



Alliance for women's freedom, equity and respect

Embolden SA Inc.
**Response to *Crimes Amendment (Strengthening the Criminal Justice
Response to Sexual Violence) Bill 2024***
March 2024

Embolden is the peak body for domestic, family and sexual violence (DFSV) services in South Australia, representing 19 member organisations delivering specialist DFSV services in our state.

Yarrow Place Rape and Sexual Assault Service, within the Health and Recovery, Trauma Safety Services (HaRTSS) of the Women's and Children's Health Network, is South Australia's lead specialist sexual violence service and a member of Embolden. Yarrow Place is SA's representative on the national peak body NASASV, the National Association of Services Against Sexual Violence. Yarrow Place/HaRTSS has specific expertise in the area of sexual violence and Embolden is aware that HaRTSS has been engaged throughout the consultation process for the *Crimes Amendment (Strengthening the Criminal Justice Response to Sexual Violence) Bill 2024*.

Embolden supports the proposed amendments in the Bill that aim to improve access to criminal justice proceedings (e.g. right to interpreter) and reduce potential re-traumatisation (e.g. evidence recording hearings) for victim-survivors and witnesses in sexual violence offences. In relation to evidence recording hearings, Embolden's position is that all victim-survivors of sexual violence should have the right to choose whether they appear in person in court proceedings or have their evidence pre-recorded, regardless of their age at the time of the alleged offence or subsequent criminal justice process.

Embolden notes that 'ground rules' hearings have been omitted from the Bill following earlier feedback that such hearings must be supported by effective witness intermediary schemes. Embolden supports continued action to develop and embed intermediary supports and ground rules hearings. In addition, Embolden supports the strengthening of supports for victim-survivors to understand and exercise their rights through criminal justice processes and to connect with other services.

Embolden highlights two key issues in response to the Bill:

Firstly, Embolden is opposed to the provision allowing defendants to be present, albeit not seen by the 'vulnerable person', at evidence recording hearings. It is difficult to reconcile this provision, as it is currently framed, with the primary objective of evidence recording hearings to reduce the risk of systemic re-traumatisation for victim-survivors of sexual



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violence. An option would be to allow the defendant to be present only on the prior agreement of the complainant, with the complainant having access to no-cost independent legal advice.

Secondly, while Embolden welcomes the inadmissibility of evidence of complainants' sexual reputation under the Bill, we advocate that this be extended to evidence of sexual experience. The provisions relating to evidence of sexual experience allow for circumstances where the court may give leave for the submission of evidence of a complainant's 'sexual activities with a defendant in the proceeding...that occurred or was recent at the time of the commission of the alleged offence'. Consent to sexual activity with an individual on one occasion does not imply consent to sexual activity with that same individual on another occasion, nor does consent to one sexual activity imply consent to a different sexual activity with the same individual on the same occasion. It is critically important that legislative provisions are directly reflective of current best practice understandings of consent and do not inadvertently reinforce the 'rape myths' and victim-blaming attitudes that are too prevalent in our communities.

Implementation of amendments must be supported by robust and ongoing education of the judiciary, in partnership with sexual violence specialists, and evaluation and monitoring of outcomes. Ideally, criteria and requirements for evaluation and monitoring would be included within the legislation.

Thank you for the opportunity to respond to the *Crimes Amendment (Strengthening the Criminal Justice Response to Sexual Violence) Bill 2024*. Any correspondence can be directed to Mary Leaker, General Manager Embolden

Maria Hagias and Susie Smith

Co-chairs, on behalf of the Board of Embolden