




Speech By
Peter Russo
MEMBER FOR TOOHEY

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CRIMINAL CODE (CHILD SEXUAL OFFENCES REFORM) AND OTHER LEGISLATION AMENDMENT BILL

 **Mr RUSSO** (Toohey—ALP) (5.29 pm): I rise this evening to support the passing of the Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Bill 2019. The Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Bill 2019 was introduced into the Legislative Assembly and referred to the committee on 27 November 2019. The committee reported to the Legislative Assembly by 7 February 2020.

On 3 December 2019, the committee invited stakeholders and subscribers to make written submissions on the bill. Twenty-six submissions were received. The committee received a public briefing about the bill from the Department of Justice and Attorney-General on 10 December 2019. The committee received written advice from the department in response to matters raised in submissions. The committee held a public hearing on 17 January 2020. The submissions, correspondence from the department and transcripts of the briefing and hearing are available on the committee's webpage.

The objectives of the bill are to implement recommendations of the *Criminal justice report* of the Royal Commission into Institutional Responses to Child Sexual Abuse; implement recommendations of the Queensland Sentencing Advisory Council's report on the *Classification of child exploitation material for sentencing purposes*; and create new offences criminalising the possession, production and supply of anatomically correct, life-like child replicas used for sexual gratification.

From 2012 to 2017, the royal commission undertook a comprehensive inquiry into institutions' responses to allegations of child sexual abuse in Australia and made 409 recommendations across various reports. The *Criminal justice report* was released in August 2017, ahead of the royal commission's final report in December 2017, and contained 85 recommendations for reforms to the Australian criminal justice system that were aimed at providing fairer and more effective responses to victims of child sexual abuse, including child sexual abuse in an institutional context.

In June 2018 the Queensland government response to the royal commission's recommendations accepted or supported in principle more than 240 of the recommendations, including some of those from the *Criminal justice report*. The bill contains amendments to implement a number of key recommendations from the *Criminal justice report*.

The Queensland Sentencing Advisory Council was tasked with conducting matters that included the sentencing guidelines in section 9(7) of the Penalties and Sentences Act to see whether any further factors should be added and the classification of child exploitation material for sentencing purposes.

The Queensland Sentencing Advisory Council published its report in July 2017, making 16 recommendations for legislative reform and changes to operational practice. The bill implements recommendations 1 and 3 of the report by amending the Penalties and Sentences Act. Recommendation 1 advocated three amendments to section 9(7) of the Penalties and Sentences Act to insert further sentencing guidelines for a judge to consider when sentencing an offender for child exploitation material offences, in relation to an offender's conduct or behaviour and any relationship

between an offender and a child, and to ensure that the Penalties and Sentences Act employs language reflective of the broad types of materials which may be covered by child exploitation material related criminal offences. Recommendation 3 supported giving expert reports tendered during sentencing proceedings to Queensland Corrective Services to further inform offender program and treatment delivery so as to enhance the success of rehabilitation efforts.

The bill does not contain an amendment to create a new position of authority offence in Queensland. The relevant recommendations in the royal commission's *Criminal justice report* in this area are recommendations 27 to 29. The Queensland government response to the royal commission noted recommendation 27 of the *Criminal justice report* and stated that Queensland's Criminal Code currently has no position of authority offence. Recommendations 28 and 29 were noted and are under further consideration and consultation. The submission from knowmore also drew the committee's attention to the terminology, commenting—

As a final point, we note that the Tasmanian Government has recently released a consultation paper that includes a proposal to change the name of the comparable offence in Tasmania from 'maintaining a sexual relationship with a young person' to 'persistent child sexual abuse'.

The submission from Bravehearts supported the retrospective application of the removal of limitation periods and immunities from prosecution for certain child sexual offences, noting that the amendment will 'remove any doubt around immunity from prosecution based on limitation provisions'.

In regard to the issue of retrospectivity, the department advised that in relation to this issue the explanatory notes for the bill state—

The Bill amends the Criminal Code to retrospectively apply the offence in section 229B to unlawful sexual acts committed prior to the inception of the offence in 1989, including the maximum penalties that applied at that time.

The Bill also amends the Criminal Code to apply the offence in section 229B to unlawful sexual acts committed post 1989, except the maximum penalty and applied those maximum penalties in place at the time the offence was committed.

This approach recognises that persistent sexual abuse of children commonly results in the child being unable to distinguish between particular episodes of abuse, especially if the conduct is the same or similar on all occasions and reflects the delays in reporting associated with child sexual abuse. Retrospective application of the maintaining offence ensures a consistency across all time periods and appropriately affords victims of historic abuse the same access to justice as all other victims of persistent child sexual abuse.

I commend the bill to the House. In closing, I would like to send a note of sympathy to all of the victims of the perpetrators of these horrible offences.