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The Law Council urges against mandatory minimum sentences

All comments to be attributed to the Law Council President, Pauline Wright.

The Law Council calls on the Federal Government to reconsider their push for mandatory minimum sentences.

Passing the misconceived mandatory sentencing provisions in the *Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2019* sets a dangerous precedent.

Mandatory minimum sentences are abhorrent to the whole notion of sentencing where judicial discretion is essential and can result in perverse jury decisions of not guilty for low end offending where juries think the sentencing outcomes will be unfair because of the mandatory minimum.

Not all child sex crimes are the same. Consider a situation where two families take a holiday together and an 18-year-old and a 15-year-old commence a romantic relationship and they touch each other. The 18-year-old would face a mandatory five-year sentence. As would an 18-year-old who exchange images and sexual stories on Snapchat with a 15-year-old.

Mandatory minimum sentences impose unacceptable restrictions on judicial discretion and independence, are inconsistent with rule of law principles and undermine confidence in the system of justice.

The Law Council believes that mandatory sentencing erodes an important incentive to plead guilty, which will lead to more contested trials. The impact of which will mean court delays while cases are brought to trial and require police to expend further resources.

The Law Council firmly believes that mandatory sentencing is inconsistent with Australia's voluntarily assumed international human rights obligations.

The Law Council has long supported a comprehensive review of Commonwealth sentencing practices for child sex offences.

ENDS

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