



New South Wales

Criminal Procedure Amendment (Child Sexual Offence Evidence Pilot) Bill 2015

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The *Criminal Procedure Act 1986* (the *Principal Act*) contains provisions with respect to the giving of evidence in criminal proceedings by certain vulnerable persons in the form of recordings of previous representations and by closed-circuit television or similar technology in court proceedings. The object of this Bill is to amend the Principal Act to give effect to a pilot scheme that augments those provisions by:

- (a) providing for the evidence (including evidence in cross-examination and re-examination) of children who are complainants in indictable proceedings in the District Court in relation to prescribed sexual offences (within the meaning of the Principal Act) to be pre-recorded at hearings in the absence of the jury (if any), and
- (b) for such evidence to be given with the assistance of a children's champion (or "witness intermediary") whose role is to facilitate the communication of, and with, such children.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Criminal Procedure Act 1986 No 209

Schedule 1 inserts Part 29 (proposed clauses 81–94) into Schedule 2 to the Principal Act to make the amendments described in the Overview.

Clause 81 provides for the pilot scheme to operate for 3 years from 31 March 2016.

Clause 82 contains definitions for the purposes of the proposed Part.

Clause 83 describes the proceedings to which the proposed Part applies.

Clause 84 contains a presumption that (unless the District Court makes an order to the contrary) certain evidence of witnesses who are complainants in proceedings to which the proposed Part applies who are less than 16 years of age will be given in the form of a recording made at a pre-recorded evidence hearing. The District Court may also order that the evidence of a child who is 16 or more years of age be dealt with in this way.

Clause 85 sets out requirements in relation to the carrying out of pre-recorded evidence hearing. The hearing is to take place in the absence of the jury (if any).

Clause 86 ensures that the accused person is given reasonable access to a recording of evidence made at a pre-recorded evidence hearing.

Clause 87 prevents a witness who gives evidence at a pre-recorded evidence hearing from giving further evidence except with the leave of the Court.

Clause 88 describes the role of children’s champions (who may also be called “witness intermediaries”).

Clause 89 provides for the appointment of children’s champions.

Clause 90 provides for the giving of evidence in the presence of a children’s champion.

Clause 91 requires a warning to be given to the jury where pre-recorded evidence or a children’s champion is used in proceedings to which the proposed Part applies.

Clause 92 makes it clear that the provisions of the proposed Part are additional to existing provisions with respect to the giving of evidence, rights of the accused person and powers of the Court and do not affect these except as provided by the proposed Part, regulations or rules of court.

Clauses 93 and 94 provide for the making of regulations, rules of court and practice directions in relation to the proposed Part.