21 July 2020

The Hon Vickie Chapman MP
Attorney-General
GPO Box 464
ADELAIDE SA 5001

Via: AGDLLPSubmissions@sa.gov.au

Dear Ms Attorney

Evidence (Vulnerable Witnesses) Amendment Bill 2020

I refer to your letter of 2 July 2020 in relation to the Evidence (Vulnerable Witnesses) Amendment Bill 2020 (“the Bill”).

The Bill seeks to amend the Evidence Act 1929 SA (“the Act”) to address issues arising from the provisions regarding pre-trial special hearings (PTSH). In particular, section 13BA of the Act, under which the Court has the power to admit evidence recorded under a PTSH only “in the trial”. Presently, the outcome of any application relating to the admission of an investigative interview, or oral evidence given at a PTSH, cannot be determined before or at the time of a PTSH. The Society understands the current drafting is problematic and creates a number of practical difficulties.

The Bill proposes to rectify these issues by providing the Court with the power to make orders at a PTSH as to the admission of an investigative interview and any oral evidence given at the PTSH; and providing for such orders to be binding on the trial court (subject to the trial court having a discretion to order that this not be the case if, on application, it considers that it should not in light of matters arising or becoming known between the PTSH and the trial).

In addition, the Bill also seeks to facilitate canine court companions (CCCs) accompanying witnesses while they give their evidence. Your letter explains that the presence of animals, particularly dogs, has been shown to provide comfort, support and distraction to people with dealing with trauma, particularly children.

The Society supports the provisions relating to CCC and considers the provisions seeking to rectify the issues arising around PTSH are appropriate.

Yours sincerely

Tim White
PRESIDENT
T: (08) 8229 0200
E: president@lawsocietysa.asn.au