

2 May 2025

Members of the House of Assembly
Parliament House
Hobart TAS 7000

To members of the House of Assembly,

Re: Justice and Related Legislation (Miscellaneous Amendments) Bill 2025

Community Legal Centres Tasmania (CLC Tas) and Equality Tasmania are writing to you in relation to the *Justice and Related Legislation (Miscellaneous Amendments) Bill 2025* ('the Bill') and in particular the provision of documents to senior next of kin which is a proposed amendment to the *Coroners Act 1995*. CLC Tas is also writing to note its concern at the lack of recognition of Aboriginal and Torres Strait Islander people in the *Coroners Act 1995* (Tas) and the need for culturally appropriate support.

- ***Coroners Act 1995 (Tas)***

Pursuant to section 57(1) of the *Coroners Act 1995* (Tas) ('the Act') the Coroner may order that "a report of an inquest or a report of any part of the proceedings of, or any evidence given at, an inquest not be published..." Thereafter, a number of reasons are listed outlining why the Coroner may refuse publication:

57. Restriction on publication of reports

(1) A coroner may order that a report of an inquest or a report of any part of the proceedings of, or any evidence given at, an inquest not be published if the coroner reasonably believes that –

(a) it would be likely to prejudice the fair trial of a person; or

(b) it would be contrary to the administration of justice, national security or personal security; or

(c) it would involve the disclosure of details of sensitive personal matters including, if the senior next of kin of the deceased has so requested, the name of the deceased.

*(2) A person must not publish a report contrary to an order under subsection (1).
Penalty: Fine not exceeding 50 penalty units.*

(3) A coroner may, in an order under subsection (1), specify the time for which the order is to be in force.

Family members and other senior next of kin (SNOK) want access to coronial records for a number of reasons. In the Eden Westbrook case,¹ the family of the deceased have called for an inquest into her death for more than a decade. Evidence that the family believes would assist with the inquest has been withheld from them.² Clarifying the circumstances in which SNOK can access coronial records will provide transparency and accountability of decision-making and may assist in providing closure.

Another reason why SNOK want access to coronial records, particularly the post-mortem report, is for medical reasons. Currently, there is no legislative requirement that the Coroner provide the post-mortem report to the SNOK. However, in practice it appears that if a senior next of kin requests a copy, the Coroner will provide a copy to the General Practitioner who will summarise the report for the SNOK. This practice is set out in the *Tasmanian Coronial Practice Handbook* which relevantly notes:³

The coroner may ask a doctor to provide a statement for the coronial file, or to prepare an expert report on the treatment they have provided, or on the patient's medical condition/s. If families or friends wish to read the post mortem report of a loved one (which is prepared by a qualified pathologist), a doctor may be asked to receive the report and help the families and friends to understand the medical language used.

However, as the Penny Whetton case highlights, it is puzzling why SNOK should not have access to the post-mortem report. Penny Whetton had a history of heart murmurs. After her death, Janet Rice, her wife, requested a copy of the post-mortem report in order to confirm possible genetic issues that may be passed on to their children. Janet Rice was not provided with a copy of the post-mortem report, with the coroner's office stating that the post-mortem report would not be provided to her because it was "highly sensitive" and they did not want it "further disseminated" or misinterpreted.⁴ As a result, the General Practitioner was informed that the contents of the report could be explained to Janet Rice but the report then had to be destroyed. In an article, Janet Rice noted that she found the coroner's decision "completely baffling":⁵

"I was just devastated and just completely burst into tears, so distressing".

¹ Magistrates Court of Tasmania (Coronial Division), *Eden Jayde Westbrook* (30 September 2016).

² See, for example, Genevieve Holding, Decade anniversary into death of St Helens teen Eden Westbrook sparks call for inquest, *The Mercury*, 19 February 2025 at 3; Commonwealth, *Parliamentary Debates*, Senate, 19 November 2024 (Jacqui Lambie) at 4867-4869.

³ Magistrates Court of Tasmania, *Tasmanian Coronial Practice Handbook* (2016). As found at [https://www.magistratescourt.tas.gov.au/_data/assets/pdf_file/0004/723073/Tasmanian Coronial Practice Handbook.pdf](https://www.magistratescourt.tas.gov.au/_data/assets/pdf_file/0004/723073/Tasmanian_Coronial_Practice_Handbook.pdf) (accessed 21 April 2025).

⁴ Adam Holmes, 'Janet Rice wants to change Tasmanian laws that stop loved ones accessing post-mortem reports', Australian Broadcasting Corporation, 9 November 2022. As found at <https://www.abc.net.au/news/2022-11-09/calls-to-increase-tasmanian-access-to-post-mortem-reports/101621698> (accessed 21 April 2025).

⁵ Adam Holmes, 'Janet Rice wants to change Tasmanian laws that stop loved ones accessing post-mortem reports', Australian Broadcasting Corporation, 9 November 2022. As found at <https://www.abc.net.au/news/2022-11-09/calls-to-increase-tasmanian-access-to-post-mortem-reports/101621698> (accessed 21 April 2025).

"I was in a situation of having really good support around me, my friends and family who were supporting me in my grief at that stage, six months after Penny had died".

"If this is the way they treat everybody, it's just devastating and appalling and so insensitive".

"When you're grieving for somebody and you know the post-mortem has been done, it's part of being able to sit there and, for me as a scientist, have some closure".

"For me as Penny's wife, it was just such a slap in the face to not have that shared with me".

We strongly believe that SNOK should, upon request, be able to obtain coronial records, including a post-mortem report. If the SNOK cannot understand the contents of the report, they can ask a medical practitioner to explain the language used. More importantly, being provided with the report provides the SNOK with a detailed explanation of the deceased's cause of death and a better understanding of any underlying medical issues that may be relevant for other family members.

- The Bill

The Bill proposes to amend the *Coroners Act 1995* (Tas) by inserting a new section 58C:

58C. Certain records to be provided to senior next of kin in certain circumstances
(1) In this section –

coronial authority, in respect of a deceased person, means –

(a) the Chief Magistrate; or

(b) the coroner who has jurisdiction to investigate the death of the deceased person;

coronial record means any of the following records in relation to an investigation of a death under this Act:

(a) the following records, if held by the Magistrates Court (Coronial Division):

(i) a report, in respect of the investigation death, that or is prepared by, or on behalf of the State Forensic Pathologist or a pathologist, or medical practitioner, approved under section 35;

(ii) any other record or document, including any photograph, that –

(A) contains evidentiary material from the investigation; or

(B) is made under this Act in relation to the investigation or death; or

(C) is made as part of an autopsy performed under section 36 in relation to the death;

(iii) a transcript, or recording, of oral evidence given to the court in respect of the investigation;

(b) a record referred to in paragraph (a) if the record is able to be provided lawfully to the Magistrates the Court (Coronial Division) under this Act or any other Act.

(2) The senior next of kin of a deceased person may request to be provided with a copy of one or more coronial records prepared in respect of the deceased person.

(3) A request under subsection (2) –

(a) is to be made in writing to a coronial authority; and

(b) may relate to a specific coronial record, or all coronial records, prepared in respect of the deceased person to whom the request relates.

(4) A coronial authority may not refuse a request under subsection (2), in respect of a coronial record, unless the coronial authority is satisfied, on reasonable grounds, that –

(a) the coronial record is unable to be released by virtue of section 57, or another provision of this Act or any other Act; or

(b) the release of the coronial record would be likely to prejudice –

(i) the investigation of a breach, or possible breach, of the law; or

(ii) the enforcement or proper administration of the law; or

(iii) the fair trial of a person; or

(c) the release of the coronial record would be contrary to national security or personal security.

(5) If a coronial authority is satisfied that subsection (4) applies in respect of a coronial record, the coronial authority may redact or modify a copy of the record to the extent necessary, in the opinion of the coronial authority, to enable the record to be released under this section.

(6) If a coronial authority releases a coronial record under this section to a senior next of kin, the coronial authority may impose such conditions, on the release of the record, as the coronial authority considers reasonable in the circumstances including, but not limited to, restrictions on the publication or use of the record.

(7) A person provided with a copy of a coronial record under this section must comply with the conditions imposed, in respect of the coronial record, under this section.

Penalty: Fine not exceeding 50 penalty units.

If passed, the Bill will bring Tasmania into line with other Australian jurisdictions including Victoria,⁶ the Australian Capital Territory⁷ and South Australia.⁸ Importantly, the Bill has the potential to save lives with SNOK informed of possible genetic disorders as well as preventable or treatable conditions, thereby informing future decisions about health and well-being.

- **Greater recognition of Aboriginal people in *Coroners Act***

CLC Tas would also like to note its concern at the lack of recognition of Aboriginal and Torres Strait Islander people in the *Coroners Act 1995* (Tas) and the need for culturally appropriate support. There are only two provisions in the Act which expressly recognise Aboriginal and Torres Strait Islander people. Senior next of kin is defined broadly to include nominated representatives of a deceased Aboriginal person,⁹ whilst a Coroner is also required to notify an Aboriginal organisation in the event that human remains are Aboriginal remains.¹⁰ The Aboriginal organisation is then responsible for carrying out an investigation and preparing a report for the Coroner.¹¹ However, greater recognition and resources for Aboriginal coronial investigations is recommended.

- **Cultural Sensitivity and Support for Aboriginal Families**

Aboriginal and Torres Strait Islander families encounter unique challenges when engaging with the Coroners Court. We strongly recommend that the Bill explicitly require culturally competent support for Aboriginal and Torres Strait Islander families when requesting access to coronial records and during ongoing coronial investigations. Furthermore, information should be provided in a way that respects cultural sensitivities. The consistent engagement of Aboriginal Liaison Officers or nominated cultural advisors from the relevant community should be mandated to support families through coronial processes. These roles must be adequately resourced and embedded in the system to uphold cultural safety and the dignity of the deceased and their kin. The appointment of these experts would also ensure that the return of aboriginal remains is carried out in a culturally sensitive manner. A recent May 2024 incident -where Aboriginal remains were returned to the Tasmanian Aboriginal Centre in brown paper bags- highlighted a lack of cultural respect.¹² Public condemnation followed, but the incident exposed deep gaps in coronial procedure and accountability. This underscores the urgent need for clear legislative requirements to uphold dignity and respect.

Cultural Safety and Recognition of Kinship Structures

The Bill should also explicitly recognise Aboriginal and Torres Strait Islander kinship structures in identifying and communicating with senior next of kin (SNOK). Tasmania's *Coroners Act 1995* already acknowledges the role of culturally appropriate next of kin, and this should be consistently applied in the proposed amendments.

⁶ Section 115 of the *Coroners Act 2008* (Vic);

⁷ Sections 32 and 51 of the *Coroners Act 1997* (ACT).

⁸ Section 37A of the *Coroners Act 2003* (SA).

⁹ Section 3A of the *Coroners Act 1995* (Tas) relevantly provides "if the deceased person is an Aboriginal person, a person who, according to the customs and traditions of the community or group to which the person belongs, is an appropriate person."

¹⁰ Section 23(2) of the *Coroners Act 1995* (Tas).

¹¹ Section 23(3) of the *Coroners Act 1995* (Tas).

¹² A spokesperson for the government for example noted that it was "deeply disappointed to hear reports of insensitive treatment of aboriginal remains". As found at <https://www.abc.net.au/news/2024-05-07/aboriginal-remains-put-in-paper-bag-given-to-tac/103812138> (accessed 2 May 2025).

The Bill should include provisions that:

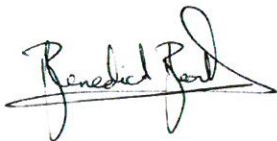
- Ensure SNOK are entitled to receive written reasons if access to coronial records is refused; and
- Allow SNOK to nominate a representative to advocate on their behalf;¹³ and
- Prioritise timely access to coronial records to reduce trauma; and
- Require authorities to consider Aboriginal kinship and cultural practices in all SNOK engagements.

- **Advocacy for Broader Legislative Reform**

We also encourage the Government to consider broader reforms to ensure Aboriginal and Torres Strait Islander families receive culturally appropriate support throughout the coronial process. These reforms should include expanding access to legal advice, offering greater support for Aboriginal and Torres Strait Islander families navigating the complex legal system, and ensuring that all information is presented in culturally relevant formats that are accessible and understandable.

All of these reforms must be developed in partnership with Aboriginal community-controlled organisations, ensuring Aboriginal voices are central to legislative reform and procedural design.

If you have any queries, please do not hesitate to contact us.



Benedict Bartl
Policy Officer

Community Legal Centres Tasmania



Rodney Croome
Policy Officer

Equality Tasmania

enc: Adam Holmes, 'Janet Rice wants to change Tasmanian laws that stop loved ones accessing post-mortem reports', Australian Broadcasting Corporation, 9 November 2022.

¹³ In South Australia, for example, nominated representatives of Aboriginal people are able to appear on their behalf in coronial proceedings: section 20A of the *Coroners Act 2003* (SA).

Janet Rice wants to change Tasmanian laws that stop loved ones accessing post-mortem reports



By Adam Holmes

Death and Dying

Wed 9 Nov 2022 at 2:43pm



Janet Rice (left) is still seeking answers over her wife Penny Whetton's 2019 death. *(Supplied: Janet Rice)*

First it was a desire for complete closure that drove Janet Rice in her attempt to get a copy of her wife Penny Whetton's post-mortem report.

Then it became an urge to overcome a perceived injustice.

But her attempts were rejected by a Tasmanian coroner.

The Victorian Greens senator says it highlights flaws in Tasmania's post-mortem

Key points:

- Janet Rice's wife Penny Whetton died suddenly in 2019
- The Greens senator's request for a full copy of Ms

system when senior next of kin face barriers accessing full medical reports into their loved ones' deaths — a situation that doesn't occur in most mainland states.

Ms Whetton died suddenly in 2019 at the couple's house in the seaside town of Sisters Beach.

She had earlier been diagnosed with a mitral valve prolapse and was taking medication for heart arrhythmias, described as a "family history" of "heart murmurs".

A Tasmanian coroner wrote the 61-year-old's cause of death was heart disease — dilated cardiomyopathy — and hypertension was the main contributing factor.

This prompted Senator Rice to question if there were any possible genetic issues that could have been passed on to their children.

She requested access to the full post-mortem report, and was told it could be sent to their GP in Melbourne, which she agreed to.

After a four-month wait, Senator Rice visited her GP to receive a copy of the report, but was told the coroner had only allowed the GP to explain its contents to her and then destroy it.

She was not allowed to see the report itself.

"My GP just thought that was extraordinary," Senator Rice said.

"The fact that not only was she not allowed to give it to me, but then after she had discussed it with me, she had to destroy it, I just found it completely baffling."

Whetton's post-mortem report was rejected

- Ms Rice is calling for Tasmania to remove the restrictions, in line with other states and territories



Senator Rice has called for changes to the 'baffling' rules that stopped her reading her wife's post-mortem report.
(Supplied)

Senator Rice asked the coroner why she could not receive the full copy, to which the coroner's office responded that the report was "highly sensitive" and the coroner did not want it "further disseminated" or misinterpreted.

She said this added to her grief over Ms Whetton's sudden death.

"I was just devastated and just completely burst into tears, so distressing," she said.

"I was in a situation of having really good support around me, my friends and family who were supporting me in my grief at that stage, six months after Penny had died.

"If this is the way they treat everybody, it's just devastating and appalling and so insensitive.

"When you're grieving for somebody and you know the post-mortem has been done, it's part of being able to sit there and, for me as a scientist, have some closure.

"For me as Penny's wife, it was just such a slap in the face to not have that shared with me."

Search for answers continues

More than three years later, Senator Rice and her children still have not received a copy of Ms Whetton's post-mortem report.

While the immediate grief has eased, they still want this closure.

An assessment of state and territory laws and practices shows Tasmania and Western Australia have similar processes, where the reports are treated as a confidential document.

All other states and territories allow senior next of kin to get the reports, unless there are active legal proceedings.

NSW Health explicitly details this right on its website and Victoria includes it in its state coroner's handbook, while Queensland, South Australia and the ACT make it clear in legislation.

Get Tas alerts on the ABC News app

Here are the steps to get breaking news alerts on the latest Tasmanian stories directly to your phone. 📱

Tasmania's laws are being reformed, but the State Government rejected an attempt by the Greens to include this right for next of kin.

Tasmanian Greens leader Cassy O'Connor said withholding the reports was unnecessarily paternalistic.

"If a senior next-of-kin, or a bereaved person, or a representative of the deceased, wants to see a copy of the autopsy report, to read it themselves and make their own judgement, who are we to say they should not be able to?" she said.

The state opposition supported the amendment, believing safeguards could still be included in the laws.



(ABC News)

Download the ABC News app —
[Apple App Store](#) | [Google Play](#)



Janet Rice wants answers about what genetic conditions may have been passed on to her children. (Supplied)

Attorney-General Elise Archer said the coroner could still provide the full report, but had the discretion not to.

"The coroner's practice provides some safeguards around information that may prove distressing, such as the revelation of genetic issues that senior next of kin or other children, for example, may have inherited," she said.

However, Ms Archer committed to discussing the matter with Tasmania's chief magistrate, with the reforms yet to go before the state's upper house.

'Funny way to go around it': Doctor calls for change

While it remains relatively uncommon for Tasmanian GPs to be asked to summarise a post-mortem for a next of kin, an experienced doctor believes it would make sense to update the state's laws.

Dr Tim Jackson — chair of the Royal Australian College of General Practitioners, Tasmania — said having a doctor read out a summary was "a funny way to go around it".

"If there's a medical condition that's potentially inherited, then the relatives ideally should be informed so that they would be aware to get that checked out," he said.

When it comes to the argument that knowledge of genetic information could be distressing, Dr Jackson said that should be up to the individual.

"The option of if you want to know, or if you don't, should be up to the person," he said.

"It should always be opt-in."

Ms Whetton's post-mortem report was also not provided to a cardiologist, which Senator Rice requested to help improve knowledge of heart disease, but Dr Jackson said sudden heart failure was a relatively common form of death and they were not usually provided to researchers.

Tasmania's Department of Justice would not comment on the specific case, but confirmed that post-mortem reports are "only ever released to medical practitioners".