
Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2019

Sexual Assault Support Service Inc. (SASS) Submission

September 2019



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SASS submission

Introduction

Sexual Assault Support Service (SASS) is a free and confidential service for people of all ages who have been affected by any form of sexual violence. We also provide counselling to children and young people who are displaying problem sexual behaviour (PSB) or sexually abusive behaviour (SAB), along with support and information for their family members and/or carers, and deliver a Redress Scheme Support Service to survivors of institutional child sexual abuse.

The range of support options available at SASS includes counselling, crisis support, case management and advocacy. We also provide information and support to professionals and deliver training workshops and community education activities in a range of settings including schools and colleges.

SASS welcomes the opportunity to respond to the Senate Legal and Constitutional Affairs Legislation Committee on the Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2019.

Comments

- 1. Insert community safety as a factor that can be taken into account to revoke the parole of a federal offender without notice;**

We support this proposal, however we do note that it does not seem particularly necessary given that parole can already be revoked without 14 days notice in situations of urgency.

- 2. Remove the requirement to seek leave before a recorded interview of a vulnerable witness can be admitted as evidence in chief;**

We support this proposal and appreciate that it brings Commonwealth legislation into line with state/territory standards with regard to child and other vulnerable witnesses.

- 3. Prevent children and other vulnerable witnesses from being cross-examined at committal proceedings;**

As above, we support this proposal, noting that it is particularly important for committal proceedings where a jury is not present and the defence's questioning may therefore be more aggressive.

- 4. Insert notes in the Criminal Code to provide additional clarity regarding the scope of conduct captured by child sex offences;**

We support this proposal, noting that it is particularly important with regard to online offences.

- 5. Insert new aggravated offences for child sexual abuse that involves subjecting the child to cruel, inhuman or degrading treatment, or which causes the death of the child;**

We support this proposal.

- 6. Insert new offences to criminalise the “grooming” of third parties, including through the use of a carriage service, with the intention of making it easier to procure a child for sexual activity in Australia or overseas;**

We support this proposal.

- 7. Insert a new offence to criminalise the provision of an electronic service to facilitate dealings with child abuse material online;**

We support this proposal.

- 8. Insert additional aggravating sentencing factors that apply when a court is sentencing for certain child sex offences, including considering the age and maturity of the victim and the number of people involved in the commission of the offence;**

We support this proposal. We would however suggest that a court also be required to consider the additional aggravating factor of whether the offender had supplied the victim with alcohol or drugs with the intention of facilitating the commission of the offence.

- 9. Increase the maximum penalties for certain Commonwealth child sex offences;**

We support this proposal, and particularly agree with the reasoning given regarding the psychological and developmental damage to victims caused by grooming.

- 10. Introduce a mandatory minimum sentencing scheme to apply to the Commonwealth child sex offences that attract the highest maximum penalties, and all other Commonwealth child sex offences if the offender is a repeat child sex offender;**

We do not currently support this proposed amendment. Whilst we are strongly supportive of reform to strengthen punishments against those who sexually abuse children, we do not feel that there is sufficient evidence to suggest that mandatory minimum sentencing is an effective response. We note the concern expressed regarding mandatory minimum sentencing for sexual offences by various legal authorities including the Tasmanian Sentencing Advisory Council and the Law Council of Australia.

We feel that a strong alternative to mandatory minimum sentencing is presumptive non-parole periods for certain child sex offences. We note that the Tasmanian Sentencing Advisory Council have recommended these as an alternative to mandatory minimum sentencing. We would also be open to supporting a proposal to create guidelines judgments. SASS feels that reform in this

way would help to contribute to a justice system that effectively deters and punishes child sexual abuse offenders.

- 11. Insert a presumption against bail for Commonwealth child sex offences that attract the highest maximum penalties, and all other Commonwealth child sex offences if the offender is a repeat child sex offender;**

We support this proposal.

- 12. Make it an aggravating factor in sentencing if a federal offender used their standing in the community to assist in the commission of an offence;**

We support this proposal.

- 13. Ensure that when sentencing a Commonwealth child sex offender, the court must have regard to the objective of rehabilitating the person, including by considering whether to impose any conditions about rehabilitation and treatment and considering if the length of sentence is sufficient for the person to undertake a rehabilitation program while in custody;**

We support this proposal. Furthermore, we strongly suggest that Commonwealth child sex offenders held on remand are also provided the opportunity to voluntarily participate in rehabilitation programs while in custody.

- 14. Insert a presumption in favour of cumulative sentences for Commonwealth child sex offences;**

We support this proposal.

- 15. Insert a presumption in favour of Commonwealth child sex offenders serving an actual term of imprisonment;**

We support this proposal.

- 16. Require that if a court is releasing a Commonwealth child sex offender on a recognizance release order, the offender must be supervised in the community, and undertake such treatment and rehabilitation programs as their probation officer directs;**

We support this proposal.

- 17. Add residential treatment orders as an additional sentencing alternative to allow intellectually disabled offenders to receive access to specialised treatment options;**

We support this proposal.

- 18. Reduce the amount of 'clean street time' that can be credited by a court as time served against the outstanding sentence following commission of an offence by a person on parole and license; and**

We support this proposal.

19. Require a period of time to be served in custody if a federal offender's parole order is revoked.

We support this proposal.

We appreciate the opportunity to provide comment on this Bill, and hope that the Senate Committee will take our views on this matter into account. Please contact us for any further details on this submission.