

SEXUAL ASSAULT PENALTY REFORM

The Hon. HELEN WESTWOOD: I address my question to the Attorney General. Can the Attorney inform the House of the latest information on reform of penalties relating to sexual assault offences in New South Wales?

The Hon. JOHN HATZISTERGOS: On Sunday the Government released the landmark report by the New South Wales Sentencing Council on sexual assault laws and child pornography. It is one of the most detailed and comprehensive reviews of penalties for sexual offences in the history of this State. The Government supports the council's recommendations, which builds on our record of reform, to protect children from abuse and place the interests of sexual assault victims at the centre of the criminal justice system. The penalty for possession of child pornography will double, from 5 years to 10 years, following our reforms in 2005 to increase it from 2 years. There will be a new aggravated offence of having sexual intercourse with a child under 10 years, with a penalty in excess of 25 years.

The Government is grateful for the valuable work done by retired Supreme Court Justice James Wood and his team, who identified a number of inconsistencies and gaps within the New South Wales law, and between State and Commonwealth law, as a result of rapid legislative changes to sexual assault law and child protection in recent years. The Sentencing Council report establishes a gold standard, not only for New South Wales but also across Australia, for legislation to safeguard adults and children from sexual predators. As well as increases to child sex offence penalties, the council recommended that the Government stop courts from taking into account good reputation, good character and lack of criminal history as mitigating factors when the offenders have used these same characteristics to gain people's trust to commit their crimes.

The Government will also create new offences of voyeurism and aggravated voyeurism, similar to those in the United Kingdom, to modernise the law beyond the old peep and pry provisions to deal with new technologies of surveillance and reporting. The Government also supports the council's recommendation to remove the artistic purpose defence for child pornography, to ensure that child pornographers who portray children in situations of torture or sexual activity cannot escape conviction by claiming that they are creating art. These provisions have won the support of victims groups and children's advocates, with Hetty Johnson from Bravehearts saying:

... the artistic merit defence does create a loophole that can be exploited. And so to close that loophole is a smart thing.

The Government will also establish a Sexual Offences Working Party to conduct larger general reviews, headed by Supreme Court judge Elizabeth Fullerton, and a Child Pornography Working Party, headed by District Court judge Peter Berman SC. Those reviews will include examining the offences of persistent sexual abuse of a child, achieving greater uniformity between New South Wales and Commonwealth laws, and, for the Child Pornography Working Party, how to remove the artistic purpose defence whilst ensuring that non-pornographic pictures are not criminalised. On Sunday the Leader of the Opposition threw his support behind the Government's reform package, saying:

I welcome the proposals to change the law.

But then he complained that the changes were taking too long. In fact, the comprehensive, 158-page report was completed by James Wood and his hardworking team in an efficient and speedy manner, only months after he was given the reference, despite the fact that he was also doing a major review of the New South Wales child protection system. Regrettably the Opposition attacks those on the front line of criminal justice reform, whilst the Government gets on with the task of ensuring that our sexual assault laws remain up-to-date and ensuring that our criminal laws are effective in the prosecution of child abuse.

Full Day Hansard Transcript (Legislative Council, 28 October 2008, Proof