

Crimes Amendment (Sexual Servitude) Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crimes Act 1900* to create offences relating to sexual servitude, namely:

- (a) causing a person to enter into or remain in sexual servitude, and
- (b) conducting a business that involves sexual servitude.

The maximum penalty for the proposed offences will be:

- (a) imprisonment for 15 years, or
- (b) if the offence is committed in circumstances of aggravation (namely, where the victim is under 18 years of age or has a serious intellectual disability)—imprisonment for 19 years.

The Bill also amends the *Child Protection (Offenders Registration) Act 2000* to extend that Act to a sexual servitude offence committed against a child.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a date to be proclaimed.

Clause 3 is a formal provision giving effect to the amendment to the *Crimes Act 1900* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendment to the *Child Protection (Offenders Registration) Act 2000* set out in Schedule 2.

Schedule 1 inserts a Division 10A into Part 3 of the *Crimes Act 1900* (proposed sections 80B-80F) to deal with sexual servitude offences.

The sexual servitude offences generally follow those contained in the Model Criminal Code recommended by the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General (Chapter 9 Offences against Humanity—Slavery and Sexual Servitude—Report of the Committee issued November 1998). Similar offences (involving conduct outside Australia) have been enacted the Commonwealth Parliament in the *Criminal Code (Slavery and Sexual Servitude) Act 1999*.

Proposed section 80B defines **sexual servitude** as the condition of a person who provides commercial sexual services and who, because of the use of force or threats:

- (a) is not free to cease providing sexual services, or
- (b) is not free to leave the place or area where the person provides sexual services.

Proposed section 80C provides that, where the alleged victim of a sexual servitude offence is under 18 years of age or has a serious intellectual disability, the offence is committed in **circumstances of aggravation**.

Proposed section 80D (1) makes it an offence for a person to cause another to enter into or remain in sexual servitude, either intentionally or recklessly (maximum penalty: imprisonment for 15 years). Proposed section 80D (2) imposes a maximum penalty of imprisonment for 19 years if that sexual servitude offence is committed in circumstances of aggravation. Proposed section 80E (1) makes it an offence for a person to conduct a business that involves the sexual servitude of others, either knowingly or recklessly (maximum penalty: imprisonment for 15 years). Proposed section 80E (2) imposes a maximum penalty of imprisonment for 19 years if that sexual servitude offence is committed in circumstances of aggravation. Proposed section 80E (3) defines **conducting a business** so as to include all persons taking part in the management or control of the business or financing the business.

Proposed section 80F enables a jury to find an accused guilty of the basic sexual servitude offence if the jury is not satisfied that the accused is guilty of a charge of committing the offence in circumstances of aggravation.

Schedule 2 amends the definition of a **Class 2 offence** in section 3 of the *Child Protection*

(Offenders Registration) Act 2000 to extend that Act to a sexual servitude offence committed against a child.