, community legal education, and early intervention and prevention initiatives which uphold and advance the legal and human rights of Aboriginal and Torres Strait Islander people.

ATSILS provides legal services to Aboriginal and Torres Strait Islander peoples throughout the entirety of Queensland. Whilst our primary role is to provide criminal, civil and family law representation, we are also funded by the Commonwealth to perform a State-wide role in the key areas of Community Legal Education, and Early Intervention and Prevention initiatives (which include related law reform activities and monitoring Indigenous Australian deaths in custody). Our submission is informed by four and a half decades of legal practise at the coalface of the justice arena and we therefore believe we

are well placed to provide meaningful comment. Not from a theoretical or purely academic perspective, but rather from a platform based upon actual experiences.

## **INTERSTATE TRANSFER OF COMMUNITY BASED ORDERS**

We welcome the introduction of the *Community Based Sentences (Interstate Transfer) Bill* 2019 which provides the ability for offenders on a community based sentence to have their sentence registered and managed interstate.

The community based sentences in Queensland can include probation, community service orders, intensive correction orders and drug and alcohol treatment orders. There are comparable community based sentences in jurisdictions across Australia and the provisions contained in this Bill will allow a person who transfer the remaining portion of their community based sentence to other states or territories within Australia.

Presently the circumstances under which the administration of community based orders can be transferred between states is extremely limited, it relies upon a power in the *Penalties and Sentences Act* and informal arrangements being made between Queensland Corrective Services and their state and territory equivalents.

There are a plethora of reasons why it is appropriate and desirable, both for the person serving the order and the aims of rehabilitation and the reduction of likelihood of further offending, to enable the interstate transfer of community based orders. These include facilitating access to family and community support, access to jobs and educational and training programs. That list sounds abstract but some specific examples show how impactful the availability of transfers and travel permits will be:

Alisha\* is a young woman with Foetal Alcohol Syndrome. Alisha was staying in a residential facility because her sole surviving parent worked long shifts in a remote community interstate and couldn't care for her in Queensland. An argument with a care worker at a residential facility escalated into Alicia self harming and getting into an extended struggle with the care worker and Alisha was charged. Alisha's father organised better wrap around support for her in the small community where he was based and special arrangements were made by service providers to support Alisha. When Alisha was sentenced for her offending, she was given a lengthy probation order with special conditions so she could continue with the support she was getting and the positive activities she was undertaking interstate. Alisha completed her order successfully. The Bill will make it easier to transfer orders for people in Alisha's position and will also give the sentencing judge wider discretion in what sorts of orders to impose.

Ben\* is a young man who got into a fight in a shopping centre over what he saw as disrespectful treatment of a girl. On conviction, Ben was given community service order and probation. In the time between the offence and his sentencing, his family had returned to New South Wales. Ben was effectively homeless, couch surfing at friends, not able to access Centrelink and finding it increasingly difficult to comply with his Community Service Order including travelling to locations to perform his community service. His family wanted him to move to New South Wales where he would have accommodation and family support and supervision. The Bill will make it easier for Ben to comply with his order and have positive support.

Charlie\* lives in a regional community with limited employment opportunities. He got a training scholarship which required him to travel interstate several times a year for intensive training. He was doing extremely well in the training and upon completion he was expected to fill one of the highly contested jobs available to those who had gained those qualifications. Charlie also had obligations as

an informal carer for a family member which he was juggling successfully with his training. Charlie's cousins were involved in a street fight, and when Charlie ran to assist a cousin who was getting beaten, he was also charged for participation in the fight. A lengthy community based order was the only sentence that would avoid Charlie getting a conviction recorded and barring him from many occupations. Charlie could not manage compliance with the Queensland based order, travel to two other jurisdictions for the training and job experience, and help out with his family. He dropped out of the training and didn't take up the job. Had travel permits been available for short term study and short term job experience, Charlie would have had a workable chance at complying with his order and the purposes of rehabilitation would have been better served.

Dahlia\* suffered domestic violence at the hands of her partner. His family was antagonistic towards her as well. With the birth of her first baby imminent, Dahlia fled interstate to seek out support from extended family. Matters were sorted out on her eventual return after she had had the baby and matters had settled down with her ex-partner. Under existing legislation, nothing much could be done for Dahlia until her return to Queensland. On resentencing she was given a second chance to perform the community based order successfully. Had the order been transferrable, she could have finished it while residing interstate and still getting family support with the baby.

(\* All names have been changed and identifying details removed)

We thank you for the opportunity to comment on the legislation and commend it to the committee.

Yours faithfully,

Shane Duffy

Chief Executive Officer