

Cabinet Secretary for Justice and Veterans submission of 6 February 2023 PE1887/L: Create an Unborn Victims of Violence Act

Thank you for your letter of 11 January 2023 concerning the Committee's consideration of Petition PE1887 – Create an Unborn Victims of Violence Act.

Where any changes to the criminal law are suggested, it is important that these changes are fully considered given the implications arising. I have read the comments in your letter and of course entirely agree that the justice system should be able to hold perpetrators of domestic abuse to account where they have caused a miscarriage. An initial key question is the extent to which the existing law is fit for purpose in delivering that aim or whether more should be done to better recognise this type of crime, and the trauma it causes to victims.

I understand the Committee's desire for an early response to their call for legislation, but such an important personal and emotive issue looking to reform how the criminal law operates requires appropriate and careful consideration. I recognise why the Committee might consider future Bills as the mechanism and opportunity to deliver their desired outcome. However, at this stage, I consider it important to take some time to work through whether there is a clear view on whether specific action is required and, if so, what that action may be. For now, I think it appropriate and right for me to commit to consider the recommendation, including the parameters of crime where there may be an unborn victim, before considering any next steps, including the potential for wider consultation.

I can advise that my officials have been observing the considerations of the Committee and are already thinking through potential future policy options. I will of course keep the Committee advised as they progress this work. I would also welcome meeting with the Petitioner once that work has concluded.

On the matter of the Domestic Abuse (Scotland) Act 20218, and as I am sure you will be aware, your letter crossed with the publication on 10 January 2023 of the results of research projects examining the

experiences of a small sample of witnesses – including children – in domestic abuse cases since the implementation of the DASA legislation on 1 April 2019. This fulfils, in part, the Domestic Abuse (Scotland) Act 2018 'Reporting Requirement - [Domestic Abuse \(Scotland\) Act 2018: Interim Reporting Requirement \(www.gov.scot\)](#)

That report does not include a review and evaluation of the effectiveness of the current framework in bringing forward and prosecuting charges where miscarriage is caused. However, that would be part of the broader considerations around next steps as I outlined earlier.

Finally, thank you for advising that you have contacted the Scottish Sentencing Council. I will watch with interest to see how they respond.