

# FACT SHEET

## *Evidence Amendment Bill 2020*

The *Evidence Amendment Bill 2020* (the Bill) replaces the current section 194K "Publication of certain identifying particulars prohibited" with a new section s194K that implements the Government's commitment to provide victims of sexual crimes and offences the right to speak out publicly and identify themselves.

The Bill provides that it is a summary offence for a person to breach the publication prohibition in this section. The charge of contempt of court has also been retained in this Bill.

The Bill provides in section 194K(4) for an exemption to the publication prohibition for victims to publish their identifying information if they so wish, where prior to publication, the victim:

- is at least 18 years of age at the time of publication; and
- has authorised the publication in writing; and
- does not have a mental impairment that would make them incapable of reasonable judgment in respect of the publication; and
- was not coerced into agreeing to the publication.

An application in line with section 194K(5) can still be made to the court for an order to overcome the publication prohibition when the victim consent exemption is not relied on or in circumstances where the victim of a sexual crime or offence is deceased.

The draft Bill provides for safeguards to ensure there are appropriate protections for victims who do not wish to be identified.

The Bill includes a new defence at section 194K(3) to a prosecution for the offence in section 194K(1), if the defendant to a charge establishes that:

- The publication is in accordance with a court order made under section 194K; or
- The published identifying information relates to a person who is a victim of a crime or offence and that person has consented as required under this section to the publication and the identifying information is published in line with that consent; and
- The publication does not identify, or is not likely to lead to the identification of another person who is a victim in respect of the relevant crime or offence unless that other victim has also given consent in line with the requirements of section 194K(4); and
- The publication of the information occurs after the criminal proceedings for the alleged crime or offence are finalised or otherwise disposed of.

The Bill also provides:

- That a victim is exempt from the filing fee when applying for an order to publish their identifying information in relation to a sexual crime or offence.

- The application of section 194K's publication prohibition extends beyond the trial process, unless sections 194K(3) and (4) apply where the victim has consented, or the court have made an order under section 194K(5).
- Inserts definitions of 'publish' to reference new modern forms of publication and includes references to 'school' and 'place of employment' in the definition of 'identifying information'.