

### Jurisdictional Comparison Table – Intermediary Schemes

	NEW SOUTH WALES	VICTORIA	AUSTRALIAN CAPITAL TERRITORY	SOUTH AUSTRALIA	QLD	TASMANIA
PROGRAM STATUS	Commenced as a pilot on 31 March 2016, and transitioned to a program in April 2019. The Program is funded until June 2022	Commenced 1 July 2018 as a pilot limited by geographic location, offence type and whether a person is an 'eligible' witness.	Commenced as a program January 2020.	Relaunched in March 2020.	Proposed commencement mid-2021	Commencement March 1, 2021.
ELIGIBILITY	Child victims and witnesses in sexual offence matters. Witness intermediaries are available for children under the age of 16 years and for those aged 16-17 with communication needs.	Victims under the age of 18 or a victim with a cognitive impairment in a sexual offence. Witnesses under the age of 18 years and adult witnesses with a cognitive impairment, excluding an accused, in homicide matters. "Cognitive impairment" includes impairment because of mental illness, intellectual disability, dementia or brain injury.	The Act allows the Court to appoint an intermediary for a witness (including the defendant) with a communication difficulty in a criminal proceeding. An example of a "communication difficulty" is a mental or physical disability that impedes speech. Police may utilise intermediaries (the Act is not prescriptive on the circumstances allowing for police discretion).	All witnesses (including defendants) with a complex communication need. A "complex communication need" exists if the witness's ability to give evidence is significantly affected by a difficulty to communicate effectively with the court, whether that communication difficulty is temporary or permanent and whether caused by a disability, illness, injury or some other cause.	Child under 16, witness with an impairment of the mind, or witness with a communication difficulty in a child sexual offence matter.	Child complainants and witnesses in a sexual offence or homicide related matter. An adult victim or witness with a communication need in a sexual offence matter or homicide related matter.
OFFENCES	Child sexual offence proceedings dealt with on indictment in District Court	Sexual offence matters, homicide matters	At a minimum the court <u>must</u> consider appointing an intermediary for child victims of sexual assault and child witnesses to sexual assault and violence occasioning death and who were children at the time of such crimes. The court may also choose to appoint an intermediary for any witness with a 'communication difficulty'.	Any indictable offence.	Child sexual offences	Sexual offence and homicide related matters.
SITES	Sydney (incorporating the Child Abuse Central Metropolitan and South West Metropolitan Child Abuse Units and the District Court sitting in the Sydney Downing Centre) Newcastle (Hunter Child Abuse Unit and the District Court sitting at Newcastle)	All court jurisdictions in the Melbourne, Warnambool, Bendigo and Geelong legal precincts e.g. Children's court, Magistrates' Court, County Court and Supreme Court. Police sexual offence and child abuse investigative team (SOCIT) in 9 sites.	Territory-wide	State-wide.	Two locations, nominally Brisbane and Cairns (to be confirmed in Regulation)	State-wide

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USERS/ AGENCIES	<p>Police and Courts.</p> <p>Out of program referrals accepted for victims and witnesses from police and ODPP and costs are met by the referring agency. These referrals fall outside the legislation governing the use of Intermediaries.</p> <p>From April 2016 to September 2020, 140 requests received from police and 134 requests from courts for out of program referrals.</p>	<p>Police and Courts.</p> <p>Some out-of-scope referrals accepted, particularly for sexual assault victims with communication needs as a result of a physical disability.</p>	<p>Police, counsel and Courts</p>	<p>Police, Counsel and Courts.</p>	<p>Police and Courts</p>	<p>Police, counsel and Courts</p>
LEGISLATION	<p>Schedule 2, Part 29 of the <i>Criminal Procedure Act 1986</i></p> <p><a href="https://www.parliament.nsw.gov.au/bill/files/3199/Passed%20by%20both%20Houses.pdf">https://www.parliament.nsw.gov.au/bill/files/3199/Passed%20by%20both%20Houses.pdf</a></p> <p>Out of scope:</p> <p>S26 of the <i>Evidence Act 1995</i>: <a href="http://classic.austlii.edu.au/au/legis/nsw/consol_act/ea199580/s26.html">http://classic.austlii.edu.au/au/legis/nsw/consol_act/ea199580/s26.html</a></p> <p>s306ZK of the <i>Criminal Procedure Act 1986</i> <a href="http://www5.austlii.edu.au/au/legis/nsw/consol_act/cpa1986188/s306zk.html">http://www5.austlii.edu.au/au/legis/nsw/consol_act/cpa1986188/s306zk.html</a></p>	<p>Sections 389A – 389K of the <i>Criminal Procedure Act 2009</i></p> <p><a href="http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/cpa2009188/">http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/cpa2009188/</a></p>	<p>Chapter 1A of the <i>Evidence (Miscellaneous Provisions) Act 1991</i> and associated regulations</p> <p><a href="https://www.legislation.act.gov.au/a/1991-34">https://www.legislation.act.gov.au/a/1991-34</a></p>	<p>Evidence Act 1929</p> <p><a href="http://classic.austlii.edu.au/au/legis/sa/consol_act/ea192980/s4.html#complex_communication_needs">http://classic.austlii.edu.au/au/legis/sa/consol_act/ea192980/s4.html#complex_communication_needs</a></p>	<p>Amendments to the <i>Evidence Act 1977</i>, included in the <i>Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Bill 2019</i>.</p> <p>Bill passed 8 September 2020, intermediaries provisions to commence on proclamation (date to be determined)</p> <p><a href="https://www.legislation.qld.gov.au/view/html/bill.first/bill-2019-038">https://www.legislation.qld.gov.au/view/html/bill.first/bill-2019-038</a></p>	<p>Evidence (Children And Special Witnesses) Amendment Bill 2020</p>
PROCEDURAL MANUALS AND COURT GUIDES	<p><a href="https://www.victimsservices.justice.nsw.gov.au/Documents/wi_manual-april-2019.pdf">https://www.victimsservices.justice.nsw.gov.au/Documents/wi_manual-april-2019.pdf</a></p>	<p><a href="https://www.childrenscourt.vic.gov.au/sites/default/files/180628%20Multi-Jurisdictional%20Court%20Guide%20for%20the%20Intermediary%20Pilot%20Program.pdf">https://www.childrenscourt.vic.gov.au/sites/default/files/180628%20Multi-Jurisdictional%20Court%20Guide%20for%20the%20Intermediary%20Pilot%20Program.pdf</a></p> <p><a href="http://www.judicialcollege.vic.edu.au/eManuals/VCPM/66162.htm">www.judicialcollege.vic.edu.au/eManuals/VCPM/66162.htm</a></p>	<p>See</p> <p><a href="https://hrc.act.gov.au/act-intermediary-program/">https://hrc.act.gov.au/act-intermediary-program/</a></p>			

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SUPPORTING MATERIALS	<a href="https://www.victimsservices.justice.nsw.gov.au/Pages/vss/vs_victims/vs_childrens-champion.aspx">https://www.victimsservices.justice.nsw.gov.au/Pages/vss/vs_victims/vs_childrens-champion.aspx</a>	Video examples of ground rules hearings - <a href="https://www.judicialcollege.vic.edu.au/resources/ground-rules-hearing">https://www.judicialcollege.vic.edu.au/resources/ground-rules-hearing</a>	See <a href="https://hrc.act.gov.au/act-intermediary-program/">https://hrc.act.gov.au/act-intermediary-program/</a>	A Guide for Communication Partners: <a href="https://www.sa.gov.au/_data/assets/pdf_file/0009/599337/Communication-partner-guide-AGD.pdf">https://www.sa.gov.au/_data/assets/pdf_file/0009/599337/Communication-partner-guide-AGD.pdf</a>  A Guide to Engaging a Communication Partner: <a href="https://www.sa.gov.au/_data/assets/pdf_file/0010/599338/Hiring-communications-partner-guide-AGD.pdf">https://www.sa.gov.au/_data/assets/pdf_file/0010/599338/Hiring-communications-partner-guide-AGD.pdf</a>		