



MEDIA RELEASE

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MAJOR GOVERNMENT CRACKDOWN ON SEX OFFENCES

The Rees Government is drafting new sex crime legislation which will create new offences and increase penalties said NSW Attorney General John Hatzistergos.

The new laws come out of a landmark 158-page report into sexual offences and child pornography by the Sentencing Council, chaired by retired Supreme Court Judge James Wood. The legislation will be introduced this Parliamentary session.

Mr Hatzistergos said the maximum penalty for possessing child pornography will double to 10 years, while a new aggravated offence of having sex with a child under 10 will carry a maximum in excess of 25 years in prison.

“The protection of people from sexual abuse and exploitation are among the most important responsibilities the Government has to the community,” said Mr Hatzistergos.

“After a comprehensive and balanced examination of our laws, the Sentencing Council has recommended the most significant crackdown on sex offences in a generation.”

“He identified a number of inconsistencies and gaps within NSW law, and between state and Commonwealth law, as a result of the rapid changes in laws to stop sexual assault and child abuse in recent years.”

“The Rees Government will use these recommendations as the gold standard for new legislation to safeguard adults and children from sexual predators.”

The report is the first of two requested by the Attorney General last year. Part Two, into repeat offending by sex offenders, is underway. Part One recommends:

Offences specific to children

- Increasing the penalty for possession of child pornography from five years to a maximum of 10 years imprisonment;
- Increasing the penalty for obtaining a benefit from child prostitution from 10 years imprisonment to 14 years;
- Increasing the maximum penalty for indecency offences committed against children to 10 years imprisonment from a sentence range of two to seven years, bringing the penalty in line with child pornography.

- Creating a new aggravated offence of having sexual intercourse with a child under the age of 10 years that will carry a maximum penalty in excess of 25 years imprisonment;
- Creating a new offence of meeting a child, or travelling with the intention of meeting a child, following grooming where that involved the communication of indecent material or suggestions made to the child to meet for sexual purposes, similar to United Kingdom laws with penalties ranging from six months to 10 years;
- Clarifying that child pornography offences include 'pseudo' images which may be produced without real children, or may be manipulated photos or images of children. It will also introduce a definition of 'producing' child pornography into the legislation.

The Government will also stop sentencing courts taking into account good reputation, good character and lack of a criminal history as mitigating circumstances for child sex offenders when they have used these to gain people's trust to commit their crimes.

Offences against adults and children

- Increasing the penalty for causing sexual servitude in circumstances of aggravation from 19 years to 20 years imprisonment;
- Increasing the penalty for sexual assaults that are committed by breaking and entering into the victim's house above the current 14 year maximum;
- Creating new offences of voyeurism and aggravated voyeurism, similar to United Kingdom laws, with penalties ranging from six months to two years;
- Creating new aggravated offences of filming for an indecent purpose and installing a device to facilitate filming for an indecent purpose with a maximum penalty of five years;
- Creating a new offence of inciting one or more persons to commit a sexual offence, with penalties commensurate to the offence the person was incited to commit;

Mr Hatzistergos said the Government will also establish a Sexual Offences Working Party, headed by Supreme Court Justice Elizabeth Fullerton, and a Child Pornography Working Party, headed by District Court Judge Peter Berman, to conduct larger general reviews.

The Sexual Offences Working Party will examine the offences of persistent sexual abuse of a child, introducing a definition of act of indecency, increasing the maximum penalties for child prostitution offences and achieving greater uniformity between NSW sexual offences and Commonwealth offences for sexual crimes committed overseas.

The Government also supports the Council's recommendation to remove the artistic purposes defence for child pornography that depicts children as the victim of torture, cruelty or physical abuse or children engaged in sexual activity.

The Child Pornography Working Party will examine how this can be done without infringing on the rights of journalists and artists to depict valid situations involving children.

The Child Pornography Working Party will also examine the artistic purposes defence in the context of child pornography involving the more general category of depicting children in a sexual context. The Government has supported in principle the report's recommendation to remove this aspect of the defence.

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