



Crimes Legislation Amendment (Child Sex Offences) Bill 2015 (Proof)

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Second Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [3.51 p.m.], on behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

This bill implements the first phase of the Government's package of criminal justice reforms in the area of child sexual assault.

These reforms have been informed by the work of the Joint Select Committee on Sentencing of Child Sexual Assault Offenders whose report "Every Sentence Tells a Story" was tabled in October 2014. I would like to take this opportunity to thank the committee for the amount of hard work around complex issues that has gone into the Report 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.

This Government is committed to ensuring perpetrators of sexual assault against the most vulnerable members of our community are met with appropriate penalties. The abhorrent nature of sexual violence against children continues to blight our society, as is evident from the ongoing Commonwealth Royal Commission Inquiry into Institutional Responses to Child Sexual Abuse.

The Joint Select Committee made 29 recommendations relating to child sexual assault offences and sentencing. Their 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 improvement in the treatment and management of child sexual assault offenders.

The Government is committed to the prevention of child sexual assault and appropriate punishments for those who commit these types of offences, and fully endorses the underlying

objectives of the committee's recommendations.

A number of recommendations were directed at increasing sentences for the most serious sexual offending against children. The bill implements key recommendations of the committee in this regard. They are:

- First, a recommendation to impose a maximum penalty of life on a new consolidated offence of sexual intercourse with a child under 10; and
- second, a recommendation to expand the standard non-parole period scheme to include a number of child sex offences.

The Joint Select Committee was concerned about the average length of sentences for offences under section 66A of the Crimes Act (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 against section 66A being below the standard non-parole period for the offences.

Whether committed in circumstances of aggravation or not, this offence is by its very nature exceptionally serious. The devastating and life-long impact of an offence committed under this section should carry the harshest potential penalty available, that is life.

The committee's consideration of sentencing principles and practices was informed by the comprehensive work of the New South Wales Sentencing Council on the Standard Non Parole Period 5 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 sentence levels for scheme offences, especially those offences involving sexual violence.

In September 2013 the former Attorney asked the council to review aspects of the scheme, including what further offences should be included and the standard non-parole periods for those offences. In light of the establishment of the Joint Select Committee on Sentencing Child Sexual Assault Offenders, the Attorney asked the council to give immediate consideration to standard non-parole periods for child sexual assault offences and to report urgently on those which should be included in the scheme.

Following consultation with stakeholders and the community, the council recommended a number of child sex offences as suitable 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. This bill implements that recommendation and expands the scheme to include these 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 recognition of the particularly heinous 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 offences, based on a fixed proportion of 37.5 per cent of the maximum penalty for each offence, adjusted according to relevant considerations such as the 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 Taskforce will oversee a pilot program for specialist procedures to reduce re-traumatisation of child witnesses in sexual assault proceedings, and will advise Government on additional best practices for child sexual assault trials. A second task force will examine options for anti-libidinal medical treatment for child sex offenders.

In addition to these 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 have been advanced early. It is considered a necessary and simple amendment, and there is no reason to delay.

I now turn to the detail of the bill.

Schedule 1 amends the Crimes Act 1900.

Item [1] of schedule 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 aggravating factors can be 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 under division 1 A of part 4 of that Act. This is the current standard non-parole period for both the simple and aggravated offences, and is retained for the new offence.

Proposed 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 [2], [3], [4] and [5] make consequential amendments.

Schedule 1 [6] is a savings and transitional provision which makes clear that the amendments only apply to offences committed after the commencement of the amendments.

Schedule 2 amends the Crimes (Sentencing Procedure) Act 1999.

The Table to division 1 A of part 4 of that Act sets standard non-parole periods for a number of offences.

Item [2] of schedule 2 [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 which provides that the amendments only apply to offences committed after the commencement of the amendments.

I thank again the committee and those who have come forward to contribute to its work. The experiences which have informed the committee's findings and the decisions of this Government have been harrowing and considerable bravery is needed to have this discourse.

The work of the committee will continue to inform Government policies and initiatives that aim to protect children, improve victim experience of criminal proceedings, prevent child abuse,

punish offenders appropriately and provide access to effective treatment and rehabilitation to make communities safer.

I commend the bill to the House.