

**CRIMES LEGISLATION AMENDMENT (CHILD SEX OFFENCES) BILL 2015**

**Bill introduced on motion by Ms Gabrielle Upton, read a first time and printed.**

**Second Reading**

**Ms GABRIELLE UPTON** (Vaucluse—Attorney General) [3.49 p.m.]: I move:

That this bill be now read a second time. The Government is pleased to introduce the Crimes Legislation Amendment (Child Sex Offences) Bill 2015. Every parent knows that from the moment their child is born, all they want is for them to be happy, to be healthy and, above all, to be safe. As a community, we recognise that we must be ever vigilant to protect our children. That is why when we read or hear stories of child sexual assault, we are all sickened. Child sexual assault is a depraved, cruel and truly awful crime. I have heard the heartbreaking testimony at the Royal Commission into Institutional Responses to Child Sexual Abuse. I have sat with those victims. It reinforces the importance of protecting our children from harm. The community rightly expects that offenders will pay for what they have done, for what they have taken from their victims—their innocence, their future, their dreams. The sentence given to the offender must be just and it must be fair. It must balance the punishment, deterrence, and, where appropriate, balance factors of rehabilitation. However, the community has seen sentences that have not aligned with our sense of right and wrong, our sense of balance. We have seen sentences that have left us questioning whether justice has really been done. We have seen the balance tipped in favour of the offender, not the victim.

The bill delivers on a key election promise to introduce new laws to better protect and deliver justice for children. It will help bring sentences in line with community expectations. As a former Minister for Family and Community Services, I believe that we can and should do more to support our child victims. The reforms have been informed by the work of the Joint Select Committee on Sentencing of Child Sexual Assault Offences whose report, "Every Sentence Tells a Story", was tabled in October 2014. I take this opportunity to thank the committee and Deputy Premier Troy Grant for their diligent consideration of complex issues and the recommendations that have been made.

The committee was appointed by the Government in 2013 to inquire into and report on whether current sentencing options for perpetrators of child sexual assault remain effective and whether greater consistency in sentencing and improving public confidence in the judicial system could be achieved through alternative sentencing options. The joint select committee made a number of recommendations relating to child sexual assault offences and sentencing. Its recommendations cover a number of areas, including methods to improve transparency and consistency in sentencing, measures to better support victims of child sexual assault at trial and measures to improve the treatment and management of child sexual assault offenders.

The New South Wales Government is strongly committed to better protecting our children and delivering justice through appropriate punishments for those who commit child sexual assault offences and fully endorses the underlying objectives of the committee's recommendations. A number of recommendations were directed at increasing sentences for the most serial offending

against our children. The bill implements key recommendations of the committee in this regard. They are: first, to impose a maximum penalty of life on a new consolidated offence of sexual intercourse with a child under 10; and, secondly, a recommendation to expand the standard non-parole period scheme to include a number of child sex offences.

The joint select committee noted the average length of sentences for offences under section 66A of the Crimes Act, which is sexual intercourse with a child under 10. While acknowledging the limitations of sentencing statistics, the committee was concerned about the length of sentences for offences under section 66A being below the standard non-parole period for those offences. Whether committed in circumstances of aggravation or not, this offence, by its very nature, is exceptionally serious. The devastating and lifelong impact of an offence committed under this section should carry the harshest potential penalty available—that is, life imprisonment.

The committee's consideration of sentencing principles and practices was performed by the comprehensive work of the NSW Sentencing Council on the standard non-parole period scheme. The scheme provides guidance and structure to judicial sentencing discretion. It currently applies to a relatively small number of serious offences, including four child sexual assault offences. Analysis of the scheme undertaken by the Judicial Commission of New South Wales in 2010 has shown that it has resulted in increases in sentencing levels for scheme offences, especially those offences involving sexual violence.

In September 2013 the former Attorney General, who sits beside me, asked the council to review aspects of the scheme, including what further offences should be included and the standard non-parole periods of those offences. In light of the establishment of the Joint Select Committee on Sentencing of Child Sexual Assault Offenders, the Attorney General asked the council to give immediate consideration to standard non-parole periods for child sexual assault offences and to report urgently on those that should be included in the scheme. Following extensive consultation with stakeholders and the community, the council recommended a number of child sexual offences for inclusion in the scheme. The standard non-parole period reports were provided to the committee and recommendation 8 of the committee's report endorsed the council's recommendation. The bill implements that recommendation and expands the scheme to include those offences.

The council determined that each offence is appropriate for the scheme because it has a high to very high maximum penalty. Its victims are children who are particularly vulnerable and for whom there is a special risk of serious, ongoing harm. At the heart of the council's and the joint select committee's recommendations about the scheme and this Government's response to them is a recognition of the particularly awful nature of sexual assault offences against children and the need for sentences to reflect the seriousness of this abuse. The council also identified the level of standard non-parole period for each of the additional sentences based on a fixed portion of 37.5 per cent of the maximum penalty for each offence, adjusted accordingly to the relevant consideration such as a special need for deterrence and the potential vulnerability of victims.

A number of other key recommendations of the committee will be implemented by two high-level working groups. A sexual offences task force will oversee a pilot program for specialist procedures to

reduce re-traumatisation of child witnesses in sexual assault proceedings and will advise the Government on additional best practices for child sexual assault trials. A second task force will examine options for anti-libidinal medication treatment for child sexual offenders. In addition to those task forces, the Department of Justice will undertake a review of the sexual offences in the Crimes Act 1900. This review may result in revised offences. However, today's amendments are important and they have been advanced early, representing the commitment by the New South Wales Government to the electorate.

There is no reason to delay, and I turn now to the details of the bill. Schedule 1 amends the Crimes Act 1900. Schedule 1 [1] inserts a new basic offence, which will carry a maximum penalty of imprisonment for life. It removes the distinction between the basic offence and the aggravated offence. Any person alleged to have sexually assaulted a child under 10 will be liable to be charged with this offence, regardless of whether a circumstance of aggravation is found to exist. Should aggravating circumstances exist, the consolidation of the offences does not affect the discretion of a sentencing court to consider them when imposing a sentence in individual cases. The existing aggravated factors can and will continue to be taken into account on sentence for this new offence, should they be found to be present.

Under section 21 of the Crimes Sentencing Procedure Act 1999, where an offence is punishable by life imprisonment, a court may nevertheless impose a sentence of imprisonment for a specified term. A standard non-parole period for the consolidated offence of 15 years is set out under division 1A of part 4 of that Act. This is the current standard non-parole period for simple and aggravated offences, and is retained for the new offence.

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New section 66A (2) provides that if a person is sentenced to life imprisonment under this section they then are to serve the sentence for the term of the person's natural life. Schedule 1, items [2], [3], [4] and [5] make consequential amendments. Schedule 1 [6] is a savings and transitional provision that makes clear that the amendments apply only to offences committed after the commencement of the amendments. Schedule 2 amends the Crimes (Sentencing Procedure) Act 1999. The table to division 1A of part 4 of that Act sets standard non-parole periods for a number of offences. Item [2] of schedule 2 amends the table to introduce standard non-parole periods for 13 child sex offences under the Crimes Act 1900. Schedule 2 [1] makes an amendment that is consequential on the amendment made by schedule 1 [1]. Schedule 2 [3] is a savings and transitional provision that provides that the amendments apply only to offences committed after the commencement of the amendments.

In closing, the bill reflects the New South Wales Government's deeply held belief that the most vulnerable members of the community—our children and young people—deserve to live life free from abuse. This bill will help achieve that. It will help to better protect and deliver justice for our children and young people. I commend the bill to the House.

**Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a future day.**