

## FACT SHEET

### *Guardianship and Administration Amendment Bill 2015*

When a crime is committed against a person the taking of a forensic sample is often an integral part of the investigation of the crime. The sample may provide crucial evidence as to the identity of the offender and the nature of the injuries.

Where a victim of such a crime has a cognitive disability they may be unable to consent to the taking of the forensic sample and require a person to act as a substitute decision maker.

The taking of a forensic sample requires informed consent from the victim, and some people with cognitive disabilities are unable to provide informed consent to these types of procedures.

If a person does not have a guardian then an emergency order must be made. This can often take time increasing the risk that crucial evidence may be lost and also potentially adding to the stress of the victim.

This Bill amends the *Guardianship and Administration Act* to allow a 'person responsible' (a spouse, a close friend or family member or a carer) to give consent to a forensic procedure where the intended subject of the procedure is incapable of doing so.

The Bill also gives the Public Guardian automatic authority (without the need to convene a hearing of the Guardianship and Administration Board) to consent to the procedure in the following circumstances:

- where there is no 'person responsible'; or
- the 'person responsible' is unavailable; or
- the person responsible is under suspicion for the offence or for protecting a person involved in the commission of the offence.

As part of these reforms, the Guardianship and Administration Board will also be provided with power to consent to a forensic treatment for a person who is unable to consent.