Chapter 2
Key issues

2.1 This chapter outlines the issues raised by submissions, and then provides the committee's view on the bill. Please note that, apart from outlining the general support expressed for the bill by submitters, this chapter only considers matters that were explicitly addressed in submissions, regarding:

- Schedule 1—Revocation of parole order or licence to protect safety;
- Schedule 2—Use of video recordings and Schedule 3– Cross-examination of vulnerable persons at committal proceedings;
- Schedule 4—Strengthening child sex offences;
- Schedule 5—Increased penalties;
- Schedule 6—Minimum sentences;
- Presumptive measures contained in schedules 7, 10 and 11;
- Schedule 8—Matters court has regard to when passing sentence etc.;
- Schedule 11—Conditional release of offenders after conviction;
- Schedule 12—Additional sentencing alternatives;
- Schedule 13—Release on parole;
- Schedule 14—Revocation of parole order or licence;
- Schedule 15—Expanding the meaning of child abuse material and other consequential amendments; and
- Other matters raised by submitters.

General support for the bill

2.2 The submissions received by the committee overwhelmingly supported the bill's general intention to strengthen Australia's framework for protecting the community from child sex offenders, as well as its focus on improving relevant legislation in light of recent technological advances.[1]

2.3 For example, the Uniting Church noted that the broader offences under the new provisions would provide a real deterrent for many potential offenders:

> The risk of getting caught and the public shame that follows, with loss of relationships and employment in addition to any length of time in prison, is far more likely to deter many offenders than a the threat of a longer prison

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1 Uniting Church in Australia, *Submission* 1, pp. 1–2, and 3–5;Anti-Slavery Australia, *Submission* 6, p. 1; Collective Shout, *Submission* 7, pp. 1 and 9; and Carly Ryan Foundation, *Submission 8*, p. 1.

> term if the would-be offender believes their chance of getting caught is small.[2]

2.4 Submitters also supported tougher penalties for new and some existing offences.[3] For example, Collective Shout suggested that:

> Stronger maximum penalties, cumulative sentences and actual terms of imprisonment are, we believe, appropriate for the nature of online child sexual exploitation crimes. International reports indicate that some offenders believe, or at least claim to believe, that what they are doing is not so bad.[4]

2.5 The Carly Ryan Foundation submitted that it considered the bill would be a:

> …proactive and vital update to the current legislation. *The Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2017* is a welcomed update providing practical solutions, strengthening the current legislation, increasing penalties, enforcing minimum sentences, preventing cross-examination of vulnerable persons and revoking parole orders in order to protect the Australian community.[5]

General concerns raised about the bill

2.6 The Law Council of Australia (Law Council) expressed concern that the bill has been introduced before the publication of the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), which is expected in December 2017, as well as the publication of the Australian Law Reform Commission's (ALRC) inquiry into Incarceration Rates of Aboriginal and Torres Strait Islander peoples.[6]

2.7 The Law Council noted that it is unclear whether the provisions of the bill would be consistent with the findings of the Royal Commission and the ALRC. Given this, it recommended that the bill not be enacted 'prior to [the] consideration of the Australian Government and Parliament of these reports'.[7]

2.8 The Attorney-General's Department submitted that the bill was entirely consistent with the work of both the Royal Commission, as well as ongoing

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2 *Submission 1*, p. 6.

3 Uniting Church in Australia, *Submission* 1, pp. 1–2, and 5–6;Anti-Slavery Australia, *Submission* 6, p. 1; Collective Shout, *Submission* 7, p. 1; and Carly Ryan Foundation, *Submission 8*, p. 1.

4 *Submission 8*, p. 3.

5 *Submission 7*, p. 2.

6 *Submission 5*, p. 5. Associate Professor Bartels also noted the ALRC is currently looking into indigenous rates of incarceration, *Submission 2*, p. 2.

7 *Submission 5*, p. 5.

collaborative work between the Commonwealth and jurisdictions on detecting and reducing child sex offences.[8]

Schedule 1—Revocation of parole order or licence to protect safety

2.9 Currently, before a parole order or license is revoked, a person must be notified of the specific conditions they are alleged to have breached, unless certain circumstances apply, and given 14 days to respond to allegations.[9] The Explanatory Memorandum states the bill would amend arrangements to

> …provide that a federal offender's parole or licence may be revoked without notice if doing so is necessary to ensure the safety and protection of the community or of another person.
>
> Including this in the current list of exceptions will ensure that if the Attorney-General or their delegate becomes aware that a person who has been released into the community on parole or licence poses a threat to the safety of the community or to another person, that person can be taken into custody immediately.[10]

2.10 The bill also provides that parole orders and licenses would be subject to this amendment even if they have been made or granted before the bill commences.[11]

2.11 Some submitters raised concerns with this proposed amendment. Associate Professor Lorana Bartels questioned whether the amendment was 'objectionable on the grounds of procedural fairness'. She recommended that the Commonwealth reconsider the ALRC's 2006 recommendation to introduce a federal parole authority that was independent of government.[12]

2.12 The Law Council voiced similar concerns that the proposal was contrary to principles of procedural fairness and the ALRC recommendations of 2006. It argued that proposed paragraph 19AU(3)(ba) of the bill should be removed from the bill completely–and, failing that, s:

> …an independent parole authority should have the ability to revoke the parole or licence without giving notice to the person in the interests of ensuring the safety and protection of the community or of another person subject to the ability for the person to contest the revocation.[13]

2.13 The Attorney-General's Department submitted that the proposed amendments would maintain procedural fairness, as:

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8 *Submission 4*, p. 2.

9 Explanatory Memorandum, p. 17.

10 Explanatory Memorandum, p. 17.

11 Explanatory Memorandum, p. 17.

12 *Submission* 2, p. 3, citing the report undertaken by the ALRC, *Same Crime, Same Time: Sentencing of Federal Offenders* (Report 103, 2006), p. 24.

13 *Submission 5*, p. 22.

> Importantly, after parole has been revoked and the offender remanded in custody, that offender retains the opportunity to make a written submission to the Attorney-General as to why the parole order or licence should not be revoked. If the Attorney-General is satisfied of those reasons the offender would be immediately released from custody.[14]

Schedule 2—Use of video recordings and Schedule 3– Cross-examination of vulnerable persons at committal proceedings

2.14 Schedules 2 and 3 would make amendments to protect vulnerable witnesses. such as children, giving evidence in particular criminal proceedings. This includes Commonwealth child sex offences, as well as human trafficking and slavery offences.[15] The Attorney-General's Department summed up the effects of these proposed amendments:

> The Bill removes the requirement for vulnerable witnesses to be available to be cross-examined at committal proceedings. There is currently no restriction on whether a vulnerable witness can be cross-examined at committal proceedings (or proceedings of a similar kind) and few restrictions on the scope of questioning permitted in committal proceedings.
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> By prohibiting cross-examination at committal proceedings or proceedings of a similar kind, vulnerable witnesses will be spared an additional risk of re-traumatisation. Under the current legislation, vulnerable witnesses may be required to give evidence twice and often in distressing, combative environments. The measures will contribute to streamlining criminal justice processes by ensuring cross-examination is reserved for trials only, and not committal proceedings or proceedings of a similar kind.
>
> The Bill also removes the requirement for the court to grant leave before admitting a video recording of an interview of a vulnerable witness as evidence in chief. These measures will bring the Commonwealth broadly into line with the practice in other Australian states and territories.[16]

2.15 The Explanatory Memorandum states that, currently, the court's leave must be given for a video recording to be admitted as evidence in chief for a vulnerable witness, and stipulates that any such recording is conducted by a constable or other specified person.[17]

2.16 Schedule 2, which addresses the use of video recordings, would remove the requirement to grant leave before a video recording of a vulnerable witness is admitted as evidence in chief, but maintain the stipulation that it be conducted by a constable or specified person.[18]

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14 *Submission 4*, p. 8. This is also clearly explained in the Explanatory Memorandum, p. 17.

15 Explanatory Memorandum, p. 17.

16 *Submission 5*, p. 5.

17 Explanatory Memorandum, pp. 17–18.

18 Explanatory Memorandum, p. 18.

2.17 These provisions would only apply to proceedings that are begun on or after the commencement of the bill.[19] The Explanatory Memorandum notes:

> The evidence in chief interviews remain subject to the rules of evidence and parts may be ruled inadmissible, thereby protecting the rights of the accused person. There are sufficient safeguards in place that the defence will not be unreasonably disadvantaged by removing the requirement in 15YM to seek leave. On balance, any disadvantages to the defence are outweighed by the uncertainty, delay and inefficiency caused by the requirement to seek leave.[20]

2.18 Schedule 3, which deals with cross-examination of vulnerable persons at committal proceedings, would amend the Crimes Act by removing the requirement for vulnerable witnesses to be available to give evidence at committal proceedings. The Explanatory Memorandum explains that this would spare vulnerable witnesses from the risk of re-traumatisation, and streamline criminal justice proceedings by ensuring cross-examination is reserved for trials, rather than committal hearings.[21]

2.19 Some submissions supported these proposed amendments as they would complement the approach already adopted by Australian states and territories.[22] Moreover, the Law Council noted that removing the requirement for leave to be sought for vulnerable witnesses to give evidence was 'consistent with international best practice' and in-line with the Commonwealth's victim-centred approach to combatting human trafficking and slavery.[23]

2.20 However, the Law Council also raised a number of concerns about the effect of the changed arrangements on prosecutions, including on the ability of the defence to mount its case:

> …including by impacting the ability of the defence to prepare its cross examination of witnesses, that video technology lacks the immediacy and persuasiveness of a witness' live testimony, and technological issues.[24]

2.21 Given this, the Law Council observed that it could be useful for relevant participants in the criminal justice system to be educated about the legislative requirements authorising the admission of pre-recorded evidence, as well as training in interviewing vulnerable witnesses and pre-recording evidence.[25]

2.22 Regarding schedule 3, the Law Council did not support a complete ban on the appearance of vulnerable witnesses at committal hearings, arguing that such

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19 Explanatory Memorandum, p. 18.

20 Explanatory Memorandum, p. 18.

21 Explanatory Memorandum, p. 19.

22 Uniting Church, *Submission 1*, p. 1; Law Council of Australia, *Submission* 5, p. 25; Carly Ryan Foundation, *Submission 7*, p. 2.

23 *Submission* 5, p. 25.

24 *Submission* 5, p. 25.

25 *Submission* 5, p. 26.

appearances could streamline trial processes significantly, which could actually benefit victims. It advised that the Commonwealth should consider ALRC recommendations that:

> …State and Territory legislation should prohibit any child and any adult complainant, unless there are special or prescribed reasons, from being required to attend to give evidence at committal hearings.[26]

2.23 In this light, the Law Council recommended that:

> The proposed ban on cross-examination of vulnerable witnesses should be removed from the Bill and replaced by an approach which prevents cross-examination of vulnerable witnesses unless 'exceptional circumstances' can be demonstrated and for a defined set of offences only (e.g. child sex offences).[27]

Schedule 4—Strengthening child sex offences

2.24 Schedule 4 of the bill would make amendments to strengthen penalties for existing child sex offences. It would also introduce new offences to criminalise emerging forms of child sexual abuse, both in the nature of the offences and in new ways of distributing child abuse material online, including through dark web host sites and through real time live streaming services. These include provisions to amend the Criminal Code to:

- Clarify the definition of 'engage in sexual activity' for child sexual abuse cases (Item 1);
- Introduce new aggravated offences, including regarding committing offences against a child with a mental impairment, or where a person is in a position of trust or authority in relation to a child; and where a child is subjected to 'cruel, inhuman or degrading treatment' or where a child 'dies as a result of physical harm' in connection with sexual abuse (Item 3);
- Criminalise 'using postal or similar services to 'groom' another person to make it easier to procure persons under 16 years of age for sexual activity', which complements existing grooming offences set out in 471.24 and 474.25 of the Criminal Code (Item 5);
- Allow law enforcement agencies to gather evidence admissible to courts using 'fictitious persons' (Items 11 and 12); and
- Criminalise 'the provision of an electronic service with the intention that the service will facilitate the commission of an offence against sections 474.22 (using a carriage service for child abuse material) or 474.23 (possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service) of the Criminal Code' (Item 20).

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26 *Submission* 5, p. 26.

27 *Submission* 5, p. 27.

2.25 These provisions were generally supported by submitters.[28] In particular, some submissions drew attention to the value of introducing or strengthening provisions designed to crack down on the use of internet carriage services to distribute child abuse material, including live streamed child abuse overseas that can be accessed online, which will complement some new measures introduced in Australian jurisdictions.[29]

2.26 As the schedule contains 40 items, the following section will confine comments to areas in which concerns were raised by submitters.

Clarifying the definition of 'engage in sexual activity' (Item 1)

2.27 Item 1 inserts a note that clarifies the definition of 'engage in sexual activity' in the Crimes Act, to include:

> …being in the presence of another person (including by means of communication that allows the person to see or hear the other person) while the other person engages in sexual activity.[30]

2.28 The Law Council and Anti-Slavery Australia both recommended that this definition also be reflected in the Criminal Code subsection 272.8, *Sexual Intercourse with a child outside Australia* to capture some child sex offences that were broadcast or live-streamed online.[31] Anti-Slavery Australia commented that this minor addition to the bill would:

> …ensure that an Australian directing and engaging in live-streamed, serious sexual abuse of a child overseas, is properly characterised as culpable for the significant harm caused to the child.[32]

New Aggravated offences (Item 3)

2.29 Regarding the introduction of new aggravated offences into the Criminal Code, the Law Council stated that, while it did not oppose the amendment, 'most of these factors can already be taken into account as aggravating factors in sentencing in a federal context.[33] It noted this should be considered in relation to the increased penalties and mandatory sentences included under schedules 5 and 6 of the bill:

> …given that proposed and existing child sex offences are so broadly framed with potential aggravating factors, retaining judicial discretion in this area

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28 Uniting Church in Australia, *Submission* 1, pp. 1–2, and 3–5; Ms Elly Bromberg, *Submission 3*, p. 1; Law Council of Australia, *Submission 5*, p. 9; Anti-Slavery Australia, *Submission 6*, pp. 8–9; Carly Ryan Foundation, *Submission 7*, p. 1; and Collective Shout, *Submission 8*, pp. 4–5 and p 7.

29 See, for example Anti-Slavery Australia, pp. 6–9.

30 Schedule 4, Item 1 outlined at Explanatory Memorandum, p. 20.

31 Law Council of Australia, *Submission 5*, pp.8–9; Anti-Slavery Australia, *Submission 7*, p. 11.

32 *Submission 7*, p. 11.

33 *Submission 5*, p. 9.

> is critical to ensure appropriate sentences are issued that reflect the culpability of the conduct in question.[34]

Schedule 5—Increased penalties

2.30 Schedule 5 of the bill introduces measures to increase the maximum penalties for certain Commonwealth child sex offences and for breach of the obligation on internet service providers and internet content hosts to report child abuse material to police.[35] The changes to sentencing are set out in a table at Appendix 1 of this report.

2.31 The Attorney-General's Department provided an outline of changes to penalties for offenders:

> The Bill increases the maximum penalties for offences under the Criminal Code relating to the sexual abuse of children outside Australia and offences committed through the use of online and postal services. The penalties for sections 272.9(1), 272.9(2), 474.25A (1) and 474.25(2) (sexual activity other than sexual intercourse) will now attract a maximum penalty of 18 years. The proposed maximum penalty for these offences reflects the relative seriousness of conduct. The penalties differentiate between conduct that is preparatory to sexual activity (such as procuring and grooming), conduct where an offender engages in sexual activity with a child (including activity of a sexual or indecent nature, activity that does not require physical contact between people, and online sexual activity) and conduct which requires the offender to have sexual intercourse through physical contact with a child (including penetration and oral intercourse). Offences preparatory to engaging in sexual activity with a child (such as grooming and procuring) attracts a maximum penalty of 15 years' imprisonment for; sexual activity that does not involve sexual intercourse attracts a maximum of 18 years imprisonment; and engaging in sexual intercourse with a child (section 272.8) attracts maximum penalty of 20 years' imprisonment.[36]

2.32 The Explanatory Memorandum explains that increased penalty for grooming offences:

> …[reflect] the growing body of evidence that demonstrates the extent of harm 'grooming' has on a child victim. 'Grooming' is a complex behaviour used by perpetrators to gain access to victims through deception and manipulation. Perpetrators often employ 'grooming' behaviours to both commit and conceal further offending against children, including offences involving sexual contact with the victim. The impact of 'grooming' can be damaging and lifelong in its effect, likely because in establishing trust and normalising sexually harmful behaviour (as part of 'grooming') the perpetrator impacts the child victim's psychosocial development.[37]

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34 *Submission 5*, p. 10.

35 Explanatory Memorandum, p. 2.

36 *Submission 4*, p. 6.

37 Explanatory Memorandum, p. 35 repeated at p. 36.

2.33 Under item 7 of schedule 5, the bill also toughens penalties for internet service providers that do not report child abuse material to the police appropriately, including providing for prosecution. According to the Attorney-General's Department:

> The Bill also increases the maximum penalty for offences committed by internet service providers that fail to report child abuse material to the Australian Federal Police when the service provider becomes aware that the service provided can be used to access child abuse material. This offence allows for prosecution where service providers do not cooperate with police to identify child abuse material.[38]

2.34 Associate Professor Lorana Bartels noted opposition to the amendments:

> …the proposed increases to sentences would have disproportionate impacts, given the current legislative maximum sentences which they seek to amend. Specifically, the Bill proposes to increase the maximum penalties for a range of offences by three years. This does not appear to be done in any principled way with respect to the existing penalties…
>
> If the objective of the minimum sentences is to promote consistency, then the proposed model is unlikely to achieve this, given that it relates only to the 'head' sentence and not the non-parole period…There will therefore be the potential for *reduced* consistency, given the lack of any relationship (whether set by Parliament or court practice) between the head sentence and non-parole which would ensue following the proposed amendments.[39]

2.35 While the Law Council supported 'a penalty system that reflects the seriousness of the conduct concerned', it considered that the justification for increases to these sentences had not been sufficiently set out in the bill and Explanatory Memorandum, and so recommended:

> There should be a review of the proposed three year increase in maximum penalties, and if justified, the Explanatory Memorandum should more clearly state why a three year increase in maximum penalties has been chosen.[40]

Schedule 6—Minimum sentences

2.36 Schedule 6 would insert mandatory minimum sentences for:

> …offences relating to the use of a carriage service or postal service, and offences relating to the sexual abuse of children overseas. Mandatory minimum penalties will also apply to child sex offenders previously convicted of a separate child sex offence (including state and territory offences) (repeat offenders). This measure is designed to reflect the risk that repeat offenders pose to community safety.[41]

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38 *Submission 4*, p. 6.

39 *Submission 2*, p. 3.

40 *Submission 5,* p. 14.

41 *Submission 4*, p. 5.

2.37 On this, the Attorney-General's Department submitted that:

> The proposed introduction of mandatory minimum sentences and increased penalties for child sex offences reflect the significant threat that the offenders pose to community safety and the significant, long term harm to children.[42]

2.38 Some submitters supported these amendments, on the grounds that this would:

- ensure offenders receive sentences that reflect the seriousness and gravity of their crimes;
- serve as a deterrent to potential offenders; and
- work to address 'weak sentencing in past cases' including of online, non-contact abuse of children.[43]

2.39 However, other submitters raised general concerns relating to mandatory sentences in general, as well as specifically for sex offences.[44] For example, the Law Council questioned the underlying principle of instating mandatory minimum sentences, including the limits this would place on judicial discretion and independence:

> …that the imposition of mandatory minimum sentences upon conviction for criminal offences imposes unacceptable restrictions on judicial discretion and independence, and undermines fundamental rule of law principles and human rights obligations [under the International Covenant on Civil and Political Rights (ICCPR)].[45]

2.40 Associate Professor Lorana Bartels expanded on these themes in her submission, commenting that:

> …judicial officers, when presented with prescribed mandatory sentences, are unable to apply the generally accepted sentencing principles of proportionality, parsimony, and totality. Accordingly, judicial discretion and independence, the separation of powers, and the rule of law are undermined. Discretion is also transferred to other, less transparent, parts of the criminal justice system. At the same time, there is little incentive for defendants to cooperate with police, or to plead guilty, thereby increasing workloads, delays, costs, and adverse experiences for victims. In court, juries may be reluctant to convict, knowing the minimum sentence; that is, they may be unwilling to be a party to a guaranteed outcome. In addition, these laws arguably violate international law; indeed, the Law Council of Australia (2014) has suggested that such laws may breach the prohibition

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42 *Submission 4*, p. 6.

43 Uniting Church in Australia, *Submission* 1, pp. 6–7; Carly Ryan Foundation, *Submission 7*, p. 1; and Collective Shout, *Submission 8*, pp. 4–5.

44 Ms Elly Bromberg, *Submission 3*, p. 2; Law Council of Australia, *Submission* 5, p. 10; Associate Professor Lorana Bartels, *Submission* 2, pp. 1–2; and Anti-Slavery Australia, *Submission* 6, p. 11.

45 *Submission* 5, p. 10. See also p. 11.

> against arbitrary detention under Article 9 of the [ICCPR] as well as the right to a fair trial and the provision that prison sentences must, in effect, be subject to appeal (Article 14 ICCPR).[46]

2.41 Regarding mandatory sentences for sex offences more specifically, Anti-Slavery Australia encouraged the Commonwealth to undertake more consultation, as:

> The introduction of a mandatory minimum custodial sentence will not reflect the spectrum of child exploitation material offending. This spectrum is evidenced by the categorisation system used in Australia, the Child Exploitation Tracking System ('CETS') Scale, used in the Australian National Victim Image Library (ANVIL). The scale categories child exploitation material from Level 1, depictions of children with no sexual activity to Level 5, which involves sadism, bestiality, humiliation or child abuse.[47]

2.42 Moreover, Anti-Slavery Australia noted this could potentially remove an incentive for offenders to cooperate with law enforcement agencies in return for more lenient sentences:

> Mandatory minimum custodial sentences may reduce the incentive for defendants to assist police in ongoing investigations. This may be particularly damaging to police investigations concerning online child exploitation, as defendants have no incentive to voluntarily provide passwords to encrypted devices and systems.[48]

2.43 The Law Council raised significant concerns about the potential for the proposed amendments to inadvertently capture some normal and legal conduct that would attract penalties that were unjust and too harsh. This could include courts handing down mandatory minimum penalties for consensual activities between individuals in a relationship where one was over 18 and the other was underage (as set out in the table below), It commented that the bill may introduce:

> …mandatory minimum penalty measures which may apply to conduct between youths that may be common and normally permitted under State law. That is, normal young adult behaviours are criminalised. The age of consent also varies and so the conduct may be strictly unlawful and subject to statutory absence of consent provisions, however, that does not make it a case for the imposition of mandatory sentences. This has the potential to create significant unjustified unfairness without achieving the stated aims of deterring offenders or instituting appropriate penalty regimes.[49]

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46 *Submission* 2, pp. 1–2. Associate Professor Bartels also noted the ALRC opposed mandatory sentencing more generally, citing the ALRC's report *Incarceration Rates of Aboriginal and Torres Strait Islander Peoples: Discussion Paper* (2017), p. 80.

47 *Submission* 6, p. 10.

48 *Submission* 6, p. 11.

49 *Submission 5*, p. 1 and pp. 12–13.

Table 1: Potential examples of the unjust application in the current Bill[50]

Bill Item	Criminal Code offence	Example of potential conduct caught by the offence	Mandatory Min.penalty
First time offences – section 16AAA			
1	Subsection 272.8(1) – sexual intercourse with child outside Australia	On a scout's trip to New Zealand, a 18 year old student has sex with his 15 year old Year 10 girlfriend	5 years
3	Subsection 272.9(1) – sexual activity (other than sexual intercourse) with child outside Australia	On a holiday overseas between two families, an 18 year old and 15 year old commence a romantic relationship and they touch each other.	5 years
13	Subsection 474.25A(1) – using a carriage service for sexual activity with person under 16 years of age – engaging in sexual activity with child using a carriage service	An 18 year old and a 15 year old exchange images and sexual stories on Snapchat. An 18 year old and a 15 year old engage in sexual activity using FaceTime.	5 years
14	Subsection 474.25A(2) – using a carriage service for sexual activity with person under 16 years of age – causing child to engage in sexual activity with another person	An 18 year old text messages her 15 year old friend encouraging him to send an intimate image to his 18 year old girlfriend.	5 years
Second or subsequent offence – section 16AAB			
34	Subsection 474.27A –Using a carriage service to transmit indecent communication to person under 16 years of age	An 18 year old boy and a 15 year old girl in a relationship and constantly exchange intimate images. The boy has previously been convicted for a child sexual abuse offence.	3 years

2.44 The Law Council also highlighted that the age of consent differed across Australian jurisdictions (particularly South Australia and Tasmania), and that:

> The potential for unfairness to arise in the context of the [examples provided of potential] child sex offences when combined with mandatory minimum penalties highlights the importance of retaining judicial discretion in such cases rather than referring such discretion to law enforcement and the prosecutorial authorities.[51]

50 *Submission 5*, pp. 12–13.

51 *Submission 4*, p. 13.

2.45 The Law Council raised a number of other concerns with mandatory sentencing, including that it may result in:

- Unjust, harsh or disproportionate sentences in general, an a disproportionate impact on marginalised groups in particular, including 'indigenous peoples, young adults, juveniles, persons with a mental illness or cognitive impairment and the impoverished';
- Worse rehabilitation outcomes and increased re-offending rates for perpetrators;
- An undermining of community confidence in the judiciary and criminal justice system;
- Inconsistent sentencing outcomes, including through more discretionary powers given to law enforcement and prosecutors; and
- Increased costs to the government and community through higher rates of incarceration and increased burden on the criminal justice system.[52]

2.46 The Law Council recommended that the mandatory penalties be removed from the bill entirely. However, should the bill proceed, they advised it should be amended to 'allow the court full discretion in cases of individuals with significant cognitive impairment', as has happened ' in other legislation, for example, in sections 25A and 25B of the Crimes Act 1900 (NSW)–the 'one punch' laws and latest mandatory minimum sentencing legislation in NSW). Excluding sentencing discretion in such cases is manifestly unjust'.[53]

2.47 In its submission, the Attorney-General's Department addressed some of the concerns of submitters, noting that under the provisions of the bill:

> Courts will retain appropriate discretion in determining sentences while still observing relevant statutory requirements and sentencing principles. Courts will be able to exercise discretion to:
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> - reduce the mandatory minimum penalty on the basis of a guilty plea
> - reduce the mandatory minimum penalty on the basis of an offender's cooperation with law enforcement, and
> - determine the appropriate non-parole period for an offender.
>
> The mandatory minimum penalties will not apply to people under the age of 18 when the relevant offence was committed while they were under the age of 18.[54]

2.48 Moreover, the committee notes that the Explanatory Memorandum states that:

> The Bill recognises the value of a guilty plea and cooperation with law enforcement. Guilty pleas are crucial to provide for a more efficient and

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52 *Submission 4*, pp. 10–11.

53 *Submission 4*, pp. 12 and 13.

54 *Submission 4*, p. 6.

> effective criminal justice system and to reduce impacts on witnesses and victims.[55]

Presumptive measures

2.49 The bill introduces a number of presumptive measures that attracted comment from submitters, which this section discusses in turn:

- Against bail (schedule 7);
- In favour of cumulative sentences (schedule 10); and
- In favour of actual terms of imprisonment (schedule 11).

2.50 These measures were all supported by Collective Shout 'as deterrents and as appropriate for the gravity of the crime'.[56]

Schedule 7—Presumption against bail

2.51 The bill would insert a presumption against bail into the Crimes Act for certain child sex offenders, which is designed to protect the community from offenders while they await trial and sentencing.[57]

2.52 The Law Council argued that this presumption would be contrary to the 'long held presumption in Australian law in favour of bail' and inconsistent with the presumption of innocence. It noted that this may introduce be a further conflict with Australia's obligations under the ICCPR, if enacted.[58] The Law Council recommended that this presumption be removed from the bill.[59]

2.53 On this amendment, the Attorney-General's Department noted:

> The presumption is reasonable and proportionate as it applies only to the most serious child sex offences and in circumstances where an offender would be facing a mandatory minimum penalty if convicted on a second or subsequent offence. The presumption is rebuttable and allows for judicial discretion in determining whether the risk to the community of a person being released on bail can be mitigated through appropriate bail conditions.[60]

Schedule 10—Cumulative sentences

2.54 The bill would insert a presumption in favour of cumulative sentencing in the Crimes Act. The Explanatory Memorandum states that this would:

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55 Explanatory Memorandum, p. 40.

56 *Submission 8*, p. 3.

57 Attorney-General's Department, *Submission 4*, p. 5.

58 *Submission 5*, p. 15.

59 *Submission 5*, p. 15.

60 *Submission 4*, p. 5.

> …only [operate] where a person is being sentenced for multiple Commonwealth child sex offences or Commonwealth child sex offences in addition to a state or territory registrable child sex offence.[61]

2.55 The Attorney-General's Department drew out the ramifications of this amendment:

> The presumption in favour of cumulative sentencing will require that, when sentencing an offender for a Commonwealth child sex offence, a court must not make an order that has the effect that a term of imprisonment for that offence would be served partly cumulatively, or concurrently, with an uncompleted term of imprisonment.[62]

2.56 The Law Council was concerned this may restrict judicial discretion 'to some extent', and that the presumption was 'somewhat paradoxical and its purpose unclear'. Moreover, it considered it could:

> …lead to unjust and unfair outcomes. This is particularly so given that there is significant overlap in the both State/Territory and Commonwealth charges being laid in child sexual abuse cases where offences will often have different maximum penalties. The presumption is likely to lead to significant legal challenges and delays in the courts.[63]

2.57 On this, the Attorney-General's Department submitted:

> The objective of the presumption is to act as a yardstick against which to examine a proposed sentence of an offender for multiple child sex offences to ensure that the effective sentence represents a tougher response to the objective seriousness of the sexual abuse of children. It benefits circumstances such as where offences are committed against separate victims over an extended period of time.
>
> Discretion is still retained for a court to consider the outcome for all the offences in totality and, if appropriately satisfied, order the sentence in a different manner, provided that the sentence overall is still of an appropriate severity. In these circumstances, the new measures will require the court to provide reasons or deviating from the presumption in favour of cumulative sentencing.[64]

Schedule 11—Conditional release of offenders after conviction

2.58 The bill would introduce a requirement that a child sex offender serve an actual term of imprisonment unless there are exceptional circumstances that justify the offender being released immediately on a recognizance order. The Explanatory Memorandum states this amendment is 'intended to ensure that all offenders convicted

61 Explanatory Memorandum, p. 48.

62 *Submission 4*, pp. 7–8.

63 *Submission 5*, p. 17.

64 *Submission 4*, p. 8.

of Commonwealth child sex offences serve a period of imprisonment that is not suspended'.[65]

2.59 The Law Council argued that this provision should be removed as:

> …maintaining unfettered judicial discretion as to how a term of imprisonment should best be served is of paramount importance in these types of cases. It is suggested that sentencing judges are well equipped and in the best position to determine whether releasing an offender forthwith is appropriate in the particular circumstances of an individual case.[66]

2.60 To support this, the Law Council submitted that suspended sentences could:

- be an effective deterrent to recidivism;
- protect certain offenders from the 'corrupting influence of prison';
- serve as a symbolic effect, allowing offenders to recognise the seriousness of their offence;
- reduce the prison population, and thus reduce overcrowding of prisons; and
- allow offenders to maintain their links to family and community, helping them to avoid reoffending and minimise disruption to their family, accommodation and employment.[67]

Schedule 8–Matters to which a court has regard when passing sentence etc.

2.61 Schedule 8 would introduce general sentencing factors to which the court must have regard when sentencing a federal offender.[68] The Law Council supported these amendments in general, but noted that the introduction of:

> …a new sentencing consideration whether the person's standing in the community was used to aid in the commission of the offence. Where this is the case it is to be taken as a reason for aggravating the seriousness of the criminal behaviour to which the offence relates.
>
> It is intended that this will capture scenarios where a person's professional or community standing is used as an opportunity for the offender to abuse children. For example, this would cover a medical professional using their professional standing as a 'medical practitioner' or a person using 'celebrity' status to create opportunities to sexually abuse children.[69]

2.62 The Law Council noted this amendment 'does not expressly state that it is confined to sexual offences or situations where children might be abused' and recommended that:

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65 Explanatory Memorandum, p. 49.

66 *Submission 5*, p. 18.

67 *Submission 5*, p. 18.

68 Explanatory Memorandum, p. 43.

69 Explanatory Memorandum, p. 44.

> The provision should expressly state that this amendment relates to child sex offences, in order to give effect to the stated aims of the amendment and to highlight its intended purpose.[70]

2.63 Additionally, the Law Council noted that schedule 8 would require a court to take into account certain rehabilitation considerations when sentencing, including an offenders prospects of rehabilitation, and questioned whether it would be appropriate for a court to make orders imposing conditions regarding rehabilitation or treatment options. On this, the Law Council commented that the provision should be removed from the bill as:

> …it is not clear how a court will practically be able to comply with the new requirement unless it conducts inquiries into rehabilitation options for a particular offender. Further, the Law Council is concerned that there are currently not enough rehabilitation places due to resourcing constraints. There are often rehabilitation waiting lists for people to undertake programs. For less serious offences and where there is overcrowding in prisons, offenders may be released on parole and await the opportunity to undertake a rehabilitation program. This amendment has not taken into account the reality that there may be no access to such programs or that the offender may not in fact be eligible for programs. There may also not be juvenile sex offender programs in place so there may be a risk that a child does an adult program in jail. This may impact on the ability of this measure to be effectively implemented and may also result in disproportionate sentences. That is, sentences that are longer than necessary to address the conduct and the objective of protecting the community.[71]

Schedule 11—Conditional release of offenders after conviction

2.64 As well as the introduction of presumptive measures discussed above, item 3 of Schedule 11 would amend the Crimes Act by imposing certain requirements on Commonwealth sex offenders under recognizance release orders, including that during the specified period the offender will:

- be subject to the supervision of a probation officer;
- obey all reasonable directions of the probation officer;
- not travel interstate or overseas without the written permission of the probation officer; and
- undertake such treatment or rehabilitation programs that the probation officer reasonably directs.[72]

2.65 The Explanatory Memorandum notes that under this provision, the directions of a probation officer must be 'reasonable'.[73] The Law Council recommended that this provision be removed as:

70 *Submission 5*, p. 20.

71 *Submission 5*, p. 21.

72 Explanatory Memorandum, p. 50.

> The level of supervision permitted by the probation officer does not appear to be set out and is unclear. It is also not clear why this factor is needed.[74]

Schedule 12—Additional sentencing alternatives

2.66 Schedule 12 would amend the Crimes Act to include 'residential treatment orders' as a sentencing alternative for courts. The Explanatory Memorandum notes that:

> The new subparagraph is intended to capture the residential treatment order available under section 82AA of the *Sentencing Act 1991 (Vic)*, as well as any similar orders that may exist or be enacted in other states and territories. It is appropriate that courts have the discretion to access such orders that have been designed to specifically meet the needs of certain classes of offenders.[75]

2.67 The Law Council supported this inclusion, especially as residential treatments are available in other jurisdictions. However, the Law Council advised that was unclear whether this proposal had been fully costed and considered against Australia's human rights obligations. In this light, it recommended that the measure should only be implemented:

> …subject to additional funding being provided and an assessment by the Parliamentary Joint Committee on Human Rights that such a scheme would be consistent with Australia's international human rights obligations.[76]

Schedule 13—Release on parole

2.68 Schedule 13 proposes a number of amendments to the Crimes Act to ensure that information that could prejudice national security is not disclosed as a result of the operation of Part 1B of the Crimes Act, which provides that the Attorney-General must provide reasons for refusing to make a parole order. The Explanatory Memorandum notes that:

> The effect of this amendment is that if an offender is refused parole, partially or wholly on the basis of intelligence information, the statement of reasons does not need to set out this information if disclosure of that information may adversely impact national security. Withholding such information is necessary for the protection of the public.[77]

2.69 The Explanatory Memorandum notes:

> Normally, in the course of making parole decisions, information adverse to an individual is put to that person for comment prior to the making of a decision. Although this amendment limits the procedural fairness afforded to federal offenders, it only does so to the extent necessary and proportional

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73 Explanatory Memorandum, p. 50.

74 *Submission 5*, p. 23.

75 Explanatory Memorandum, p. 50.

76 *Submission 5*, p. 27.

77 Explanatory Memorandum, p. 50.

> to protect national security and the public interest. The amendment strikes an appropriate balance between these interests by ensuring that information can only be withheld on this limited ground.[78]

2.70 The Law Council expressed concern that some offenders may not be in a position to defend themselves appropriately due to a lack of information about the revocation of their parole, even if they could demonstrate good behaviour. It recommended that:

> In national security sensitive cases, the subject should be provided sufficient information about the allegations against them to enable effective instructions to be given in relation to those allegations. A special advocate should also be appointed in such cases that can be privy to such sensitive information.[79]

2.71 The Attorney-General's Department advised the committee that:

> It is in the public interest to restrict certain information used as part of a parolee's decision to release an offender from custody. For example, information may be provided to the department which relates to ongoing intelligence matters or investigations. The release of that information to the parolee could jeopardise not only ongoing matters but put the community at risk where that information relates to the capabilities or methodology of law enforcement or intelligence agencies.[80]

Schedule 14—Revocation of parole order or licence

2.72 Associate Professor Lorana Bartels argued that the proposed limiting of a court's ability to credit 'clean street time' made under schedule 14, making it merely a discretionary power, was in direct conflict with the ALRC 2006 recommendation that:

> Federal sentencing legislation should provide that 'clean street time' is to be deducted from the balance of the period to be served following revocation of parole or licence.[81]

2.73 The Law Council also noted this amendment, but suggested that, 'given a court has to retain discretion to deduct clean street time' it considered the provision did not raise significant concern.[82]

Schedule 15—Expanding the meaning of child abuse material and other consequential amendments

2.74 Schedule 15 of the bill would repeal references to 'child pornography material' in the Criminal Code and other Commonwealth legislation, and reconstitute the current definitions of 'child abuse material' and 'child pornography' into a single

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78 Explanatory Memorandum, pp. 51–52.

79 *Submission 5*, p. 28.

80 *Submission 4*, p. 9.

81 *Submission 2*, p. 4, citing the report undertaken by the ALRC, *Same Crime, Same Time: Sentencing of Federal Offenders* (Report 103, 2006), Recommendation 24–4.

82 Submission 5, p. 28.

definition of 'child abuse material'.[83] The Explanatory Memorandum explains the rationale for this change:

> Attaching the term 'pornography' to this material proves to be a barrier in conveying the seriousness and gravity of the offences depicted in that material, as well as the harm faced by the children in that material. The inference remains that 'pornography' is associated with consenting subjects, which is entirely inappropriate given this behaviour involves the abuse and corruption of children.

2.75 This was strongly supported by some submitters.[84] For example, the Uniting Church commented that:

> Given the growing acceptance of pornography as a legitimate product in Western societies, the term 'child pornography' is now seen to offer some legitimacy to the material in question when it should be regarded as unacceptable and criminal.[85]

2.76 However, Ms Elly Bromberg was opposed to the redefinition entirely, as she considered scrapping the distinction between 'child pornography' and 'child abuse' could potentially lead to unjust outcomes:

> Whilst there may be reasons for a presumption that 'child abuse material' deserves a stiff sentence, judges need the leeway to treat 'mere' 'child pornography' differently. The difference in the harm caused in the creation of the two types of material is drastic, and the law needs to reflect that. To give an analogy, rapists (of adult women) are generally treated far more seriously than 'gropers', even though both are rightly criminal.[86]

2.77 The Law Council observed that the reframing proposed by the bill does not seem to be problematic, but pointed out that:

> …internationally child abuse materials appear to be a subcategory of child exploitation materials. Consideration may need to be given to whether particular offence provisions are aimed at targeting more broadly child exploitation and whether 'child exploitation materials' would be a more appropriate term.[87]

2.78 A similar point was raised by Anti-Slavery Australia, which advised the Commonwealth should adopt the terminology of the Luxembourg Guidelines, in which:

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83 Explanatory Memorandum, p. 56. Note this schedule would amend the: Crimes Act; Criminal Code Act; Customs Act; and the Telecommunications (Interception and Access) Act.

84 See Uniting Church, *Submission 1*, p. 7; Law Council, *Submission* 5, p. 29; Anti-Slavery Australia, *Submission* 6, p. 5; and Collective Shout, *Submission 8*, p. 2.

85 *Submission 1*, p. 7.

86 *Submission 3*, p. 1.

87 *Submission 5*, p. 29.

> Child exploitation material is defined as a broader category of sexualised content depicting or representing children, whereas child abuse material is defined more narrowly as depiction of child sexual abuse.[88]

2.79 Moreover, the Law Council also commented that the bill does not amend the definition of 'a child', and so consensual sexting between 16-17 year olds could still potentially be prosecuted after the bill is introduced. In this light, it recommended the Criminal Code's definition of a child is amended considering the age of consent in Australian jurisdictions, 'so as not to criminalise behaviour that would otherwise be lawful'.[89]

Other matters raised by submitters

Reconsidering the genuine marriage defence

2.80 A number of submitters noted that the bill would not remove the defence to overseas sex offences that the alleged offender believed there 'existed between the defendant and the child a marriage that was valid, or recognised' under the law of another jurisdiction.[90]

2.81 The Law Council observed that this appeared inconsistent with the forced marriage provisions of the Criminal Code introduced in 2013, and at odds with Commonwealth legislation more generally that considers:

> …it is both appropriate and necessary to criminalise the targeted conduct, precisely because that conduct may not be the subject of effective prosecution, and may not even be illegal, in the foreign jurisdiction in which it occurs.[91]

2.82 Collective Shout argued that:

> In Australia, a marriage is not valid if at least one party is a minor because it is presumed that minors cannot give free and full consent. We recommend that this standard be applied to children internationally as well.[92]

More measures to ensure ISPs cooperate with law enforcement agencies

2.83 Collective Shout raised concerns that the positive measures introduced by the bill could also be supported by tightening provisions of the Telecommunications Act to ensure ISPs cooperated more readily with Australian law enforcement agencies. In

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88 *Submission 6*, p. 5. Note: the Luxembourg Guidelines are an international initiative to harmonise terms related to child protection. See http://luxembourgguidelines.org/ (accessed 10 October 2017).

89 *Submission 5*, p. 29.

90 Including in the place where the marriage was solemnised, where the offence was committed, or where the defendant resided or domiciled. See submissions made by the Law Council of Australia, *Submission 5*, p. 30; Anti-Slavery Australia, *Submission 6*, p. 13; and Collective Shout, *Submission 8* p. 6.

91 *Submission 5*, p. 30.

92 *Submission 8*, p. 6.

particular, it argued that the current requirement under the Act to 'do their best' to assist investigations would benefit from being strengthened, noting a large number of child abuse and trafficking investigations are regularly impeded by large telecommunications companies withholding information from investigations.[93]

2.84 Collective Shout endorsed Anti-Slavery Australia's recommendation that a new code for industry be developed, to assist them protecting children from harm and setting out their legal obligations to do so.[94]

Resourcing of the justice system

2.85 The Law Council noted that the Financial Impact Statement included in the Explanatory Memorandum stated that the bill's effects would be minimal, and largely due to increased costs of housing federal prisoners on remand and sentence. It commented that this did not take into account the current:

> …allocation of funding to the courts or legal assistance services. The criminal justice system is already over-stretched and it is critical that additional resourcing be provided if the measures in the Bill proceed.[95]

Research into pathways to offending

2.86 The Uniting Church submitted that the Commonwealth should continue to fund research into the pathways that lead to individuals committing child sex offences to reduce offending rates over the long-term.[96] Moreover, it recommended that, in addition to the amendments made by the bill, the Commonwealth should implement the UN Committee on the Rights of the Child recommendation of 19 June 2012:

> …to develop and implement a comprehensive and systematic mechanism of data collection, analysis, monitoring and impact assessment of child sexual abuse offences. This should include data collected on the number of prosecutions and convictions, disaggregated by the nature of the offence.[97]

Committee view

2.87 The committee is satisfied that the provisions of the bill would strengthen Australia's legal framework to protect the community from child sex offenders, including complementing the recently implemented reforms preventing child sex offenders travelling overseas to commit further crimes against children.

2.88 In particular, the committee notes the bill seeks to address the effects of new technology that has made it easier for child sex offenders to access and share

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93 *Submission 8*, p. 7.

94 *Submission 8*, p. 7, citing the recommendation of the Anti-Slavery Report, *Behind the Screen: Online Child Exploitation in Australia*, p. 80. Note this report was included in the Anti-Slavery submission.

95 *Submission 5*, p. 14.

96 *Submission 1*, p. 1.

97 *Submission 1*, p. 7.

information online. The committee considers that the inclusion of these acts as crimes is a timely and appropriate addition.

2.89 The committee understands that the provisions of the bill are entirely consistent with Royal Commission into Institutional Responses to Child Sexual Abuse and that they complement the work of Commonwealth, state and territory governments through the Ministerial Council for Police and Emergency Management child sex offender reform working group.

2.90 The committee notes the general support for the intention of the bill in submissions, as well as the support for particular measures voiced by submitters. However, the committee also received evidence of concerns about the bills amendments, which will be discussed briefly in turn.

2.91 The committee heard that the new powers of the Attorney-General to revoke an offender's parole or licence without notice to protect the community and reduce the chance of an offender absconding under schedule 1 may not maintain principles of procedural fairness. However, it appears that any affected individuals would still be able to make a written submission justifying why that parole order should not be revoked and that, should this satisfy the Attorney-General, they would be released immediately.

2.92 The committee understands that submissions broadly supported the introduction of new protections for vulnerable witnesses under schedule 2. However, the committee also considers that more information about the legislative requirements for the admission of pre-recorded evidence, and more training in interviewing vulnerable witnesses and pre-recording evidence, may be beneficial for professionals working in criminal justice and law enforcement. Given this, the Commonwealth may wish to consider how to ensure appropriate information is given to relevant agencies and officers.

2.93 The committee also notes the general support for the strengthening of penalties for child sex offences contained in schedule 4. However, the committee also sees merit in the proposal that the new definition of 'engage in sexual activity' should also be reflected in the Criminal Code subsection detailing penalties for *Sexual intercourse with a child outside Australia.*

Recommendation 1

2.94 The committee recommends that the Government consider whether the bill's definition of 'engage in sexual activity' should also be reflected in the Criminal Code subsection detailing penalties for *Sexual intercourse with a child outside Australia* (Section 272.8 of the Criminal Code).

2.95 Some submissions raised concerns about Schedule 5 provisions aimed at strengthening sentences for certain Commonwealth child sex offences and for breach of the obligation on internet service providers and internet content hosts to report child abuse material to police. However, the committee is satisfied that toughening sentences and penalties for these offences reflect the seriousness of the crimes, and are both reasonable and proportionate.

2.96 On mandatory sentences introduced by schedule 6, the committee acknowledges the concerns raised by the Law Council of Australia in its submission. On the concern that the proposed amendments could potentially criminalise certain behaviours between consenting individuals between 16 and 17 years old that are common, normal and lawful in Australian jurisdictions, the committee understands that mandatory minimum penalties contained in the bill will not apply to people under the age of 18, when the relevant offence was committed while they were under the age of 18.

2.97 However, the committee sees merit in the Law Council's advocacy for the bill to provide for discretion to be applied to offenders who suffer from severe cognitive impairments.

Recommendation 2

2.98 The committee recommends that the Government considers where discretion could be applied by a court in considering cases where the defendant is severely cognitively impaired.

2.99 On the presumptive measures introduced by the bill, the committee understands several reservations were expressed by submitters. However, on balance, the committee sees these amendments as reasonable and appropriate for the seriousness and gravity of child sex offences.

2.100 On matters that the court has regard to when passing sentence, the committee sees some merit to tightening the provision relating to a 'person's standing in the community' being restricted to child sex offences. The Commonwealth may wish to consider whether this is an appropriate amendment, or whether it should also apply to sex offences committed on adults.

2.101 The Government may also wish to consider refining the definition of 'reasonable' directions issued by a parole officer in Schedule 11 of the bill, so as to assist in the interpretation of the amendments made by the bill.

2.102 Regarding the non-disclosure of information that could potentially prejudice national security, proposed under schedule 13, the committee considers that in some cases it may be in the interest of the community for information to be withheld, particularly if it could jeopardise ongoing matters or put the public at risk.

2.103 A concern was raised that schedule 14 may contravene recommendations of the ALRC in 2006 on the sentencing of federal offenders. However, the committee shares the Law Council's view that this would not raise significant concern as courts would retain discretion to credit 'clean street time' when sentencing.

2.104 The committee notes the strong support for the bill's proposed replacement of the term 'child pornography material' with a reconstituted definition of 'child abuse material'. It notes some concerns were raised, but that the amendments were overwhelmingly supported by evidence in submissions.

2.105 Some other concerns were raised by submissions. On these, the committee considers that the Commonwealth may wish to consider these issues in the fullness of time, including reconsidering the genuine marriage defence, introducing more

measures to ensure internet service providers understand how to best protect children from abuse, as well as their legal obligations, resourcing the justice system, and undertaking more research into pathways to offending.

2.106 The committee would like to reiterate that the bill would significantly strengthen Australia's child protection framework, and recommends that the bill be passed.

Recommendation 3

2.107 The committee recommends that the bill be passed.

Senator David Fawcett

Chair