

FACT SHEET

Criminal Code and Related Legislation Amendment (Child Abuse) Bill 2018

The Criminal Code and Related Legislation Amendment (Child Abuse) Bill 2018 (the Bill) makes amendments to the *Children, Young Persons and Their Families Act 1997*, the *Criminal Code Act 1924*, the *Evidence (Children and Special Witnesses) Act 2001* and the *Sentencing Act 1997*.

The Bill implements the Government's commitment to introduce a number of legislative amendments arising from the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse in its Criminal Justice and Final Reports.

The Bill also makes a number of other amendments that complement the work of the Royal Commission.

The Bill amends the *Children, Young Persons and Their Families Act 1997* to provide:

- that members of religious ministry and Members of the Tasmanian Parliament are 'notifiers' for the purposes of mandatory reporting risk to children under section 14;
- that members of religious ministry may not rely on confessional privilege to refuse to disclose information under section 14; and
- that the identity of 'notifiers' may be provided to law enforcement agencies.

The Bill amends the *Criminal Code Act 1924* to provide:

- a new crime of 'Failing to report the abuse of a child';
- a person is guilty of the new crime of 'Failing to report the abuse of a child' if the person reasonably believes that a child abuse offence has been committed and fails without reasonable excuse to inform a police officer as soon as practicable;
- the new crime does not apply to information that is received:
 - by a child, or the victim of the child abuse crime;
 - from a victim that has attained the age of 18 years and wants the information to remain confidential;
 - where the information is available generally to members of the public;
 - where a person has a reasonable belief that:
 - the information has been reported or is known already to a proper authority; or

- reporting the information may endanger the safety of any person (other than the alleged perpetrator); and
 - prior to the commencement of this Act but applies regardless of the date of the alleged child abuse offence.
- that a member of clergy of a church or religious denomination may not rely on confessional privilege as a reasonable excuse for failing to report a child abuse offence;
- the new crime cannot be commenced without the written authority of the Director of Public Prosecutions;
- that the crime of 'Communicating with intent to procure' under section 125D be amended to include communication with a third party with intent to procure a child; and
- that the repeal of section 18(3) of the *Criminal Code* applies retrospectively.

The Bill amends the *Evidence (Children and Special Witnesses) Act 2001* to provide:

- that the pre-recording of audio visual evidence extends to all victims in child sexual abuse prosecutions, any children who are under 18 years, and any other witness ordered by the court upon application by the prosecution where it is in the interests of justice to conduct the pre-recording;
- that the audio-visual recording of evidence may be tendered as the relevant witness' evidence if relevant to any subsequent proceedings and it is not contrary to the interests of justice;
- that audio visual recordings of evidence may be used for training purposes by police offices; and
- that with the approval of the Attorney-General and in limited circumstances, a law reform body may view audio visual recordings of evidence for a review of the laws of evidence.

The Bill amends the *Sentencing Act 1997* to:

- require sentencing courts, when setting a sentence in relation to child sexual abuse offences involving multiple discrete episodes of offending and/or where there are multiple victims, to indicate the sentence that would have been imposed for each offence had separate sentences been imposed; and
- provide that sentences for child sexual abuse offences should take into account current sentencing standards.