



11 January 2017

Research Director  
 Legal Affairs and Community Safety Committee  
 Parliament House  
 George Street  
 BRISBANE Q 4000

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



Dear Sir/Madam

**Re: Criminal Law Amendment Bill 2016**

We refer to the letter dated 9 December 2016 seeking Submissions on the above Discussion Paper by 16 January 2017.

Protect All Children Today Inc. (PACT) is a non-profit community organisation established in 1986 as a service provider of court support as well as advocating for vulnerable children, young people and their families. PACT's Child Witness Support Program provides support for children and young people who are required to give evidence in criminal court matters, either as victims of, or witnesses to, a crime. PACT recruits Child Witness Support Volunteers to provide child victims and witnesses with support and information about the Criminal Justice System.

PACT is supportive of any legislative reforms that better protect vulnerable children and young people who have been victims or witnesses of crime. It is through our experience that we offer the following comments on amendments of relevance to the work we do supporting child victims of crime:

***Amendments to the Evidence Act 1977***

In opening, given the majority of the children PACT support give evidence by pre-recording, PACT is extremely supportive of the playing of videorecording evidence in proceedings in certain circumstances, especially where there is an identified level of vulnerability. Further, any technical amendments to provisions relating to the pre-recording of evidence to reflect contemporary court practices and ensure the accuracy of important court transcripts is supported by PACT.

- **Clause 30** - PACT supports the changing of the wording from 'video-taped recording' with 'videorecording' and 'video-taped evidence' with 'video recorded evidence' to better reflect current practice and advancements in technology.
- **Clauses 31 and 34** - PACT strongly support the exclusion of the public (non-essential persons) from a courtroom while the pre-recording of an affected child witness or special witness is being played. Sadly, families are advised the court will be closed when a child is giving pre-recorded evidence and whilst cross-examined and assume that this practice also applies to the trial. Consequently, when they become aware that members of the public can be present when their child's evidence is being played to the Jury, they express real concern to the PACT Volunteer providing support throughout the daunting criminal justice court process. This has led to significant and unnecessary trauma for affected child witnesses and their families.

*Vice Regal Patron: His Excellency the Honourable Paul de Jersey AC, Governor of Queensland*

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We are aware of a particular case where visiting school students to the Brisbane District Court were exposed to the pre-recorded evidence of a fellow classmate, involved in the sexual assault matter.

PACT recognises that this amendment affords another level of protection to the vulnerable witness and commends the Queensland Government for addressing this discrepancy in the legislation.

Clear communication, direction and education of the judiciary will be important to ensure all parties involved are aware of these updated legislative requirements.

- **Clause 32** – Again PACT is supportive of the removal of the word ‘tape’ where it appears to better represent current practice and advancements in technology. We appreciate that this technical amendment removes any ambiguity as to the meaning of videorecording.
- **Clause 33** – Again the removal of the word ‘tape’ is supported.
- **Clause 35** – We support the amendments to the instructions to the Jury in relation to the exclusion of non-essential persons when a child’s evidence is being played.
- **Clause 36** – We appreciate the need for the amendments in relation to the use of soundtracks for particular videorecordings and the clarification of the definition of ‘relevant witness’. We are particularly supportive of any mechanisms that can prevent a vulnerable child witness from being recalled to give evidence again, as this places unnecessary stress on the child and their family. It also contravenes the intentions of the *Evidence Act* to reduce the time a child witness is involved in the court process by pre-recording their evidence as early as possible.

We support the management, storage and destruction of videorecordings in accordance with other relevant legislation about the management of sensitive and confidential information. As such, we support the amendments outlined in the following areas:

- *Clause 37*
- *Clause 38*
- *Clause 39*
- *Clause 40*
- *Clause 41*
- *Clause 43*
- *Clause 44*
- **Clause 42** – PACT does not have the expertise to provide meaningful comment.

#### ***Amendments to the Jury Act 1995***

- Any innovations that improve jury selection, communication and operational processes are supported by our organisation. We acknowledge the critical role the Jury plays within the Queensland criminal court system.

#### ***Amendments to the Justices Act 1886***

- Changes that enable a Defendant to enter a plea in bulk in a Magistrates Court is supported by PACT as it could result in affected child witnesses not having to give evidence or enduring the complex and daunting court process.

#### ***Amendments to the Penalties and Sentences Act 1992***

- PACT does not have the expertise to provide meaningful comment but supports any amendments that better protect vulnerable children and young people from unnecessary risk and prevent further offending behaviours.

***Amendments to the Recording of Evidence Act 1962***

- PACT is supportive of amendments in relation to the destruction of Magistrate Court recordings providing they are in accordance with the other relevant legislation about the disposal and archiving of sensitive records.

***Amendments to the Telecommunications Interception Act 2009***

- We agree with amendments that better manage the storage of relevant documents associated with individual court cases.

PACT is very grateful to be consulted about this important issue. Should your staff require clarification or further information on any of the issues raised, please do not hesitate to contact [REDACTED], PACT's Chief Executive Officer on telephone [REDACTED] or email [REDACTED].

Thank you for the opportunity to provide comment on this valuable review. We trust our input has been of value.

Yours sincerely

[REDACTED]

Chairperson

[REDACTED]

Chief Executive Officer