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# Crimes Amendment (Sexual Procurement or Grooming of Children) Bill 2007

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## CRIMES AMENDMENT (SEXUAL PROCUREMENT OR GROOMING OF CHILDREN) BILL 2007

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**Bill introduced, and read a first time and ordered to be printed on motion by the Hon. John Hatzistergos.**

### Second Reading

**The Hon. JOHN HATZISTERGOS** (Attorney General, and Minister for Justice) [11.24 a.m.]: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes Amendment (Sexual Procurement or Grooming of Children) Bill 2007. Very few issues have gained such worldwide support as the right of all children to be free from sexual abuse. Australia is a signatory to the 1989 Convention on the Rights of the Child, Article 34 of which creates an obligation to protect children from "all forms of sexual exploitation and sexual abuse". For this purpose, signatories are required to take all necessary steps to prevent the "inducement or coercion of a child to engage in any unlawful sexual activity". This bill brings New South Wales in line with the convention and goes a step further than existing Commonwealth legislation by capturing a wider range of predatory procurement and grooming practices.

The introduction of new technologies has unfortunately resulted in an increase of predatory sexual behaviour towards children. Adult offenders exploit the anonymity of the Internet to win the trust of a child as a first step towards sexual abuse. Paedophiles do this through a process called grooming, which is undertaken with a view to procuring the child to meet with an adult and engage in unlawful sexual activity. However, the process is not solely confined to the Internet. This is why, unlike existing Commonwealth legislation, this bill does not limit grooming or procuring offences to those undertaken using electronic communications. Other practices used by paedophiles include befriending a potential child victim and introducing the child to explicit or inappropriate sexual concepts as part of a manipulation process to entice children into so-called "positive" sexual encounters with adults. Such activities make the child desensitised to sexual talk and behaviour, and therefore more vulnerable to abuse. The New South Wales offence will therefore have a wider application than the Commonwealth offence.

This bill makes it an offence for an adult to procure or groom a child for any unlawful sexual activity. It aims to capture the kinds of grooming activities commonly engaged in by paedophiles, whether online, through electronic communications or through any other means or activities. The offences of procuring and grooming have been drafted as separate offences in this bill, which is appropriate given that grooming is a preparatory offence and procuring involves more substantial acts. The offences are directed against people who are actively engaging with children in ways that make the children more likely to participate in sexual activity. Grooming can include a wide range of behaviour including conduct that encourages a child to believe they have romantic feelings for the adult or desensitising the child to the thought of engaging in sexual activity with the adult. Procuring a person to engage in sexual activity includes encouraging, enticing, recruiting or inducing—whether by threat, promises or otherwise—in relation to that activity. For example, procuring offences would apply when a person offered money to a child to engage in sexual acts or promised them gifts or some other form of benefit. The Government is committed to ensuring that such activities are outlawed and offenders punished in line with community expectations.

I now turn to the detail of the bill. Item [1] inserts a section into the Crimes Act to make it an offence for an adult to procure or groom a child under 16 for unlawful sexual activity. An adult is defined in this section as being a person who is of, or over, the age of 18, and a child is defined as a person who is under the age of 16. The proposed section makes it an offence for an adult person to intentionally procure a child for unlawful sexual activity. The maximum penalty for procuring a child under the age of 14 is imprisonment for 15 years. For procuring a child under the age of 16, the maximum penalty is 12 years imprisonment. The proposed section further makes it an offence for any adult person to engage in grooming a child. The maximum penalty for grooming a child under the age of 14 is imprisonment for 12 years. For grooming a child under the age of 16, the maximum penalty is 10 years imprisonment.

Subsection (4) of proposed section 66EB contained in item [1] states that it is not necessary to specify or to prove the unlawful sexual activity for which the child was to be procured. This means that a person can still be charged

with a procuring or grooming offence even if no specific sexual activity had been suggested or planned with the child. Subsection (5) clarifies that the child does not have to exist for an offence to have been committed under this section. A reference in the bill to a child includes a reference to any person who pretends to be a child, as long as the accused person believes that the person was a child. This provision captures investigations where law enforcement officers assume false identities to catch potential offenders.

Item [1], which inserts a new section 66EB (7), and item [2] provide that it is a defence in proceedings for an offence against this section if the accused reasonably believed that the other person was not a child. However, consent is not a defence to an offence under this section. Item [1] inserts a new section 66EB (8) to provide for an alternative verdict in such cases where a person is charged with a procuring offence but the jury is not satisfied that the offence is proven but is satisfied that a grooming offence is proven. In such cases the jury has the option to acquit the person of the procuring offence but find them guilty of a grooming offence. These legislative amendments will bring New South Wales penalties in line with penalties in other States and the Commonwealth, and form part of the Government's strong and detailed plan for child protection in New South Wales. I commend the bill to the House.

**Debate adjourned on motion by the Hon. Don Harwin and set down as an order of the day for a future day.**

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