



Government
of South Australia

SafeWork SA

Review Recommendations Bill

Fact Sheet: Fairness for victims and families

What is changing?

The *Work Health and Safety (Review Recommendations) Amendment Bill 2024* (the Bill) amends the *Work Health and Safety Act 2012* (the Act) to implement law reform recommendations made by the [Independent Review of SafeWork SA](#).

The Bill follows [initial public consultation](#) on these recommendations conducted between September and November 2023.

Fact sheets covering the main amendments in the Bill can be found [on the SafeWork SA website](#). This fact sheet summarises amendments relating to improving processes for victims and their families.

Reforming secrecy provisions

- The Independent Review endorsed the earlier [report by Hon John Mansfield AM KC](#) on SafeWork SA's investigation into the death of Gayle Woodford and related matters, which found that current confidentiality requirements in the Act prevent SafeWork SA from keeping people informed about what action is being taken in response to a workplace incident. This has exacerbated the frustration and suffering of victims and their families.
- **Disclosure of information:** A new exemption to current confidentiality requirements will be created to give SafeWork SA the discretion to disclose information relating to a workplace incident to persons directly affected by the incident (such as businesses and workers), as well as the family of victims in the event of death or incapacitation. SafeWork SA will be required to publish a policy outlining the circumstances when information may be disclosed.

- **Protecting integrity of investigations:** Disclosure of information will remain subject to strict requirements to protect the integrity of the investigation process. This includes that information cannot be disclosed if it is subject to legal professional privilege, is commercially confidential, or may jeopardise an ongoing investigation. Information also cannot be disclosed to a potential witness in a criminal prosecution.

A better process for prosecution requests

- The Act currently allows a person to request that SafeWork SA bring a prosecution if a criminal offence has been committed. SafeWork is required to provide an update to the person on the status of the investigation, and advise whether a prosecution will be brought and why. If no prosecution is brought the Director of Public Prosecutions (DPP) may review that decision.
- **Fixing timeframes:** Timeframes for a prosecution request will be amended so the request can be made at any time during the 2-year limitation period for most criminal prosecutions under the Act. This ensures victims and their families can make a request even if they are only advised of a decision not to prosecute very late in the limitation period.
- **Ensuring opportunity for DPP review:** SafeWork SA will be permitted to commence a prosecution within 1 month after receiving advice from the DPP on whether a prosecution should be commenced. This ensures that if a request is made late in the limitation period, the DPP will still have a proper opportunity to fully consider the evidence.

Improving stakeholder consultation

- **SafeWork SA Advisory Committee:** The Bill will formalise the establishment of a new tripartite advisory committee to provide advice to SafeWork SA and the Minister for Industrial Relations and Public Sector on health and safety issues. This committee will include representatives of business, unions, health and safety professionals, and victims and their families.

When will these changes come into effect?

These proposals are subject to passage of legislation by Parliament.