

From: [Rhonda Merchant](#)
To: [Have Your Say](#)
Subject: PROPOSAL: CHAP XIV SEXUAL OFFENCES ACT
Date: Friday, 7 February 2020 3:35:09 PM

With reference to the proposed removal/replacement of:
Section 125A: "Maintaining a Sexual Relationship with a Young Person"

1. I believe that the ADDITION of an extra category entitled "Persistent Sexual Abuse of a Young Person" or similar is a positive and worthwhile step. This should apply only in cases where such a title, together with the underpinning descriptions is an accurate reflection of the circumstances of a crime of that nature. I note that the proposed title does NOT contain the word "rape", and nor should it. A descriptor such as "rape" or similar will require a far more serious level of offence, implying the presence of physical coercion, violence or direct threat to life. This is dealt with in Chapter XX of the Act and has no place here.

2. I believe that the current category of "Maintaining a Sexual Relationship with a Young Person" as in TAS Section 125A, and QLD Section 229B, should be RETAINED.

This is for the following reasons:

a) In cases where a young person under 18 but older than 13 or 14 exhibits levels of maturity equal to or greater than those of an average adult, and is able - at least in part - to initiate, assent to, and/or sustain such a relationship;

b) In cases where the young person have themselves acted in a manner which makes them the possible subject of prosecution under TAS Section 125C (Procuring unlawful Sexual Intercourse with person under 17 years) reflected also in QLD Section 217, NSW Section 66EB(2).even if the procurement of such unlawful sexual intercourse is with themselves. There is nothing in the Act as it stands which would preclude this, and neither is there any precedent for testing it - either in the State or Federal jurisdictions.

Consideration must be given to cases such as those described above where prosecution under a more stringent section ("Persistent Sexual Abuse" or stronger) will result in a Not Guilty plea and demand for a jury trial. If an accused has evidence of behaviours such as those outlined in para. 2a and 2b above, then a jury would not be likely to convict.

The accused could also have the prerogative of direct cross-examination of the alleged victim. In fact, the accused could cross-examine the alleged victim themselves (by-passing, but with the assistance of counsel) if they so chose.

Refusal by a court to countenance such actions could legitimately result in appeal, and an expensive and drawn-out process for the alleged victim and accused. This would be distressing for both families and protagonists, with the additional unwelcome possibility of the court being brought into disrepute.

These are my considered responses to the Proposal Paper as obtained from your website.

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