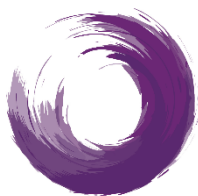

Proposal Paper: Renaming sexual offences

Sexual Assault Support Service Inc. (SASS) submission

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Sexual
Assault
Support
Service

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Proposal Paper: Renaming Sexual Offences ***SASS submission***

Introduction

Sexual Assault Support Service (SASS) is a free and confidential service for people of all ages who have been affected by any form of sexual violence. We also provide counselling to children and young people who are displaying problem sexual behaviour (PSB) or sexually abusive behaviour (SAB), along with support and information for their family members and/or carers, and deliver a Redress Scheme Support Service to survivors of institutional child sexual abuse.

The range of support options available at SASS includes counselling, crisis support, case management and advocacy. In addition, we provide information and support to professionals, and deliver training workshops and community education activities in a range of settings including schools and colleges.

SASS welcomes the opportunity to respond to the Proposal Paper on Renaming Sexual Offences.

Comments

1. Do you have any comment or concerns on the proposed renaming of Chapter XIV – Crimes Against Morality to ‘Sex Crimes’ or ‘Sexual Crimes’?

We support the proposal to rename Chapter XIV from Crimes Against Morality to ‘Sexual Crimes’. We prefer the word ‘Crimes’ rather than ‘Offences’ as this reflects the gravity of the offences listed in this section.

2. Do you have any comment or concerns as to matters that should (or should not) be included in the list of crimes proposed for amendment?

No comments.

3. Do you have any comment or concerns on the specific proposals for each of the identified crimes subject to review, or preferred alternatives?

- Section 124: we support re-naming the crime to ‘child sexual abuse’.
- Section 125: we support re-naming the crime to ‘permitting child sexual abuse on premises’.
- Section 125A: we support re-naming the crime to ‘persistent child sexual abuse’.
- Section 125B: we support re-naming the crime to ‘engaging a child in a sexual act’.
- Section 125C: we support re-naming the first charge to ‘procuring child sexual abuse’ and the second charge to ‘procuring a child (or young person) in a sexual act’.
- Section 125C: we support re-naming the first charge to ‘grooming for child sexual abuse’ and the second charge to ‘grooming to expose a person under the age of 17 years to sexual material’.
- Section 126: we support re-naming the crime to ‘sexual abuse of a person with a mental impairment’.
- Section 127: we support re-naming the crime to ‘sexual assault’.

- Section 129: we support re-naming the crime to ‘procuring a person for sexual abuse by threats, fraud or drugs’.
- Section 137: we suggest that it would be more appropriate to follow the example of New South Wales and Victoria and to split the charge of indecency into sexual and non-sexual acts. However until this is done we don’t believe there to be much value in changing the name of the charge.

4. Do you have any comment or concerns on the proposal to move the crime of ‘Misconduct in respect of human remains’ to an alternative or new chapter of the Criminal Code?

We support moving this crime to a different or new chapter of the Criminal Code.

5. Do you have any comment or concerns on potential practical impacts the proposal to rename the identified sex related crimes may have?

We appreciate that there have been concerns raised, particularly by the Tasmanian Law Reform Institute (TLRI) and the Director of Public Prosecutions (DPP), regarding the re-naming of crimes relating to the sexual abuse of children. We understand these concerns to be that including the word ‘abuse’ in the title of the crimes may be interpreted by jurors as implying that there must be physical force present as part of the crime; and that changing the names would discourage offenders to plead guilty.

Whilst these issues must be considered, SASS feels that the first could be addressed by appropriate direction given to the jury as to what does and what doesn’t need to be proven as part of the offence in question. We imagine this to be a similar issue faced when explaining family violence to a jury (ie that violence can take many forms that are not all physical).

With regard to a lessening in the number of guilty pleas, we suggest that the Tasmanian Government make enquiries with colleagues in states that have changed the wording of sexual crimes against children, to see if they have recorded a drop in the rates of guilty pleas following the change in nomenclature.

We also note that the law frequently changes in line with modern values and attitudes, and as discussed in the Consultation Paper, the term ‘sexual relationship’ is significantly outdated and in fact harmful when used to describe the sexual abuse of a child. We don’t believe that changing the name is merely a ‘feel-good’ exercise for the community, but instead is an important part of the cultural shifts our society is taking in how we view child sexual abuse.

This type of terminology (of ‘persistent sexual abuse/exploitation of a child’) was adopted by the Model Criminal Code some 20 years ago and by Victoria approximately 14 years ago. It is also now in place in New South Wales, South Australia and Western Australia. Tasmania would therefore not be the first state to adopt this revised terminology, and therefore has the advantage of being able to draw on the experience of other states who have taken this path.