Children and Community Services Amendment Bill 2019 (Bill 157 ~ Section 124BA)

The Amendments - Clause 51 to 53 of the Amendment Bill 2019
The two specific amendments in the Amendment Bill 2019 referred to, amongst others, implements recommendations 7.3 and 7.4 of the Final Report of the Royal Commission. These two recommendations are contained in clauses 51 to 53 of the Amendment Bill 2019.

Throughout my submission I will be referring to Recommendations 7.3 and 7.4 as the specific amendments of the Amendment Bill in issue. Not to any other amendments.

Recommendation 7.3 of the Royal Commission states::
We recommend that state and territory governments amend laws concerning mandatory reporting to child protection authorities to include the following groups, as a minimum, as mandatory reporters (in addition to the four occupations already designated as mandatory reporters in each jurisdiction):
• out-of-home care workers, excluding foster and kinship/relative carers • youth justice workers
• early childhood workers
• registered psychologists and school counsellors
• people in religious ministry.
Recommendation 7.4 of the same Royal Commission states::
Laws concerning mandatory reporting to child protection authorities should not exempt persons in religious ministry from being required to report knowledge or suspicions formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession.

With reference to recommendation 7.3, I support reporting to Child Protection Authorities on factual evidence.

With reference to recommendation 7.4, I do not support mandatory reporting on what is disclosed in the 'Sacrament of Reconciliation' – or a 'religious confession'.

As an active member of the Catholic Church and one who works with young people, I have been watching and been supportive of the changes to practices to ensure the safety of young people and the vulnerable in our society.

We (the members of the Catholic Church) do not condone any form of abuse of anyone by anyone. The Catholic Church has accepted 98% of the recommendations of the Royal Commission's report on child sexual abuse. (Conference of Australian Bishops 2018.)

The issue raised above, which is being singled out in the Amendment to the bill, is what constitutes the 2% of the recommendations not accepted by the Catholic Church. That of making it mandatory to report on information disclosed in or in connection with a religious confession.

The question is why won't the Church agree to support this proposed change?

This is what I will attempt to draw some deeper understanding and personal sharing on.

I know close personal family and friends who unfortunately are survivors of abuse. Some from within the Church, others have suffered abuse from family members.
It seems strange, but those who were abused by clerics in the Church have found better support and healing through the Church and especially its sacraments – including the sacrament of reconciliation. It was not a hinderance for justice or a place to hide their abuse, but a safe and confidential place to seek support and begin a healing process and seeking justice for the abuse.

If a child was to disclose abuse in the confessional, the priest can strongly urge and provide support for the young person to make this known to authorities or other adults to be able to report the crime. The priest can not disclose it themselves, but it doesn't prevent them from encouraging the person to step forward to disclose to others. The Vatican released a document recently to support this - Dated 16 July 2020.
It must be pointed out that a report of a *delictum gravius* received in confession is under placed the strictest bond of the sacramental seal (cf. canon 983 § 1 CIC; canon 733 § 1 CCEO; art. 4 § 1, 5º SST). A confessor who learns of a *delictum gravius* during the celebration of the sacrament should seek to convince the penitent to make that information known by other means, in order to enable the appropriate authorities to take action.

As I continue to work with young people (teens) in the Catholic Church, many of them continue to seek support from the Sacrament of Reconciliation (confession) for many issues that they battle today.

Consider the benefits of confession to the penitent and to the wider society. Confession is a social good. Whatever the sin is, confession is about getting an individual to deal with his/her faults by changing his/her behaviour for the good. Society benefits from this.
Many young people today struggle with mental health issues and the cost of seeking help and support can be prohibitive to many getting the support they need. Confession can be a way to break some of their struggles, it is free and available to them at anytime. It provides a safety net that the government can not provide. If the government tries to mandate that it is no longer a confidential discussion, then young people would be much more hesitant to access this support.

Canon 983 of the Code of Canon Law (the Law of the Catholic Church) absolutely forbids a confessor from betraying a penitent in any way for any reason. In more concrete terms, the seal of confession prohibits a priest from disclosing the identity of the penitent and the sin or sins that he or she has confessed. Canon 1388 imposes canonical penalties, up to and including excommunication, for the violation of the sacramental seal.

A civil state should want to protect from disclosure certain types of conversations, such as those occurring between psychologists and patients, attorneys and clients, or priests and penitents (in the confessional). The reason for all three privileges is the same: Society is better off in the long run when people know they can approach psychologists, lawyers or clergy without fear that what they talk about might be reported/shared with others.

This is not a issue of the Catholic Church trying to back down from supporting the recommended changes from the Royal Commission, in fact the Church in Perth has been known to be a leader in setting up Protective Standards for the protection of young people and vulnerable people nationally through the Safeguarding Program. The Church didn't wait for the Royal Commission findings to start working on and implementing much needed change.

This is however an issue of state government not understanding the Church law of confession and it's benefits to society. Rather, the government is seeing it as a hinderance and a place to hide. The confessional is a safe place for people to share their problems, seek help and support, and be encouraged to report criminal activities.

I would urge the committee to remove the Recommendation 7.4 of the amendment to the bill.

The government will continue to have the Catholic Churches support in ensuring a safe environment for young people and vulnerable people in society.

Kind Regards,