



New South Wales

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.



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Crimes Amendment (Sexual Servitude) Bill 2001

No. , 2001

A Bill for

An Act to amend the *Crimes Act 1900* to create offences relating to sexual servitude, and to amend the *Child Protection (Offenders Registration) Act 2000* to extend that Act to any such sexual servitude offence committed against a child.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Crimes Amendment (Sexual Servitude) Act 2001</i> .	3
2 Commencement	4
This Act commences on a day to be appointed by proclamation.	5
3 Amendment of Crimes Act 1900 No 40	6
The <i>Crimes Act 1900</i> is amended as set out in Schedule 1.	7
4 Amendment of Child Protection (Offenders Registration) Act 2000 No 42	8
The <i>Child Protection (Offenders Registration) Act 2000</i> is amended as set out in Schedule 2.	10
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Schedule 1	Amendment of Crimes Act 1900	1
	(Section 3)	2
Part 3, Division 10A		3
Insert after section 80A:		4
Division 10A	Sexual servitude	5
80B	Meaning of “sexual servitude”	6
(1)	For the purposes of this Division, sexual servitude is the condition of a person who provides sexual services and who, because of the use of force or threats:	7
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(a)	is not free to cease providing sexual services, or	10
(b)	is not free to leave the place or area where the person provides sexual services.	11
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(2)	In this section:	13
	<i>sexual service</i> means the commercial use or display of the body of the person providing the service for the sexual arousal or sexual gratification of others.	14
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	<i>threat</i> means:	17
(a)	a threat of force, or	18
(b)	a threat to cause a person’s deportation, or	19
(c)	a threat of any other detrimental action unless there are reasonable grounds for the threat of that action in connection with the provision of sexual services by a person.	20
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80C	Meaning of “circumstances of aggravation”	24
	In this Division, <i>circumstances of aggravation</i> means circumstances involving either or both of the following:	25
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(a)	the alleged victim is under the age of 18 years,	27
(b)	the alleged victim has a serious intellectual disability.	28

80D	Causing sexual servitude	1
(1)	A person:	2
(a)	who causes another person to enter into or remain in sexual servitude, and	3 4
(b)	who intends to cause, or is reckless as to causing, that sexual servitude,	5 6
	is guilty of an offence.	7
	Maximum penalty: Imprisonment for 15 years.	8
(2)	A person is guilty of an offence against this subsection if the person commits an offence under subsection (1) in circumstances of aggravation.	9 10 11
	Maximum penalty: Imprisonment for 19 years.	12
80E	Conduct of business involving sexual servitude	13
(1)	A person:	14
(a)	who conducts any business that involves the sexual servitude of other persons, and	15 16
(b)	who knows about, or is reckless as to, that sexual servitude,	17 18
	is guilty of an offence.	19
	Maximum penalty: Imprisonment for 15 years.	20
(2)	A person commits an offence against this subsection if the person commits an offence under subsection (1) in circumstances of aggravation.	21 22 23
	Maximum penalty: Imprisonment for 19 years.	24
(3)	For the purposes of this section, <i>conducting a business</i> includes:	25 26
(a)	taking any part in the management of the business, or	27
(b)	exercising control or direction over the business, or	28
(c)	providing finance for the business.	29

80F Alternative verdicts

If on the trial of a person for an offence under section 80D (2) or 80E (2) the jury is not satisfied that the accused is guilty of the offence charged but is satisfied on the evidence that the accused is guilty of an offence under section 80D (1) or 80E (1), respectively, it may find the accused not guilty of the offence charged but guilty of the latter offence, and the accused is liable to punishment accordingly.

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Schedule 2	Amendment of Child Protection (Offenders Registration) Act 2000	1
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	(Section 4)	3
Section 3 Definitions		4
Insert after paragraph (b) of the definition of <i>Class 2 offence</i> in section 3 (1):		5
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(b1)	an offence under section 80D or 80E of the <i>Crimes Act 1900</i> , where the person against whom the offence is committed is a child, or	7
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