

**SEXUAL OFFENCES (EVIDENCE AND PROCEDURE) AMENDMENT BILL  
(Serial 117)**

**Ms FYLES (Attorney-General and Justice):** Madam Deputy Speaker, our government is putting victims first and this piece of legislation is again another piece of progressive legislation that lets victims in the Territory have their voice.

This piece of legislation has been advocated by people such as the Member for Katherine but also it has been around the Let Her Speak campaign which has been urging legislative change in the Northern Territory and Tasmania to enable the sexual assaults complainants to consent to the publication of their identity, if they choose. For some people, it is important to have that voice, to share their story, it helps them in their healing process and we need to put victims first and we need to allow that.

It is the advocacy of people such as the Member for Katherine and Nina Funnell, who recently received an 'our watch' award for her series of articles in the *NT News*, *The Mercury* and *News.com*. It is the advocacy of people such as her that you do see legislative change.

We debate many bills in this house, some are lengthy and there is lengthy debate; opposition and government ask questions and go through quite a process. It is not any disrespect that this issue is any lesser by the fact that I acknowledge the Member for Spillett and her contribution for the debate, I will answer her questions but for her support to this bill, but it is important these types of changes are made going forward.

When I introduced the bill I outlined the history of the Let Her Speak campaign. This bill will amend the *Sexual Offences (Evidence and Procedure) Act 1983* to enable a complainant, in a sexual offence proceeding, to be able to speak publicly about their experience as a sexual assault survivor.

The bill achieves this by providing for a new defence to a prosecution for the offence of publishing, or making a statement or representation, which discloses or is likely to disclose the identity of the complainant in a sexual offence proceeding provided that:

- the publication or making of the statement or representation does not occur before the final proceedings or before the proceedings are finalised
- the consent is in writing before the publication or making of the representation or statement
- the complainant is an adult with a capacity to consent at the time of giving consent
- the proposed publication, statement or representation does not identify directly or indirectly identify another complainant unless that complainant has also given consent.

As I said this has been on the back of a campaign. We have other jurisdictions that have made legislative change in this place. It does vary from jurisdiction to jurisdiction and there has been no uniform approach.

The Leader of the Opposition asked questions around the scrutiny committee report. There were a number of recommendations. Recommendations 2 and 6 have been adopted which you will see in the Assembly amendment and which I will speak of in a moment.

Recommendations 3 and 4 are not supported and recommendation 5 is supported in principle but the government intends to conduct further consultation on the issue.

Recommendation 3—the committee recommended that proposed section 6(2) be amended to remove subsection 6(2)(a). This is not supported. Proposed subsection 6(2)(a) places a restriction on a complainant until no proceeding in relation to the sexual offence is pending in a court. This allows the complainant to share their story but if criminal proceedings are not finished they require the courts permission.

The government was of the view that this restriction should remain and we heard the Leader of the Opposition read out some of the points from the department that this should be the complainant cannot share their story until the criminal proceedings are finalised. If subsection 6(2)(a) is removed there will be risk to the complainant as well as risk to the ongoing prosecution on this matter. The complainant may unwittingly frustrate the court of justice to the extent that it could affect the ultimate result and we do not want to put an end to a victim's right to justice.

If criminal proceedings are not finalised the complainant may still apply to the court to reveal their identity and share their story. Whilst proceedings are pending the court is best placed to determine whether the identification of the complainant and the extent or format of any proposed publication will affect any ongoing proceedings.

We believe that the assessment between the restrictions strikes a balance between maintaining the privacy of complainants of sexual offences during those court proceedings and the complainants desire to share their story—particularly important in this age of social media.

The equivalent legislation in Victoria and Tasmania has that same restriction. I do believe we have seen changes in Queensland. That will be something that perhaps a future Assembly could look at.

Recommendation 4 is not supported. Some stakeholders proposed defining terms albeit at vastly differently ends. One put forward an encompassing approach for the term pending whereas others suggested a narrower approach, and this illustrates the government's concerns.

Recommendation 5 on the scrutiny committee recommended removal of section 7 of the Bill. The government gives in-principle support to this however, it is proposed that section 7 of the *Sexual Offences (Evidence and Procedure) Act* is to be removed to take away a defendant's anonymity prior to a committal for a trial or sentence in the Supreme Court. This should be done following full consultation.

During consultation on the Bill stakeholders are unlikely to have turned their minds to potential amendment of the *Sexual Offences (Evidence and Procedure) Act 1983* to remove a defendant's anonymity before committal for trial or sentence.

I hope that answers the Leader of the Opposition's questions in terms of the scrutiny committee's report. I thank the scrutiny committee for the work they have done.

Once this bill is passed the Department of Attorney-General and Justice will write to key stakeholders to advise them of the reform and in particular the requirements which must be satisfied before a survivor of sexual offence may be publicly identified.

The Department of Attorney-General and Justice will also develop and publish a factsheet to assist in understanding those requirements.

As we have heard this morning in this House this legislation is an important step forward in giving victims a voice and putting them first.

I would like to acknowledge the staff in the Department of Attorney-General and Justice and Parliamentary Counsel and all those that had the courage to push for this legislation. I commend the bill to the House.

Motion agreed to; bill read a second time.