

30 January 2020

Brooke Craven
Director
Tasmanian Department of Justice
Strategic Legislation and Policy
GPO Box 825
Hobart TAS 7001

By email: haveyoursay@justice.tas.gov.au

Dear Ms. Craven,

Re: *Evidence Amendment Bill 2020*: Publication of certain identifying particulars prohibited (Section 194K)

1. Rape & Domestic Violence Services Australia welcome the opportunity to review and comment on the *Evidence Amendment Bill 2020*: Publication of certain identifying particulars prohibited (Section 194K) ('the draft legislation' or 'the draft Section 194K') as prepared by the Tasmanian Department of Justice. We commend the Tasmanian Government on taking this positive step toward removing a current barrier for those who have experienced sexual violence. This reform, if enacted, will enable those who have experienced sexual violence to share their stories publicly without the requirement of obtaining a Court order.

Introduction.

2. Rape & Domestic Violence Services Australia is a non-government organisation that provides a range of trauma specialised counselling services for those who have experienced sexual, domestic and/or family violence and their supporters.¹

¹ Generally, Rape & Domestic Violence Services Australia prefer the term *people who have experienced sexual assault and/or domestic and family violence* to describe individuals who have suffered this type of violence, rather than the terms survivors or victims. This is in acknowledgement that, although experiences of sexual assault and/or domestic and family violence are very significant in a person's life, they nevertheless do not define that person. However, in this submission, Rape & Domestic Violence Services Australia will sometimes use the term victims as this accords with the language used in the legislation.

3. Our services include the NSW Rape Crisis counselling service for people in NSW whose lives have been impacted by sexual violence; Sexual Assault Counselling Australia for people accessing the Redress Scheme resulting from the Royal Commission into Institutional Responses to Child Sexual Abuse; and the Domestic and Family Violence Counselling Service for Commonwealth Bank of Australia customers and staff who are seeking to escape domestic and/or family violence.

Endorsement of End Rape On Campus Australia and Marque Lawyers submission.

4. Rape & Domestic Violence Services Australia fully endorse the submission made by End Rape On Campus Australia and Marque Lawyers on this draft legislation.
5. As stated in our preliminary submission to the review of the current Section 194K ('our preliminary submission'):

***"The power should be with those who have experienced sexual violence – not the Court or the Media."*²**

Safeguards in the draft Section 194K.

6. Our organisation states that it remains entirely appropriate that those who have experienced sexual violence continue to be protected when they do not choose to be identified or share their story.
7. Rape & Domestic Violence Services Australia also state that it is appropriate to include all four (4) safeguards as drafted in the draft Section 194K, including:
 - is at least 18 years of age at the time of the publication;
 - has consented in writing to the publication;
 - has an understanding at the time of their consent, that they may be "identified, or identifiable as a result of the publication;" and
 - was not coerced into consenting.³
8. Each of the above four (4) safeguards recognises that there is an impact on those who have experienced sexual violence sharing their own stories publicly, and that this event in an individual's life should not be taken lightly.

Addressing any unintended consequences in the future.

9. Rape & Domestic Violence Services Australia recommends that if any changes are made to the existing legislation then there be a mechanism for ongoing monitoring and evaluation of these changes. The process for ongoing monitoring should include

² Rape & Domestic Violence Services Australia, *Preliminary Submission to the Tasmanian Department of Justice's review of Section 194K of the Evidence Act 2001 (Tasmania)* (Discussion Paper, 2019), 3.

³ (Draft) *Evidence Amendment Act 2020* (Tas), s 194K(4).

an opportunity to examine the effectiveness of any change to the legislation and ensure that no unintended consequences have arisen.

Recommendation 1: That there be a further mechanism for ongoing monitoring and evaluation of any changes to law and legal processes, with an opportunity to examine the effectiveness of any such changes, including seeking to address any unintended consequences.

Conclusion.

10. In conclusion, Rape & Domestic Violence Services Australia state that we are supportive of the draft legislation and again commend the Tasmanian Government on taking this positive step to reform this legislation. The legislation will allow for those wishing to share their own story publicly, to be able to do so without the additional unnecessary barrier of obtaining a Court Order.
11. Rape & Domestic Violence Services Australia urges the Tasmanian Government to consider the above and undertake to reform the law accordingly.
12. If you have any questions or would like to discuss further, please do not hesitate to contact me on (02) 8585 0333 or by email at karenw@rape-dvservices.org.au.

Yours faithfully,

Rape and Domestic Violence Services Australia



Karen Willis

Executive Officer