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NATION LEADING CHILD ABUSE REFORMS INTRODUCED TO PARLIAMENT

A significant barrier preventing child sex offenders from being held to account and leading to ‘unwarranted acquittals’ will be removed under landmark reforms introduced into NSW Parliament.

Attorney General Mark Speakman said NSW is the first Australian jurisdiction to introduce agreed legislation enabling greater admissibility of tendency and coincidence evidence, such as evidence about an accused person’s tendency to have a sexual interest in children.

“These crucial reforms will help deliver justice for survivors of child sexual abuse – one of the most despicable and damaging crimes to confront the justice system,” Mr Speakman said.

“NSW has led the way on this reform, spear-heading a consistent response with the Commonwealth Government and relevant states and territories to key findings of the Royal Commission into Institutional Responses to Child Sexual Abuse.”

The Royal Commission heard about many criminal proceedings in which evidence of an accused person previously offending against children was ruled inadmissible due to courts’ concerns that it may unfairly prejudice the accused person.

The Royal Commission found the exclusion of this kind of evidence led to cases of unwarranted acquittals in child sexual offence proceedings, and recommended law reform to facilitate greater admissibility of this evidence.

“While maintaining an accused person’s right to a fair trial, these reforms will help to ensure that offenders don’t evade justice through the exclusion of relevant evidence,” Mr Speakman said.

“We can’t undo the horrors of the past, but we can make sure that our legal system offers a fairer and more effective response for victims and survivors.”

The *Evidence Amendment (Tendency and Coincidence) Bill 2020* introduces a new rebuttable presumption that evidence of a defendant having a tendency to have a sexual interest in a child or children will have ‘significant probative value’ to the relevant proceedings, as well as limiting what courts can consider in rebutting that presumption.

The reforms will also lower an additional threshold for the prosecution to use tendency and coincidence evidence against the defendant.

Uniform Evidence Law jurisdictions, including NSW, agreed to implement a Model Bill at the Council of Attorneys-General meeting in November last year, following a two-year development and consultation process led by a NSW working group.

Child Abuse Royal Commissioner Robert Fitzgerald AM said consistent, nationwide reform on this issue was one of the most important recommendations of the Royal Commission.

“Over many years, Australia’s criminal justice system has failed to provide adequate justice for survivors of child sexual abuse, in part because of the unnecessary exclusion of tendency and coincidence evidence in criminal proceedings,” Commissioner Fitzgerald said.

“Following the Royal Commission’s comprehensive inquiry, and in the context of alarmingly low conviction rates for child sexual assault offences, we were convinced of the need for change.

“I congratulate the NSW Government for leading this reform process among Uniform Evidence Law jurisdictions, which will support survivors accessing justice across the country.”

Read more about the Bill via: <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3732>.

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