

SUBMISSION TO THE TASMANIAN GOVERNMENT
Renaming sexual offences: Removing outdated language in Chapter XIV of the
Criminal Code Act 1924

07 FEBRUARY 2020

End Rape On Campus (EROC) Australia welcome the opportunity to make a submission to the Tasmanian Government in renaming sexual offences to remove outdated language.

End Rape on Campus Australia is a volunteer organisation that works to end sexual violence at universities and other educational institutions through prevention efforts, direct support for survivors and their advocates, and policy reform at the campus, state and federal levels. Since establishing in 2015, EROC Australia has worked closely with multiple sexual assault survivors in tertiary education settings around Australia including Tasmania. EROC Australia engages in two forms of advocacy:

- **Individual advocacy:** acting on behalf of individual sexual assault survivors, to support their needs and recovery;
- **Systems based advocacy:** advocating for law reform and other systemic changes so as to prevent sexual violence, respond to it, and support those impacted by it.

The following submission is written on behalf of victim-survivors who we have worked with, who have direct lived experience with the existing laws and who have campaigned for changes to be made.

EROC Australia welcomes the proposal paper to bring language into alignment with other jurisdictions.

1. We agree that the use of 'morality' to describe contemporary sexual crimes is not appropriate. We support factual or descriptive language such as 'sexual offences'.
2. We agree that the title of the crime of 'Sexual intercourse with a young person' does not recognise that a child or young person is unable to give lawful consent. We do not support merely adding the word "unlawful" to the crime as, in our experience, this does not capture the gravity of the offence. We recommend language consistent with that used by the Royal Commission into Institutional Responses to Child Sexual Abuse.
3. It is our submission that language such as "person permitting unlawful sexual intercourse with a young person" does not capture the gravity of the offence. We recommend renaming the offence to 'permitting child sexual abuse' or 'permitting the sexual abuse of a child or young person' – with the optional addition of the words 'on premises' - to ensure the Criminal Code remains internally consistent.
4. The crime of 'Maintaining a sexual relationship with a young person' has rightly been criticised on that basis that:

- it sanitises the true nature of the offending - being repeated sexual offending against children and young people;
- it implies a level of consent by children and young people where no such consent exists, or no such consent can be given due to the age and power disparity between offender and victim;
- the word 'relationship' should and does have a positive connotation in the community, and such connotation should not be imported into child sexual offending; and
- the offence name minimises the seriousness of the crime and trauma that victims have suffered.

EROC Australia and others have campaigned to have this wording changed, and Tasmanian sexual abuse survivor Grace Tame and her family have called for reform along with Mr Steven Fisher.

It is Ms Tame's and Mr Fisher's belief that the wording should be altered to "Persistent sexual abuse of a child". EROC Australia supports Ms Tame and Mr Fisher in their recommendation.

5. EROC Australia submits that 'indecent/indecency act' should be replaced in the Criminal Code. It is our view that a suitable alternative to 'indecent act with a young person' is 'engaging a child in a sexual act'.
6. We submit that 'Procuring unlawful sexual intercourse with young person' should be renamed to 'procuring child sexual abuse'.
7. We submit that 'Communications with intent to procure person under 17 years' should be changed to 'Communication with intent to procure child sexual abuse' OR 'Grooming for child sexual abuse'.
8. We submit that the name of the crime 'Procuring by threats, fraud or drugs' is ambiguous and does not describe the element of 'sexual intercourse' that essentially defines the crime. We support changing the name of the law to 'Procuring a person for sexual abuse by threats, fraud, or drugs'.

If you would like further clarification on any of the issues we raise in our submission, please contact us via nina@endrapeoncampusau.org .

Kind Regards,

Nina Funnell Director - End Rape on Campus Australia