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Baile Átha Cliath 2

Joint Committee on
Justice, Defence and
Equality
Leinster House
Dublin 2

Tel: (01) 618 3899
Fax: (01) 618 4124
Email: justiceanddefence@oir.ie

Ms. Frances Fitzgerald TD,
Minister for Justice and Equality,
Dept. of Justice and Equality,
94 St. Stephen's Green,
Dublin 2.

21st October 2015

Our Ref: 2015/5/B/5/34

Re: General Scheme of the Criminal Justice (Victims of Crime) Bill

Dear Minister,

I am writing with regard to the General Scheme of the Criminal Justice (Victims of Crime) Bill, which was referred to the Committee in July of this year for Pre-Legislative Scrutiny.

In response to its invitation, the Committee received a total of 9 written submissions and a hearing was held on 21st October 2015 to examine, in more detail, some of the points raised.

Conscious that the transposition of EU Directive 2012/29/EU (establishing minimum standards on the rights, support and protection of victims of crime) into national law is urgent and in order to avoid any delay in this occurring, the Committee has agreed to forward all written submissions and opening statements to you immediately for your information.

In addition to the contents of the submissions and opening statements, the Committee recommends that the transcript of the Committee meeting (available shortly) is also examined as some very important points were raised in the course of the engagement.

Among the main points which were raised included the following:

First-responders

The actions of first-responders to a situation is vitally important in ensuring that the rights of victims are given the appropriate attention and do not get overlooked. The Committee was told that while there have been improvements introduced by an Garda Síochána, no formal protocols exist particularly in relation to Domestic Violence. Also, it is essential that the First-responders have immediate access to any relevant history relating to the parties while on the scene of an investigation.

Secondary victims

The Committee was told that Secondary victims (for example children who witness domestic violence/sexual assault) while not physically assaulted, may not be considered to be a victim or someone who has suffered harm.

It was suggested to the Committee that in Head 2(1) of the General Scheme, the inclusion of 'perpetrated against him or her' which is not included in the text of Article 2 (1)(a) of the Directive would seem to have the effect of excluding secondary victims or those who witness a crime, even if they experience harm and trauma as a result.

Use of Intermediaries

It was submitted to the Committee that the use of intermediaries, while permitted under the Criminal Evidence Act 1992, is rarely used. This may be due to concerns that using intermediaries could be considered prejudicial to the rights of the defence.

The Committee was told that the underuse of intermediaries may be in conflict with Article 12 (1) of the EU Victims Directive which states 'Member States shall take measures to safeguard the victim from secondary and repeat victimisation'.

You will recall that this matter was also raised in the course of the Second Stage debate in Seanad Éireann on the Criminal Law (Sexual Offences) Bill 2015.

Special provisions for children

The Committee was told that, in cases where the victim is a child when an investigation commences, should that child turns 18-years-old, any special provisions which may have been applicable to the victim lapse. This, the Committee feel, needs to be re-examined.

Delays in trials

The Committee was also told that there is often very little notice given to victims that a trial will not proceed or has been delayed. It was submitted that this happens despite the fact that, in most cases, this is known much earlier by those involved in preparing the case on both the prosecution and defence sides.

Recommendations

The Committee recommends that the appropriate level of resourcing be made available to ensure that the provisions of this legislation will be a turning-point for victims.

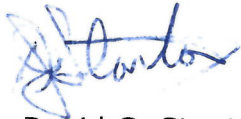
Also, the Committee recommends consideration be given to extending the provisions of this legislation so that it applies to the Coroner, the Probation Service and the Health Service Executive.

The Committee notes that it is now 13 years since the publication of the Sexual Abuse and Violence in Ireland (SAVI) Report and strongly recommends that a second SAVI Report be commissioned. This could review the implementation of the recommendations contained in the original report, highlight any recommendations not yet implemented and provide an opportunity to include any further recommendations which may have become apparent over this period.

The Members of the Committee welcome the publication of this General Scheme and the opportunity to undertake Pre-legislative scrutiny on this important matter.

The Committee looks forward to further engagement and debate on this Bill in the course of its consideration by both Houses.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'D. Stanton', with a stylized flourish at the end.

David G. Stanton TD
Chairman