

Media Release



Community organisations congratulate Government on sexual offences changes but warn more is needed to make them work

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Twelve peak and specialist community organisations have congratulated the Attorney-General, Robert Clark, on proposed changes to sexual offences law which return to Parliament for debate today.

‘We are delighted that the Government has listened to the views of many advocates and victim/survivors in redefining the offences of rape and sexual assault, and in proposing a new course of conduct offence,’ said Dr Chris Atmore on behalf of the Federation of Community Legal Centres.

The Federation, CASA Forum (the peak body for Victorian Centres Against Sexual Assault) and Melbourne University academic Dr Wendy Larcombe provided an extensive submission to the Department of Justice Review of Sexual Offences which led to the present Bill before Parliament. That submission was endorsed by 13 community organisations, including Domestic Violence Victoria, VCROSS and Women’s Health Victoria.

However, Carolyn Worth for CASA Forum emphasised that the 12 organisations had also conveyed to Mr Clark that for the reforms to be practically successful they needed to be supported by more detail in the law itself.

‘We really need more in legislation about what consent means and when juries can conclude that there wasn’t consent. Similarly, we need more detail and examples to guide juries in their decision-making about whether the accused reasonably believed that the complainant consented. These are the kinds of issues that have tied juries in knots and have led to incredibly complex and expensive appeals that have further traumatised victims,’ Ms Worth said.

The letter to the Attorney-General includes detailed proposals on how such changes could be incorporated into the law.

Dr Atmore said that without the extra detail, it was likely that the positive impact for victims and trial processes of the proposed law changes could be considerably weakened, because juries would still struggle to understand and apply the law.

‘We are also extremely concerned that the Bill removes the current mandatory requirements for the judge to direct the jury in their thinking about consent and what the accused believed. This runs counter to the recommendations of the Victorian Law Reform Commission’s Sexual Offences Review in 2004, and to the VLRC’s Jury Directions Review with respect to sexual offences,’ Dr Atmore said.

Dr Atmore said that removal of the mandatory requirement, when combined with the Bill’s lack of detail, could work against the spirit of the reforms by increasing unjust outcomes for some victims and resulting in appeals that would otherwise be unnecessary.

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