

FACT SHEET

Evidence (Children and Special Witnesses) Amendment Bill **2013**

This Bill amends the *Evidence (Children and Special Witnesses) Act 2001* to:

- Extend the definitions of “affected child” and “prescribed proceedings” to include serious violence offences as well as sexual offences and to include children who witness such offences in the definition of “affected child”; and
- Include a statement of principles for dealing with child witnesses; and
- Provide that a judge may order that the whole of the evidence of an affected child in a prescribed proceeding, including cross examination and re-examination be audio-visually recorded at a special hearing and may also order that the affected child need not be present at trial; and
- Provide that, where facilities are available, an affected child’s or special witness’s evidence given at trial be audio-visually recorded and a judge may order that the audio-visual record be admitted into evidence in any later proceeding to which it is relevant and relieve the affected child or special witness from giving evidence wholly or in part at the later proceeding.
- Expand the orders available to a judge when making a declaration that a person is a special witness to include an order to admit a prior statement, an order that a special hearing be held and an order that a special witness not be present at trial if a special hearing is held.
- Prohibit the cross-examination of a victim of the offence which is the subject of a prescribed proceeding by an unrepresented accused.

The Bill also amends the *Criminal Code Act 1924* to omit section 178(2), which is inconsistent with sections 18 and 19 of the *Evidence Act 2001*.

The Bill also amends the *Legal Aid Commission Act 1990* to insert a provision in section 19 (Circumstances in which legal aid may be provided) to cover a person who is an unrepresented accused seeking legal assistance for the purpose of cross-examination.