

BRIEFING NOTE

Criminal Code (Child Sexual Offences Reform) & Other Legislation Amendment Act 2020

CRIME - Failure to Protect Child from Child Sexual Offence

(Criminal Code - Section 229BB)

An 'accountable person' in an organisation commits a crime if they know there is a significant risk that an adult (who is associated with the organisation) will commit a child sex offence against a child under the care, supervision or control of the organisation, and the person has the power or responsibility to reduce or remove the risk, but fails to do so.

It does not matter that the knowledge was gained by the accountable person during, or in connection with, a religious confession.

The law applies to suspected sexual offences against a child who is either under 16 years of age or a child (16 and 17 years of age) with an impairment of the mind.

Maximum penalty - 5 years imprisonment

CRIME - Failure to Report Belief of Child Sexual Offence

(Criminal Code - Section 229BC)

An adult commits a crime if they reasonably believe that another adult is committing (present) or has committed (past) a child sexual offence, and the adult fails to disclose the information to a police officer as soon as reasonably practicable.

The law applies to suspected sexual offences against a child is or was (at the relevant time) either under 16 years of age or a child (16 and 17 years of age) with an impairment of the mind.

It does not matter that the information was gained by the adult during, or in connection with, a religious confession.

Maximum penalty - 3 years imprisonment

Exceptions:

An adult has a reasonable excuse for not disclosing information about a suspected child sexual offence to a police officer if any of the following circumstances apply:

- The adult believes on reasonable grounds that the information has already been disclosed to a police officer.
- The adult reasonably believes that the information has already been reported under:
 - the Child Protection Act 1999 (chapter 2, part 1AA);
 - the Education (General Provisions) Act 2006 (chapter 12, part 10); or
 - the Youth Justice Act 1992 (part 8 or 9).

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- The adult gains the information after the child (alleged victim) becomes an adult, and the alleged victim does not want the information to be disclosed to a police officer.
- The adult reasonably believes disclosing the information to a police officer would endanger the safety of the adult or another person (other than the alleged offender), and not disclosing the information to a police officer is reasonable in the circumstances.

Child Sexual Offence

A 'child sexual offence' means an offence of a sexual nature committed in relation to a child, including, for example:

- carnal knowledge of a child
- maintaining a sexual relationship with a child
- indecent treatment of a child
- grooming a child for sexual acts
- possessing etc. child exploitation material
- possessing etc. a child abuse object

NOTE:

The above criminal offence sections are not currently in effect and will commence by proclamation on a future date determined by Parliament.

Reference:

<https://www.legislation.qld.gov.au/view/html/asmade/act-2020-032#pt.5-div.3>