

NOT For LOAN

Libraries & Information
Department of Justice

CRIMINAL CODE AMENDMENT (PROTECTION OF SENIORS) BILL 2000

Explanatory Memorandum

s.319 defines 'circumstances of aggravation' in relation to SEXUAL ASSAULTS to include the fact that the victim is 'of or over the age of 60 years'.

The effect of this is to increase the maximum penalty for indecent assault from 5 to 7 years and for sexual penetration without consent from 14 to 20 years.

With Labor's proposals, a similar regime will be applied to Robbery and Burglary, Assault, and Fraud.

In respect of ROBBERY, the penalty is currently 14 years. That is increased to a term of life imprisonment where "the offender is or pretends to be armed....".

Where the offender is in the company or wounds or uses personal violence, the penalty is increased to 20 years.

LABOR'S LEGISLATION - Robbery

s.393 of the Criminal Code be amended to add the words "if the victim is or over the age of 60 years".

This will have the effect of increasing the penalty from 14 to 20 years in such circumstances.

In respect of BURGLARY, s.400 of the Criminal Code defines circumstances of aggravation.

The penalty for burglary is:

- 20 years in circumstances of aggravation,
- 18 years for home burglary, and
- 14 years for other cases.

LABOR'S LEGISLATION - Burglary

The circumstances of aggravation will be amended in section 400 to include the fact that the victim is 'of or over the age of 60 years.'

This will have the effect of increasing the penalty from 14 or 18 years to 20 years in such circumstances.

In respect of ASSAULT, s.313 of the Criminal Code provides a penalty of \$6,000 or 18 months for a simple assault.

s.317 provides a penalty of five years for an assault occasioning bodily harm.

Importantly, s.318 provides a penalty of 10 years for a 'Serious Assault'. A Serious Assault includes assault on a public officer, train or taxi driver.

LABOR'S LEGISLATION - Assault

s.318 is amended to add to the definition of serious assault, an assault on a person 'of or over the age of 60 years'.

This will have the effect of increasing the penalty from 1.5 or 5 years to 10 years in such circumstances.

In respect of FRAUD, s.409 defines fraud and provides a maximum penalty of seven years. There are no circumstances of aggravation currently described and although this is nationally a property crime, there appears to be no reason why crimes against senior citizens, such as the finance brokers scandal, should not result in a higher penalty.

LABOR'S LEGISLATION - Fraud

s.409 be amended to provide where the victim is 'of or over the age of 60 years' that the maximum penalty for fraud be increased from 7 to 10 years.