

PE1887/O: Create an Unborn Victims of Violence Act

Cabinet Secretary for Justice and Home Affairs submission of 2 July 2024

I write to you following last month's constructive debate on the above-mentioned Petition and following a time for further reflection.

Immediately following the debate, my officials followed up with the Scottish Sentencing Council secretariat to seek an update on progress in developing a sentencing guideline for domestic abuse cases as we all appreciated this was an important part of our considerations on any potential next steps within the debate. I also highlighted the areas raised within the debate in my recent meeting with the Lord Justice Clerk last month.

The Council secretariat were helpfully familiar with the debate and confirmed that the Council was carefully considering the issue as it looks to advance the draft guideline for public consultation. The secretariat confirmed the Council's previously stated position that there is nothing that necessarily precludes the loss of an unborn child caused by violent actions or coercive control from being libelled as part of an offence or from being considered by a judge or sheriff as a factor in a sentencing decision. The secretariat outlined that the issues raised in the Petition insofar as they relate to sentencing, are being considered in the context of the draft guideline being developed on sentencing domestic abuse offences.

That being said, I have reflected further, as I indicated I would as part of my closing speech, on the arguments made during the debate.

While I think we would all welcome the developing work on the part of the Scottish Sentencing Council, I am not convinced that in isolation it would directly address the aims of the Petitioner and the consensus amongst those who contributed to the debate.

I have therefore asked my officials to progress discussions with justice partners to develop policy for how a statutory aggravator for causing miscarriage through acts of domestic abuse could operate. We will use the existing Domestic Abuse Justice Partners Roundtable format but engaging others throughout. Those discussions would also look at the implications and challenges of potentially broadening the aggravator to include other crimes but with a clear focus on domestic abuse. I can't and would not at this stage want to raise expectations around timing for when that work will be completed but I will commit to keeping you updated on a regular basis.

I would be grateful if you could advise the Petitioner of this development and to convey my thanks for her bravery and determination in bringing this to the debating chamber of the Scottish Parliament. I would also like to personally thank you for conducting the debate in such a well informed and constructive manner, something which the now First Minister reflected at the time as well.

I am copying this letter to the Convener of the Criminal Justice Committee for their interests as well.

Yours sincerely,

ANGELA CONSTANCE