



Statutes Amendment (Child Sexual Abuse) Bill 2020

The Youth Affairs Council of South Australia (YACSA) is the peak body in South Australia representing the interests of young people, youth workers, organisations, and networks throughout the non-government youth sector. Policy positions are independent and not aligned with any political party or movement. YACSA supports the fundamental right of all young people to participate in and contribute to all aspects of community life, particularly the decision-making processes that impact them.

Over the past 17 years, YACSA has observed three inquiries and a Royal Commission investigating the child protection system in South Australia, as well as a national Royal Commission into Institutional Responses to Child Sexual Abuse. YACSA has contributed to:

- the Layton Child Protection Review
- the "Every Chance for Every Child" legislation reform discussion paper
- the Child Development & Wellbeing Bill 2013 consultation
- the Royal Commission into the Institutional Responses to Child Sexual Abuse regarding the Working with Children Check (WWCC)
- the Protection and Wellbeing of Children and Young People (Oversight and Advocacy Bodies) Bill extract
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- the Children and Young People (Safety) Bill 2016
- the draft Child Safety (Prohibited Persons) Regulations 2018
- the Children and Young People (Safety) Act 2017 Review (2019)
- the Civil Liability (Institutional Child Abuse Liability) Amendment Bill 2020.

YACSA acknowledges that in order to successfully investigate and prosecute child abuse cases, the complainant's ability to give clear and credible evidence is critically important. Survivors of child abuse often report how overwhelming and traumatic they find the criminal justice system and the process of giving evidence. The current Bill addresses some of the 85 recommendations contained in the 2017 Criminal Justice Report¹ to address the ability of the criminal justice system to respond to crimes of sexual violence, including child sexual abuse.

Pre-recorded evidence and pre-trial special hearings

With the likelihood that survivors of child sexual abuse risk re-traumatisation during a court trial^{2, 3}, YACSA supports the proposed changes to investigative interviews, pre-trial special hearings, ground rules hearings, and audio-visual hearings. Studies show that children and young people can experience a great deal of anxiety providing testimony in a court trial and much of this anxiety is related to facing the

¹ Royal Commission into Institutional Responses to Child Sexual Abuse (2017). Criminal Justice Report. Viewed 15 December, https://www.childabuseroyalcommission.gov.au/sites/default/files/file-list/final_report_-_criminal_justice_report_-_parts_vii_to_x_and_appendices.pdf

² The All-Party Parliamentary Group (APPG) for Adult Survivors of Childhood Sexual Abuse (2020). Can adult survivors of childhood sexual abuse access justice and support? Viewed 15 December 2020, <https://static1.squarespace.com/static/5c8faf788d97401af928638c/t/5e4189062488d55edc679042/1581353239794/EMBARGOED+TO+11.2++%27Can+adult+survivors+access+justice+and+support%27.pdf>

³ Richard, K. (2009). Child complainants and the court process in Australia. Australian Institute of Criminology (2009). Trends and Issues in Crime and Criminal Justice – No. 380. Viewed 14 December, <https://www.aic.gov.au/sites/default/files/2020-05/tandi380.pdf>

defendant. Longer-term studies show that testifying in court can be associated with negative mental health outcomes and negative impacts on young people's view of the legal system⁴.

Increasing the eligibility to record and admit investigative interviews in court and attend pre-trial special hearings for older victims of child sexual abuse, witnesses that are children, vulnerable adults and other selected witnesses has broad support amongst criminal justice practitioners⁵. This will assist victims and witnesses to give evidence without experiencing some of the damaging elements of court trials.

Failure to report and failure to protect

YACSA believes that the protection of children is paramount and that all children have the right to feel and be safe at all times including when they come into contact with services, their staff and volunteers. As such, we support the 'Failure to report' and 'Failure to protect' clauses of the Bill.

However, YACSA acknowledges that these clauses will undoubtedly impact the work of institutions in the short term. To be compliant with this proposed legislation, institutions may need access to additional support and resources to review and update relevant policies and processes relating to child safety, and the screening and training of staff and volunteers.

⁴ Pantell, R. H (2017). The Child Witness in the Courtroom. *Pediatrics*, Vol 139, No 3 , March 2017 :e 20164008. Viewed 15 December 2020, <https://pediatrics.aappublications.org/content/pediatrics/139/3/e20164008.full.pdf>

⁵ Eunro, L, Goodman-Delahunty, J., Fraser., M., Powell, MB., Westera, NJ (2018). Special Measures In Child Sexual Abuse Trials: Criminal Justice Practitioners' Experiences And Views, *QUT Law Review*. Vol 18, Issue 2, pp. 1–27. Viewed 21 December 2020, <https://lr.law.qut.edu.au/article/view/757/691>



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