

18 July 2023

Our ref: [CrLC:BC]

ConfidentialCommittee Secretary
Legal Affairs and Safety Committee
[REDACTED]
[REDACTED]
[REDACTED]

By email [REDACTED]

Dear Committee Secretary

Justice and Other Legislation Amendment Bill 2023 – Response to question on notice

Thank you for the opportunity to appear before the Legal Affairs and Safety Committee in relation to the Justice and Other Legislation Amendment Bill 2023.

The Queensland Law Society took one question on notice, which relates to the timeframes in other jurisdictions governing an application by a defendant to apply for a non-publication order, in a statutory context expressly permitting pre-committal publication of a defendant's identifying particulars in sexual offence proceedings.

First, we advise that the Northern Territory¹ and Tasmania² restrict the pre-committal publication of the identity of defendants in sexual offence proceedings, in accordance with the current state of the law in Queensland.

Otherwise, there are no equivalent interstate provisions of the kind proposed in Clause 53 of the Bill. That is, there are no equivalent interstate statutory provisions that specifically permit publication of a defendant's identifying particulars in sexual offence proceedings, and place an onus of the defendant to apply for non-publication if suppression is to occur. Rather, the interstate provisions are silent on the right to publish; that is, they do not proscribe publication. Regarding suppression, these jurisdictions fall back on the general statutory power of a Court to order suppression on common law principles. In respect of these general statutory provisions, Victoria is the only jurisdiction which imposes a time limit upon the making of the suppression application which is 3 business days' notice.³

¹ *Sexual Offences (Evidence and Procedure) Act 1983* (NT) s 7.

² *Evidence Act 2001* (Tas) s 194K(1)(b)(i).

³ *Open Courts Act 2013* (Vic) s 10(1).

The table below summarises the interstate provisions relating to non-publication and suppression orders.

Jurisdiction	Provision
Australian Capital Territory	The court may, at any time during or after the hearing of the proceeding, make an order forbidding the publication of the name of the party or witness. ⁴
New South Wales	A suppression order or non-publication order may be made by the court, on its own initiative or on the application of a party to the proceedings, at any time during proceedings or after proceedings have concluded. ⁵
Victoria	An applicant for a suppression order must give 3 business days' notice of the making of the application to the court or tribunal in which the application is to be made and the parties on the record in the proceedings to which the application relates. ⁶
Western Australia	A court may make an order that prohibits the publication outside the courtroom of the whole of the proceedings, or a part or particular of them specified by the court at any time after an accused is charged with an offence and before or after the accused first appears in the court on the charge. ⁷

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [REDACTED]

Yours faithfully



Chloé Kopilović
President

⁴ *Evidence (Miscellaneous Provisions) Act 1991* (ACT) ss 110, 111(2)(c).

⁵ *Court Suppression and Non-publication Orders Act 2010* (NSW) s 9(1), (3).

⁶ *Open Courts Act 2013* (Vic) s 10(1).

⁷ *Criminal Procedure Act 2004* (WA) s 171(4), (5).