

Victims of Sexual Violence (Strengthening Legal Protections) Legislation Bill

Introduction:

We would like to thank the Justice Select Committee for the opportunity to submit on these bill amendments.

NCIWR is a non-governmental organisation that has been delivering services to women, children, and whānau affected by family violence in Aotearoa for the last 50 years. In 2021/22, our network of 40 affiliated refuges supported 52,000 clients and provided 59,000 safe nights in safe houses. Children made up 50 percent of all clients who accessed safehouses across the country. As in any submission made by NCIWR, we represent the victims of family violence, specifically wāhine and tamariki, who are the primary groups subjected to and impacted by family violence. For many tamariki impacted by family violence, sexual abuse is a core and deeply impactful aspect of their experiences – as is the aftermath of reporting it.

Our position:

We strongly support these amendments, which further the ability of this bill to support the safety and wellbeing of children as well as adults who experience sexual violence. Tamariki represent the biggest and arguably one of the least-served victim cohorts in Aotearoa. Children are driven to seek formal avenues of justice because their rights have been violated as a result of the choices and actions of others, usually adults.

- We support Amendment 215 to broaden applicability of the section dealing with name suppression to all offences of a sexual nature, in order to align with other sections within the Act as well as the definition of a sexual case in the Evidence Act and the Victims' Rights Act.
- We support Amendment 216 to more strongly word that the court only make orders to suppress the identity of a defendant convicted of any offence of a sexual nature with the agreement of the complainant, with specified exceptions if the complainant is unable or unwilling to engage with the matter or cannot be contacted

Our only concern is that the phrase 'cannot be contacted' may not be sufficient as it could be interpreted to mean, for example, one attempted phone call. We know that victim-survivors may be particularly difficult to reach if they are trying to prevent unwanted contact from someone who has abused them, thus they may relocate, change phone number, emails, etc, so we suggest this be reworded to be more specific, e.g. "attempted contact must be by using all known means of contact multiple times."

Background

NCIWR has dedicated a large amount of its capacity over the last four years to understanding children's experiences of violence. The research and policy team at NCIWR have heard from 47 tamariki about what facilitates safety for them after victimisation. NCIWR released the *Kids in the middle* research report in 2021, which heard from children about what they wanted and needed after their experiences of violence. We heard from many children about their negative experiences of the justice system, and the systemic and structural disablers of safety they encounter.

From this research NCIWR launched a child-specific advocacy pilot in seven Refuges across the country. To date the Kōkihi ngā Rito pilot has supported 160 tamariki who are at critical risk because of family violence. A significant number of these children are victims of both family violence and sexual violence and the advocacy they have received responds to their needs in relation to both types of violence. We

use the information gathered through research and advocacy with children to inform our submission on the Bill.

There are few support pathways that offer a means to recognise and reverse the practical and material toll that perpetrators have on children. In our research children conveyed that while they would never be truly comfortable with the court process, the adverse impacts on their wellbeing could be mitigated by the adaptation of processes to suit their needs within systems largely designed for adults.

Our approach to research and advocacy with children attempts to counter the systemic under-privileging of the stories and knowledge held by tamariki. We are therefore in support of legislation that considers children's experiences, opinions, views, and needs about matters that pertain to them – specifically, name suppression of the defendant and complainant in specified sexual violence cases. The tamariki we interviewed expressed feelings of powerlessness over their situations; they told us that their input is not often heard, considered, or actioned by justice actors who make decisions on their behalf. Our research shows that children are willing and able to provide information – but their willingness and capacity to do so is contingent on the capacity of justice systems' (and actors') to hear from them and understand them *as children*.

We believe it is essential that children's opinions are sought, respected, and integrated into judicial decision making. The way that adults and systems invite, support, and hear children's contributions is pivotal to whether their contributions are accurately understood, contextualised, and actioned.

At the same time, adults who experience sexual violence often experience this in the context of family violence, and regardless, often feel disempowered by system responses that ignore their needs and wants.

We believe these amendments will support the judicial system to routinely seek and respect the opinions of children and adults who experience sexual violence with regards to name suppression of both complainants and defendants.