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Sex Offenders Registration Amendment Bill 2014

Liberty Victoria opposes the enactment of the *Sex Offenders Registration Amendment Bill 2014* ("the Bill"), which would amend the *Sex Offenders Registration Act 2004* ("SORA").

Liberty Victoria supports a system of registration for sexual offenders who pose a significant risk to the sexual safety of the community. However, Liberty Victoria is strongly opposed to the system of mandatory registration under the SORA which denies the capacity of judicial officers to ensure that those who are placed on the register do pose such a significant risk.

The 2012 Victorian Law Reform Commission ("VLRC") report on Sex Offenders Registration estimates that there will be 10,000 registrants by 2020 (<http://www.lawreform.vic.gov.au/media/report-recommends-greater-focus-protecting-children>). Liberty Victoria endorses the recommendation of the VLRC that there is a need to "strengthen the scheme by sharpening its focus".

The Bill does not do this. The fundamental problem with the Bill is that it sees the Sex Offenders Register further move from being a proactive database to assist crime prevention to a responsive form of data collection. The Registry becomes a vast "warehouse" of information that may be used after a crime has been committed to assist with a prosecution, rather than providing a targeted and refined database of information that can be used to protect the community and prevent crimes from being committed in the first place.

In addition to other personal details that have to be reported by registrants (see s.14 of the SORA), and then updated if changed (s.17), the Bill results in registrants having to report any form of contact or communication with a child for the "purpose of forming a personal relationship with the child" (cl.5), whether that is supervised or unsupervised contact.

That means that in order to properly comply, a registrant, who may have had dinner at a friend's house and has spoken with his friend's child at the dinner table (when in company with the parent) would still need to report the interaction to the register within one day.

Requiring registrants to report every supervised contact with a child is unreasonable and unworkable.

Further, Liberty Victoria calls for judicial discretion as to whether offenders are placed on the register in the first place. The problem with mandatory registration as it stands is that offenders with very low risks of re-offending must be placed on the register.

Further, the Bill would allow for information to be passed from police to members of the community were a registrant may have contact with children (cl.28). While appreciating the need for disclosure in some circumstances, there is no control in the Bill as to how this information can be disseminated further. Liberty Victoria is concerned about the possibility of vigilante conduct and the public "naming and shaming" of persons on the register, which may well be stigmatising and damage rehabilitation for persons who would otherwise be very unlikely to reoffend.

The Bill would also see registrants have to update the register with regard to details that may have no link to the original offending conduct. As it stands, an offender who was placed on the registry for an offence of indecent assault against an adult, with no link to any child offending/ paedophilic acts, will be banned from child-related employment (Part 5 of the SORA), forced to tell the register of any clubs or organisations with child-related activities or membership (which has been held to include a library), and now under the Bill such persons will have to notify the registry of any contact with a child in day to day life (whether in public and supervised or not). That is unreasonable and will see the register further swamped with irrelevant information that diminishes its value in preventing crime.

Such a position is unworkable and diminishes the value of the register. It sees police with the power to breach registrants who may find it very difficult to comply with all the requirements (which is itself a serious criminal offence punishable by imprisonment), and this places power in the hands of the executive to make the decisions to charge and/or prosecute such people.

Further, there should be a right to review placement on the register (other than judicial review which is a very narrow form of review in cases of jurisdictional error and occurs in a costs jurisdiction). At present the SORA only allows the Supreme Court to review people who are registered for life after 15 years (this hasn't happened yet obviously given the Act was introduced in 2004).

The Bill would allow the Chief Commissioner to "suspend" someone from the register for a period not exceeding 12 months (cl.16), but it is difficult to see how this will be used in practice. There should be a proper means of merits review to a judicial officer. This is particularly relevant to registrants who may be suitable for child-related employment where the offending had nothing to do with children.

There should be merits review of placement on the register, possibly after 2-3 years or if there are new facts and/or circumstances. That would help ensure that the register is comprised of people who do constitute a real risk to the sexual safety of the community.

Notably, the VLRC report called for the Courts to determine whether a person be placed on the register in all circumstances (and thus remove mandatory registration), and that Part 5 of the SORA, concerning the prohibition on child-related employment, should be removed from that Act and integrated with the *Working with Children Act 2005 (Vic)*. Liberty Victoria endorses that position.

While the VLRC report did call for an expanded definition of “contact” with children and greater reporting requirements for registrants, that has to be seen in the context of the VLRC call for the register to be significantly “sharpened” so that only those who pose a significant risk to the sexual safety of the community would be included on the register in the first place.

The Bill fails to act on the VLRC call to make the Register stronger by sharpening its focus, and instead greatly expands the amount of information that all registrants must disclose, which only further weakens its focus and diminishes its effectiveness.

Please contact Liberty Victoria President Jane Dixon QC or Liberty Victoria Vice President Michael Stanton if we can provide any further information or assistance. This is a public submission and is not confidential.

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