

Submission on Strengthening the Criminal Justice Response to Sexual Violence and Other Measures Bill 2022 (Cth)

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Introduction and summary of recommendations

As South Australia's Commissioner for Children and Young People my mandate under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* is to advocate for the rights, interests and wellbeing of all children and young people in South Australia. It is also my role to ensure that the State, at all levels of government, satisfies its international obligations under the Convention on the Rights of the Child (CRC).

I have read the Bill and explanatory memorandum and welcome the proposed amendments insofar as they appear to align with recommendations made in the Royal Commission into Institutionalised Responses to Child Sexual Abuse (RCIRCSA).

The pre-recording of evidence will be especially protective for child victims as it will better protect children from any further harm. Research has shown that pre-recorded evidence:

- allows children to move on with their lives sooner and supports a reduction of waiting time for children at court;
- can be used for re-trial, preventing the child from having to give evidence several times and allows admissibility of evidence to be determined before trial;
- is likely to be more reliable as there is less of a gap between the original incident and the giving of evidence;
- allows the tape to be edited to remove parts that are deemed inadmissible;
- permits both parties to know the strength of the child's evidence before trial, allowing the prosecution to determine whether the evidence justifies proceeding with the charges.¹

In order to successfully implement any of these amendments, there needs to be adequate allocation of resources for law enforcement agencies and courts to implement as intended.

I recommend:

1. **The government properly resources and provides training to law enforcement and judicial officers to service any increase in vulnerable witnesses associated with the proposed expansion of vulnerable witness protections.**
2. **The Federal government introduce a Witness Intermediary Scheme in order to fully implement Recommendation 60 of the RCIRCSA.**
3. **Law officers, including police and court officers, receive regular and ongoing professional training.**
4. **The Commonwealth Attorney-General review laws related to vulnerable witnesses and witness intermediaries to ensure consistency between state and territories.**

If you have any queries please do not hesitate to contact this office.

Yours sincerely



Helen Connolly
Commissioner for Children and Young People SA

1. The government properly resources and provides training to law enforcement and judicial officers to service any increase in vulnerable witnesses associated with the proposed expansion of vulnerable witness protections.

This office supports expanding the definition of vulnerable witnesses to include adult-victims, however, there is a concern that officers currently supporting vulnerable witnesses will have a larger workload and may not be able to adequately support children who are current victims of sexual abuse proceedings.

If the definition is to be expanded there needs to be resourcing to ensure child witnesses are properly protected and supported, so that any increase in the number of vulnerable witnesses who are adults are appropriately serviced to avoid any delays in proceedings where child victims are involved.

Resourcing means increasing the number of trained specialists in the Australian Federal Police. However, it also requires a rethink on how child victims are supported in the Federal court process, including how court officers are trained and the consideration of a Witness Intermediary scheme.

2. The Federal government introduce a Witness Intermediary Scheme in order to fully implement Recommendation 60 of the RCIRCSA.

I commend that Federal government is implementing recommendations outlined in The RCIRCSA that will introduce ground rules hearings. Introducing ground rules hearings will provide greater clarity for vulnerable children who are witnesses.

However, Recommendation 60 in the Final Report related to ground rules hearings was grounded on the assumption that witness intermediaries are an essential requirement to these hearings.ⁱⁱ For the Commonwealth government to fully implement Recommendation 60, it requires investment and amendments to introduce a Witness Intermediary Scheme at the federal level. This could be by extending the mandate of the Commonwealth Witness Assistance Service.

3. Law officers, including police and court officers, receive regular and ongoing professional training.

Although I understand that training is available for relevant law enforcement officers and court officers who are engaged in child abuse proceedings, training should occur on an annual basis to understand the impacts of trauma and abuse, based on latest research, and to provide tools to best talk to children and vulnerable witnesses.

4. The Commonwealth Attorney-General review laws related to vulnerable witnesses and witness intermediaries to ensure consistency between state and territory governments.

The Commonwealth Attorney-General should undertake a review of all laws and schemes around vulnerable witnesses and witness intermediaries in Australia to understand successes and failures to make further improvements in this area. Further, the review should consider whether consistency between jurisdictions would be merited.

ⁱ Judy Cashmore, 'Innovative Procedures for Child Witnesses', in Westcott, Davies and Bull (eds) above N.Vrij 'Deception in Children: A Literature Review and Implications for Children's Testimony'.

ⁱⁱ Australian Government. 2021. Annual Progress Report 2021: Implementation of recommendations from the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse. Accessed at <https://www.childabuseroyalcommissionresponse.gov.au/sites/default/files/2021-12/annual-progress-report-2021.PDF>