



CDPP

Australia's Federal Prosecution Service

s15AAA Crimes Act 1914

Bail and Commonwealth Child Sex Offences -
Guide

Human Exploitation and Border Protection



Section 15AAA Crimes Act 1914

Bail and Commonwealth Child Sex Offences

Guide

Last Update: 10 September 2020

INDEX

When Presumption Against Bail Applies 3

Offences 4

Decision to Grant Bail 5

Appeal against decision granting bail or refusing to grant bail 6

Important note on relevant definitions and lists of offences 6

‘First Strike’ section 16AAA offences 7

‘Second Strike’ section 16AAB offences 8

 Definition of ‘*child sexual abuse offence*’ 10

 List: *Commonwealth Child Sex Offence* 11

 List: *State or Territory registrable child sex offence* 14

Explanatory Memorandum Extract 44

Legislation under State or Territory law establishing a child protection offender register 46

Copyright Notice

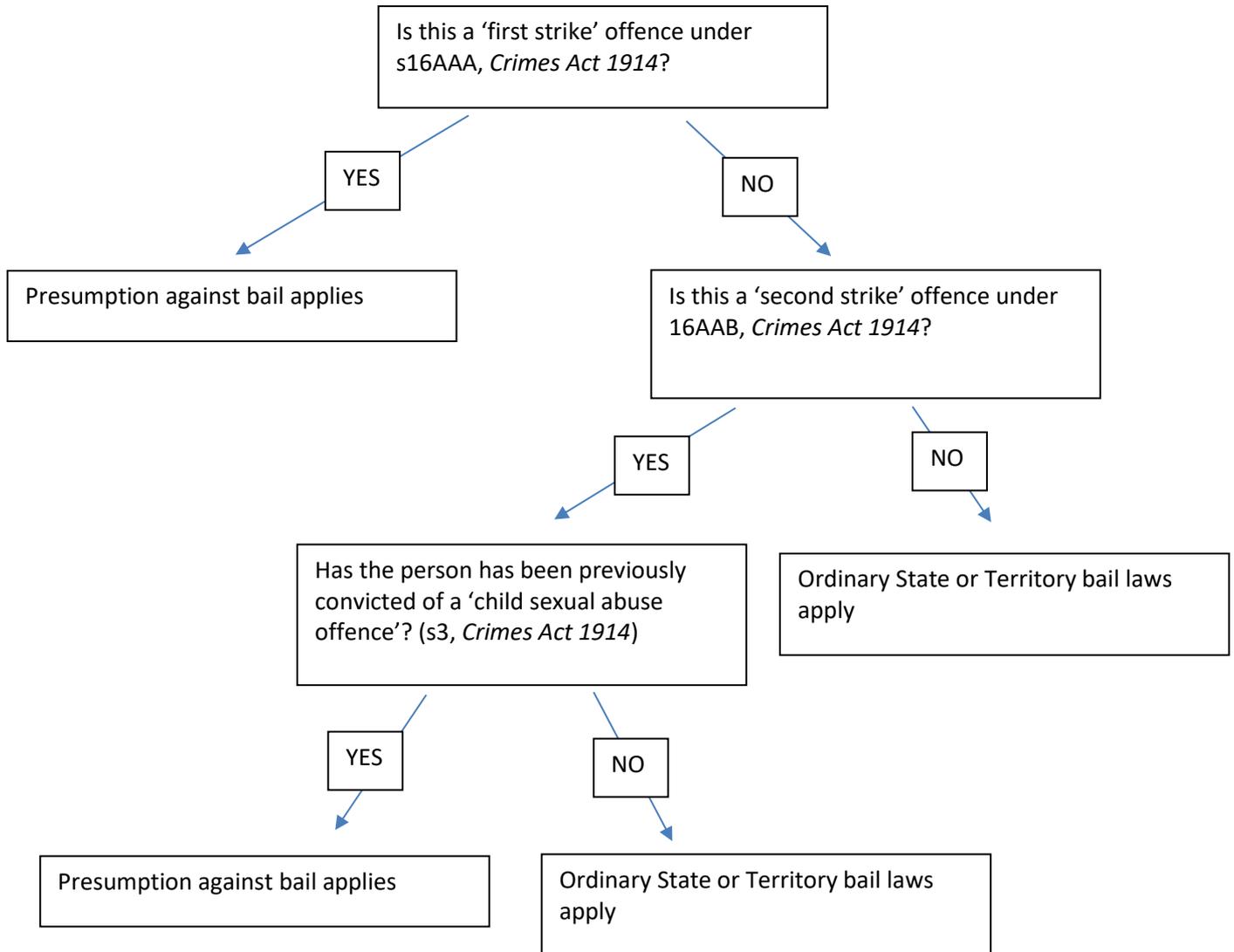
© Commonwealth of Australia 2020

This work is copyright. You may download, display, print and reproduce this material in unaltered form only (retaining this notice) for your personal, non-commercial use or use within your organisation. Apart from any use as permitted under the *Copyright Act 1968 (Cth)* all other rights are reserved.

Requests for further authorisation should be directed to the:

Commonwealth Copyright Administration
Intellectual Property Branch
Department of Infrastructure, Transport, Regional Development and Communications
GPO Box 594
Canberra ACT 2601

FLOW CHART RE BAIL FOR COMMONWEALTH CHILD SEX OFFENCES



BAIL GUIDE

[Crimes Legislation Amendment \(Sexual Crimes Against Children and Community Protections Measures\) Act 2020 \(Cth\)](#)

1. New federal legislation has enacted a significant change to bail for defendants charged with Commonwealth child sex offences. The bail amendments are effective on or after 23 June 2020. The legislation affects all Commonwealth child sex offences with the exclusion of s474.25C, with the provisions impacting on any person charged with the more serious (First Strike) offences, and impacting on persons with prior child sex convictions who are charged with the less serious (Second Strike) offences.
2. This legislation reverses the presumption in favour of bail for the offences to which it applies. The defendant now bears the onus of satisfying the bail authority that the circumstances exist to grant bail for those offences. The provisions also make changes in relation to appeals against decisions to grant bail, including providing that the decision will be stayed if the CDPP indicates an intention to appeal at the time the decision is handed down.
3. Section 15AAA(8) makes it clear however that while the provisions do affect the decision to grant bail and the issue of appealing the grant of bail, State and Territory law otherwise continues to apply. On that basis, State and Territory laws which for instance deal with applications to vary or revoke bail will still operate, just the test to be applied by the bail authority in considering such applications will be that provided by s15AAA(1).

When Presumption Against Bail Applies

4. The bail authority must not grant bail to a person charged with, or convicted of, certain offences unless satisfied by the person that the circumstances exist to grant bail: s15AAA Crimes Act 1914. A list of factors is set out which must be taken into account in determining whether the bail authority is satisfied that circumstances exist to grant bail to the person. These are taken into account if relevant and known to the bail authority. Other factors may also be considered.
5. The reforms do not mean that a defendant cannot be granted bail. However, there is a presumption against bail and it will not be granted unless the court or bail authority is satisfied by the defendant that circumstances exist to grant bail. These circumstances can include conditions of bail.
6. The presumption against bail applies to a person charged with, or convicted of
 - a. A 'First Strike' offence contrary to s16AAA Crimes Act, or,
 - b. A 'Second Strike' offence contrary to s16AAB where the person has, at an earlier sitting, been convicted previously of a *child sexual abuse offence* (as defined).
7. It applies to all bail decisions made on or after 23 June 2020 regardless of when the offence is alleged to have been committed and regardless of whether mandatory minimum sentencing will apply.
8. It applies to police bail as well as court bail. A 'bail authority' is defined as 'a court or person authorised to grant bail under the law of the Commonwealth, a State or Territory'¹.

¹ Crimes Act 1914 section 3 'bail authority'

9. The presumption against bail in s15AAA applies to a child charged with the relevant offence or a person who was aged under 18 years at the time of the alleged offence. This applies even though a person aged under 18 cannot be subject to mandatory minimum sentences. However, s15AAA(2)(e) specifically provides that the bail authority must take into account the age of the defendant in determining whether the bail authority is satisfied that the circumstances exist to grant bail. It is noted that special considerations apply before a decision is made to commence or continue the prosecution of a child². A person who is under the age of 18 years can be severely affected by being remanded into custody and a decision to do so should be considered as a matter of last resort.³ The consent of the Attorney-General is required for the carrying on of the prosecution of many of these offences committed by juveniles.⁴

Offences

10. 'First Strike' s16AAA offences

If a defendant is charged with one or more 'First Strike' offences, there is a presumption against bail.

The list of these offences appears on page 7 under the heading **First Strike s16AAA Offences**.

This does not depend on the defendant having prior convictions.

These are the most serious Commonwealth child sex offences. Many of the maximum penalties for these serious offences have increased under this legislation and mandatory minimum penalties may apply in some circumstances to offenders convicted of them.

11. 'Second Strike' s16AAB offences

'Second Strike' offences are less serious than 'First Strike' offences but will still have a presumption against bail if the defendant has certain prior convictions.

The list of these offences appears on page 8 under the heading **Second Strike s16AAB Offences**.

12. The presumption against bail applies to a person charged with a 'Second Strike' offence only if the person has, at an earlier sitting, been convicted previously of a *child sexual abuse offence*, as defined.
13. If the person charged with a 'Second Strike' offence has not been previously convicted of a *child sexual abuse offence*, the presumption against bail does not apply. The ordinary State or Territory bail law applies. If the offender is facing multiple 'Second Strike' charges for which there has not yet been a conviction, the presumption will not apply. The ordinary State or Territory bail law applies.
14. The term '*child sexual abuse offence*' is defined in s3 of the *Crimes Act 1914*. The definition in the section should be referred to. But, paraphrasing the actual definition: *A child sexual abuse offence* is:
- a *Commonwealth child sex offence* (including overseas, on-line and postal sex offences and child abuse material offences) ; or
 - an offence against the repealed 'child pornography' offences in the *Criminal Code* (Cth) before the 2019 amendment s273.5, 471.16, 471.17, 474.19 ; or
 - an offence against the repealed Overseas child sex tourism offences from the *Crimes Act 1914*, s50BA-BD, s50DA, s50DB; or
 - a *State or Territory registrable child sex offence*.

² *Prosecution Policy of the Commonwealth* [2.15] – [2.18]

³ Explanatory Memorandum, paragraph [242].

⁴ *Criminal Code* (Cth) s474.25C, s272.31, 273.2A regarding requirement of Consent of Attorney-General to commencement of proceedings where defendant under 18 at the time of the alleged commission of the offence.

Commonwealth child sex offence is defined in s3 of the *Crimes Act 1914*.

The list of these offences appears on page 11 under the heading **Commonwealth Child Sex Offence**.

State or Territory registrable child sex offence is defined in s3 of the *Crimes Act 1914*. The list of offences appears on page 14 under the heading **State or Territory Registrable child sex offence**

15. The term *State or Territory registrable child sex offence* is a reference to a class of offences. It applies to offenders who have been convicted of an offence which has been a registrable offence under State or Territory offender reporting legislation at any time and in any State or Territory. Whether a defendant has actually been made subject to orders under State or Territory offender reporting legislation is not a relevant consideration and does not limit the application of the definition.
16. For instance, s233BAB of the *Customs Act 1901* of importing a tier 2 good is a registerable offence in the ACT under the *Crimes (Child Sex Offenders) Act 2005* (ACT) if the offending involves child exploitation or child abuse material. As such, an offence under s233BAB of the *Customs Act 1901* involving that material falls within the definition of “State or Territory registerable child sex offence”. As a result, if a person has a conviction for an offence against s233BAB involving child exploitation or child abuse material, they have a previous conviction for a child sexual abuse offence for the purposes of s15AAA(1)(b), whether or not their conviction was in the ACT or in some other jurisdiction.
17. Offences allegedly committed by extensions of criminal liability are included in the relevant definitions; including attempts, complicity and common purpose, joint commission, commission by proxy, incitement and conspiracy.

Decision to Grant Bail

18. In determining whether the defendant has satisfied the bail authority that circumstances exist to grant bail, the bail authority, in addition to any other matters, must take into account the following matters as are relevant and known to the bail authority:
 - likelihood of the defendant failing to appear if granted bail;
 - likelihood of the defendant committing a further offence if granted bail;
 - whether the person would be likely to put at risk the safety of the community or cause a person to suffer any harm if the defendant is granted bail;
 - likelihood that the defendant would conceal, fabricate or destroy evidence or intimidate a witness if granted bail;
 - whether the person is aged 18 or over when the offence was committed; and
if the person has pleaded guilty to the charge or been convicted of the offence
 - whether the court/bail authority considers that the person would not be likely to undertake a rehabilitation program, or not be likely to comply with any bail conditions relating to rehabilitation or treatment, while released on bail.
19. If bail is granted by a court, s15AAA(3) provides that the court must state its reasons and must cause the reasons to be entered in the court’s record.

Appeal against decision granting bail or refusing to grant bail

20. There is a right of appeal for the defendant when bail is refused. There is also a right of appeal for the CDPP where bail is granted, s15AAA(4).
21. If the CDPP notifies the bail authority immediately after the decision to grant bail of its intention to appeal, then the grant of bail will be stayed. The bail decision is stayed pending the appeal decision from the time the appeal is notified, or until the appeal is abandoned, or 72 hours after the stay, s15AAA(6)(b). If a case is such that the step of immediately notifying the bail authority of the intention to appeal is contemplated, then approval needs to be obtained before the bail hearing.
22. Appeals against the decision of a bail authority to grant or refuse bail are to be made to the court that would ordinarily have jurisdiction to hear and determine appeals and are to be made in accordance with the rules or procedures applicable under Commonwealth, State or Territory law.

Important note on relevant definitions, lists of offences and guide

23. Material has been prepared listing the offences which fall within relevant definitions at the time of drafting. These are guides only. The list of relevant offences under each definition is dependent on provisions of Commonwealth, State or Territory law which may be subject to amendment and may change over time.
24. Primary source legislation should be relied on when preparing for a determination of bail before a bail authority. State and Territory offender reporting legislation may also be subject to exclusions under legislation or regulation and should also be referred to in their primary form, as applicable.
25. The list of relevant primary legislation, but not regulations, is provided at page 46.
26. The information provided in the guide is based on our interpretation of the legislation as at the time of writing and will be subject to any judicial interpretation of the relevant legislation.

'First Strike' section 16AAA offences

Presumption against bail whenever charged

- | | |
|------------|---|
| 272.8(1) | Engaging in sexual intercourse with child outside Australia. |
| 272.8(2) | Causing child to engage in sexual intercourse outside Australia. |
| 272.9(1) | Engaging in sexual activity with child outside Australia. |
| 272.9(2) | Causing child to engage in sexual activity outside Australia. |
| 272.10 | Aggravated offence – child with mental impairment or under care, supervision or authority of defendant or degrading treatment or death. |
| 272.11 | Persistent sexual abuse of child outside Australia. |
| 272.18 | Benefitting from a sexual offence against children outside Australia. |
| 272.19 | Encouraging from a sexual offence against children outside Australia. |
| 273.7 | Aggravated offence (child abuse material outside Australia) – involving conduct on 3 or more occasions and 2 or more people. |
| 471.22 | Aggravated offence (child abuse material using postal service) – involving conduct on 3 or more occasions and 2 or more people. |
| 474.23A | Conduct for the purposes of electronic service used for child abuse material. |
| 474.24A | Aggravated offence (child abuse material using carriage service) – involving conduct on 3 or more occasions and 2 or more people. |
| 474.25A(1) | Engaging in sexual activity with a person under 16 years of age using a carriage service. |
| 474.25A(2) | Causing a person under 16 years of age to engage in sexual activity with another person using carriage service. |
| 474.25B | Aggravated offence of sexual activity with a child under 16 using a carriage service - child with mental impairment or under care, supervision or authority of defendant or degrading treatment or death. |

‘Second Strike’ section 16AAB offences**Presumption against bail if previously convicted of *child sexual abuse offence***

No presumption against bail unless the person has, at an earlier sitting, been convicted previously of a *child sexual abuse offence*

- 272.12(1) Sexual intercourse with young person outside Australia – in position of trust or authority.
- 272.12(2) Causing young person to engage in sexual intercourse outside Australia – in position of trust or authority.
- 272.13(1) Sexual activity with young person outside Australia – in position of trust and authority.
- 272.13(2) Causing young person to engage in sexual activity outside of Australia – in position of trust and authority.
- 272.14(1) Procuring child to engage in sexual activity outside Australia.
- 272.15(1) Grooming child to engage in sexual activity outside Australia.
- 272.15A(1) Grooming person to make it easier to engage in sexual activity with a child outside Australia (Third party grooming outside Australia).
- 272.20(1) Preparing for or planning offence involving sexual intercourse or other sexual activity with child outside Australia.
- 272.20(2) Preparing for or planning offence involving sexual intercourse or other sexual activity with young person outside of Australia.
- 273.6(1) Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia.
- 273A.1 Possession of child-like sex doll or other object.
- 471.19(1) Using a postal or similar service for child abuse material.
- 474.19(2) Requesting another person to use a postal or similar service for child abuse material.
- 471.20(1) Possess, control, produce, supply or obtain child abuse material for use through postal or similar service.
- 471.24(1) Using a postal or similar service to procure persons under 16.
- 471.24(2) Sender using a postal or similar service to procure a person under 16 to engage in sexual activity with another person.
- 471.24(3) Sender using postal or similar service to procure a person under 16 to engage in sexual activity with another person in the presence of sender or another person.
- 471.25(1) Using a postal or similar service to groom person under 16 to engage in sexual activity with sender.
- 471.25(2) Sender using postal or similar service to groom person under 16 to engage in sexual activity with another person.
- 471.25(3) Sender using postal or similar service to groom person under 16 to engage in sexual activity with another person in the presence of sender or another person.
- 471.25A(1) Using a postal service to groom another person to make it easier to procure persons under 16 to engage in sexual activity with sender.(Third party grooming postal service.)
- 471.25A(2) Using a postal service to groom another person to make it easier to procure person under 16 to engage in sexual activity with another person.
- 471.25A(3) Using a postal service to groom another person to make it easier to procure person under 16 to engage in sexual activity with another person in the presence of sender or another person.

- 471.26(1) Using a postal service or similar service to send indecent material to person under 16.
- 474.22(1) Using a carriage service for child abuse material.
- 474.22A(1) Possessing or controlling child abuse material obtained or accessed using a carriage service.
- 474.23(1) Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service.
- 474.26(1) Using a carriage service to procure persons under 16 years to engage in sexual activity.
- 474.26(2) Using a carriage service to procure a person under 16 years to engage in sexual activity with another person.
- 474.26(3) Using a carriage service to procure a person under 16 years of age to engage in sexual activity with another person in the presence of the sender or another person.
- 474.27(1) Using a carriage service to groom a person under 16 years of age
- 474.27(2) Using a carriage service to groom person under 16 years of age to engage in sexual activity with another person.
- 474.27(3) Using a carriage service to groom person under 16 years of age to engage in sexual activity with another person in the presence of the sender or another person.
- 474.27AA(1) Using a carriage service to transmit communication to groom another person to make it easier to procure person under 16 years to engage in sexual activity. (Third party grooming by carriage service).
- 474.27AA(2) Using a carriage service to groom another person to make it easier to procure person under 16 years to engage in sexual activity with another person.
- 474.27AA(3) Using a carriage service to groom another person to make it easier to procure person under 16 years of age to engage in sexual activity with another person in the presence of the sender or another person.
- 474.27A(1) Using a carriage service to transmit indecent communication to person under 16 years of age.

Definition of ‘child sexual abuse offence’

Under s15AAA(1)(b) a presumption against bail arises if a person charged with a ‘second strike’ s16AAB(2) offence has previously been convicted of a ‘child sexual abuse offence’. This is defined in section 3 *Crimes Act 1914* (Cth).

child sexual abuse offence means:

- (a) a Commonwealth child sex offence; or
- (b) an offence against section 273.5, 471.16, 471.17, 474.19 or 474.20 of the *Criminal Code* as in force at any time before the commencement of Schedule 7 to the *Combatting Child Sexual Exploitation Legislation Amendment Act 2019*; or
- (c) an offence against Part IIIA of this Act as in force at any time before the commencement of Schedule 1 to the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010*; or
- (d) a State or Territory registrable child sex offence.

Commonwealth child sex offence means:

- (a) an offence against any of the following provisions of the *Criminal Code*:
 - (i) Division 272 (Child sex offences outside Australia);
 - (ii) Division 273 (Offences involving child abuse material outside Australia);
 - (iii) Division 273A (Possession of child-like sex dolls etc.);
 - (iii) Subdivisions B and C of Division 471 (which create offences relating to use of postal or similar services in connection with child abuse material and sexual activity involving children);
 - (iv) Subdivisions D and F of Division 474 (which create offences relating to use of telecommunications in connection with child abuse material, sexual activity involving children and harm to children); or
- (b) an offence against section 11.1, 11.4 or 11.5 of the *Criminal Code* that relates to an offence described in paragraph (a) of this definition; or
- (c) an offence against a provision described in paragraph (a) of this definition that is taken to have been committed because of section 11.2, 11.2A or 11.3 of the *Criminal Code*.

State or Territory registrable child sex offence means an offence:

- (a) that a person becomes, or may at any time have become, a person whose name is entered on a child protection offender register (however described) of a State or Territory for committing; and
- (b) in respect of which:
 - (i) a child was a victim or an intended victim; or
 - (ii) the offending involved child abuse material.

List: Commonwealth Child Sex Offence

Defined in section 3 *Crimes Act 1914* (Cth).

This is a guide only and may be subject to legislative amendment. Please rely only on the primary legislation, namely the *Crimes Act 1914*.

Commonwealth Child Sex OffencesCriminal Code (Cth)

Section	Offence
272.8(1)	Engaging in sexual intercourse with child outside Australia
272.8(2)	Causing child to engage in sexual intercourse outside Australia
272.9(1)	Engaging in sexual activity with child outside Australia
272.9(2)	Causing child to engage in sexual activity outside Australia
272.10(1)	Aggravated offence - child with mental impairment or under care, supervision or authority of defendant or degrading treatment or death
272.11	Persistent sexual abuse of child outside Australia
272.12(1)	Sexual intercourse with young person outside Australia – in position of trust or authority
272.12(2)	Causing young person to engage in sexual intercourse outside Australia – in position of trust or authority
272.13(1)	Sexual activity with young person outside Australia – in position of trust and authority
272.13(2)	Causing young person to engage in sexual activity outside of Australia – in position of trust and authority
272.14(1)	Procuring child to engage in sexual activity outside Australia
272.15(1)	Grooming child to engage in sexual activity outside Australia
272.15A(1)	Grooming person to make it easier to engage in sexual activity with a child outside Australia
272.18	Benefiting from sexual offence against a child outside Australia
272.19	Encouraging sexual offence against a child outside Australia
272.20(1)	Preparing for or planning offence involving sexual intercourse or other sexual activity with child outside Australia
272.20(2)	Preparing for or planning offence involving sexual intercourse or other sexual activity with young person outside of Australia
273A(1)	Possession of child-like sex dolls

Section	Offence
273.6(1)	Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia
273.7(1)	Aggravated offence - offence involving conduct on 3 or more occasions and 2 or more people
471.19(1)	Using a postal or similar service for child abuse material
471.19(2)	Requesting another person to use a postal or similar service for child abuse material
471.20(1)	Possess, control, produce, supply or obtain child abuse material for use through postal or similar service
471.22	Aggravated offence involving conduct on 3 or more occasion and 2 or more people
471.24(1)	Using a postal or similar service to procure a person under 16
471.24(2)	Sender using a postal or similar service to procure a person under 16 to engage in sexual activity with another person.
471.24(3)	Sender using postal or similar service to procure a person under 16 to engage in sexual activity with another person in the presence of sender or another person
471.25(1)	Using a postal or similar service to groom person under 16 to engage in sexual activity with sender
471.25(2)	Sender using postal or similar service to groom person under 16 to engage in sexual activity with another person.
471.25(3)	Sender using postal or similar service to groom person under 16 to engage in sexual activity with another person in the presence of sender or another person.
471.25A(1)	Using a postal service to groom another person to make it easier to procure persons under 16 to engage in sexual activity with sender.
471.25A(2)	Using a postal service to groom another person to make it easier to procure person under 16 to engage in sexual activity with another person
471.25A(3)	Using a postal service to groom another person to make it easier to procure person under 16 to engage in sexual activity with another person in the presence of sender or another person.
471.26(1)	Using a postal or similar service to send indecent material to a person under 16
474.22(1)	Using a carriage service for child abuse material - access, transmit, solicit etc.
474.22A(1)	Possessing or controlling child abuse material obtained or accessed using a carriage service

Section	Offence
474.23(1)	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service
474.23A(1)	Conduct for the purposes of electronic service used for child abuse material
474.24A(1)	Aggravated offence (child abuse material using carriage service) – involving conduct on 3 or more occasions and 2 or more people
474.25A(1)	Engaging in sexual activity with a person under 16 using a carriage service
474.25A(2)	Causing a person under 16 to engage in sexual activity with another person using a carriage service
474.25B(1)	Aggravated offence - child with mental impairment or under care, supervision or authority of defendant or degrading treatment or death
474.25C(1)	Using a carriage service to prepare or plan to cause harm to, engage in sexual activity with, or procure for sexual activity, persons under 16
474.26(1)	Using a carriage service to procure a person under 16 years to engage in sexual activity.
474.26(2)	Using a carriage service to procure a person under 16 years to engage in sexual activity with another person
474.26(3)	Using a carriage service to procure a person under 16 years of age to engage in sexual activity with another person in the presence of the sender or another person
474.27(1)	Using a carriage service to groom a person under 16 years of age
474.27(2)	Using a carriage service to groom person under 16 years of age to engage in sexual activity with another person
474.27(3)	Using a carriage service to groom person under 16 years of age to engage in sexual activity with another person in the presence of the sender or another person
474.27A(1)	Using a carriage service to transmit indecent communication to person under 16 years of age
474.27AA(1)	Using a carriage service to transmit communication to groom another person to make it easier to procure person under 16 years to engage in sexual activity
474.27AA(2)	Using a carriage service to groom another person to make it easier to procure person under 16 years to engage in sexual activity with another person
474.27AA(3)	Using a carriage service to groom another person to make it easier to procure person under 16 years of age to engage in sexual activity with another person in the presence of the sender or another person

List: State or Territory registrable child sex offence

Defined in section 3 *Crimes Act 1914* (Cth).

This is a guide only and may be subject to legislative amendment. Please rely only on the primary legislation, namely the *Crimes Act 1914* (Cth).

Relevant primary legislation for State and Territory Offender Reporting Acts (not including Regulations). Any *Commonwealth Child Sex Offences* have been removed from this list.

State or Territory Registrable Child Sex Offences

State	Legislation	Section	Offence	If Victim Under 18	Register
NSW	Crimes Act 1900 (NSW)		Murder, where the person murdered is a child	x	
NSW	Crimes Act 1900 (NSW)		Offence that involves sexual intercourse with a child (other than a Class 2 offence)	x	
NSW	Crimes Act 1900 (NSW)	66EA	Persistent sexual abuse of a child		
NSW	Crimes Act 1900 (NSW)	80A	Sexual assault by forced self-manipulation where person against whom the offence is committed is a child	x	
NSW	Crimes Act 1900 (NSW)		Manslaughter (other than manslaughter as a result of a motor vehicle accident), where the victim of the manslaughter is a child	x	
NSW	Crimes Act 1900 (NSW)		An offence that involves sexual touching or a sexual act against or in respect of a child, being an offence that is punishable by imprisonment for 12 months or more	x	
NSW	Crimes Act 1900 (NSW)	33(1)	Wounding or grievous bodily harm with intent where the person against whom the offence is committed is a child under 10 years of age and the person committing the offence is not a child	x	
NSW	Crimes Act 1900 (NSW)	66EB	Procuring or grooming child under 16 for unlawful sexual activity		
NSW	Crimes Act 1900 (NSW)	66EC	Grooming a person for unlawful sexual activity with a child under the person's authority		
NSW	Crimes Act 1900 (NSW)	80D	Causing sexual servitude where the person against whom the offence is committed is a child	X	

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
NSW	Crimes Act 1900 (NSW)	80E	Conduct of business involving sexual servitude where the person against whom the offence is committed is a child	X	
NSW	Crimes Act 1900 (NSW)	86	Kidnapping, where the person against whom the offence is committed is a child, except where the person found guilty of the offence was, when the offence was committed or at some earlier time, a parent or carer of the child	X	
NSW	Crimes Act 1900 (NSW)	87	Child abduction, where the person committing the offence has never had parental responsibility (within the meaning of that section) for the child who is taken or detained		
NSW	Crimes Act 1900 (NSW)	91D	Promoting or engaging in acts of child prostitution (other than an offence committed by a child prostitute)		
NSW	Crimes Act 1900 (NSW)	91E	Obtaining benefit from child prostitution (other than an offence committed by a child prostitute)		
NSW	Crimes Act 1900 (NSW)	91F	Premises not to be used for child prostitution (other than an offence committed by a child prostitute)		
NSW	Crimes Act 1900 (NSW)	91G	Children not to be used for production of child abuse material		
NSW	Crimes Act 1900 (NSW)	91H	Production, dissemination or possession of child abuse material		
NSW	Crimes Act 1900 (NSW)	91J	Voyeurism, where the person who was being observed or filmed as referred to in those sections was then a child	X	
NSW	Crimes Act 1900 (NSW)	91K	Filming a person engaged in a private act, where the person who was being observed or filmed as referred to in those sections was then a child	X	
NSW	Crimes Act 1900 (NSW)	91L	Filming a person's private parts, where the person who was being observed or filmed as referred to in those sections was then a child	X	
NSW	Child Protection (Offenders Registration) Act 2000 (NSW)		An offence an element of which is an intention to commit an offence of a kind listed as a Class 1 offence		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
NSW	Child Protection (Offenders Registration) Act 2000 (NSW)		Attempt, or of conspiracy or incitement, to commit an offence of a kind listed as a Class 1 offence		
Cth	Customs Act 1901(Cth)	233BAB	Import / Export relating to tier 2 goods (if the offence involves child pornography or child abuse material)		NSW
Cth	Criminal Code (Cth)	270.6	Sexual servitude offences		NSW
Cth	Criminal Code (Cth)	270.7	Deceptive recruiting for labour or services, where the person against whom the offence is committed is a child		NSW
Cth	Criminal Code (Cth)	271.4	Trafficking in children		NSW
Cth	Criminal Code (Cth)	271.7	Domestic trafficking in children		NSW
Cth	Criminal Code (Cth)	273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia		NSW
Cth	Criminal Code (Cth)	471.16	Using a postal or similar service for child pornography material		NSW
Cth	Criminal Code (Cth)	471.17	Possess, control, produce, supply or obtain child pornography material for use through postal service		NSW
Cth	Criminal Code (Cth)	474.19	Using a carriage service for child pornography material		NSW
Cth	Criminal Code (Cth)	474.20	Possessing, controlling, producing, distributing or obtaining child pornography material for use through a carriage service.		NSW
VIC	Crimes Act 1958 (Vic)	38	Rape	X	
VIC	Crimes Act 1958 (Vic)	39	Rape by compelling sexual penetration	X	
VIC	Crimes Act 1958 (Vic)	40	Sexual assault	X	
VIC	Crimes Act 1958 (Vic)	41	Sexual assault by compelling sexual touching	X	

State	Legislation	Section	Offence	If Victim Under 18	Register
VIC	Crimes Act 1958 (Vic)	42	Assault with intent to commit a sexual offence	X	
VIC	Crimes Act 1958 (Vic)	43	Threat to commit a sexual offence	X	
VIC	Crimes Act 1958 (Vic)	44	Procuring sexual act by threat	X	
VIC	Crimes Act 1958 (Vic)	45	Procuring sexual act by fraud	X	
VIC	Crimes Act 1958 (Vic)	46	Administration of an intoxicating substance for a sexual purpose	X	
VIC	Crimes Act 1958 (Vic)	47	Abduction or detention for a sexual purpose	X	
VIC	Crimes Act 1958 (Vic)	48	Sexual activity directed at another person	X	
VIC	Crimes Act 1958 (Vic)	49A	Sexual penetration of a child under the age of 12		
VIC	Crimes Act 1958 (Vic)	49B	Sexual penetration of a child under the age of 16		
VIC	Crimes Act 1958 (Vic)	49C	Sexual penetration of a child under the age of 16 or 17 under care, supervision or authority		
VIC	Crimes Act 1958 (Vic)	49D	Sexual assault of a child under the age of 16		
VIC	Crimes Act 1958 (Vic)	49E	Sexual assault of a child aged under 16 or 17 under care, supervision or authority		
VIC	Crimes Act 1958 (Vic)	49F	Sexual activity in the presence of a child under the age of 16		
VIC	Crimes Act 1958 (Vic)	49G	Sexual activity in the presence of a child aged 16 or 17 under care, supervision or authority		
VIC	Crimes Act 1958 (Vic)	49H	Causing a child under the age of 16 to be present during sexual activity		
VIC	Crimes Act 1958 (Vic)	49I	Causing a child under the aged 16 or 17 under care, supervision or authority to be present during sexual activity		
VIC	Crimes Act 1958 (Vic)	49J	Persistent sexual abuse of a child under the age of 16		

State	Legislation	Section	Offence	If Victim Under 18	Register
VIC	Crimes Act 1958 (Vic)	49K	Encouraging a child under the age of 16 to engage in, or be involved in, sexual activity		
VIC	Crimes Act 1958 (Vic)	49L	Encouraging a child under the age of 16 or 17 under care, supervision or authority to engage in, or be involved in, sexual activity		
VIC	Crimes Act 1958 (Vic)	49M	Grooming for sexual conduct with a child under the age of 16		
VIC	Crimes Act 1958 (Vic)	49N	Loitering near schools etc. by sexual offender		
VIC	Crimes Act 1958 (Vic)	49P	Abduction or detention of a child under the age of 16 for a sexual purpose		
VIC	Crimes Act 1958 (Vic)	49Q	Causing or allowing a sexual performance involving a child		
VIC	Crimes Act 1958 (Vic)	49R	Inviting or offering a sexual performance involving a child		
VIC	Crimes Act 1958 (Vic)	49S	Facilitating a sexual offence against a child		
VIC	Crimes Act 1958 (Vic)	50A	Sexual penetration of a child or lineal descendant		
VIC	Crimes Act 1958 (Vic)	50E	Sexual penetration of a step-child		
VIC	Crimes Act 1958 (Vic)	50F	Sexual penetration of a sibling or half-sibling	X	
VIC	Crimes Act 1958 (Vic)	51B	Involving a child in the production of child abuse material		
VIC	Crimes Act 1958 (Vic)	51C	Producing child abuse material		
VIC	Crimes Act 1958 (Vic)	51D	Distributing child abuse material		
VIC	Crimes Act 1958 (Vic)	51E	Administering a website used to deal with child abuse material		
VIC	Crimes Act 1958 (Vic)	51F	Encouraging use of a website to deal with child abuse material		
VIC	Crimes Act 1958 (Vic)	51G	Possession of child abuse material		
VIC	Crimes Act 1958 (Vic)	51H	Accessing child abuse material		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
VIC	Crimes Act 1958 (Vic)	51I	Assisting a person to avoid apprehension for an offence committed against s51B, C, D, E, F, G or H		
VIC	Crimes Act 1958 (Vic)	52B	Sexual penetration of a person with a cognitive impairment or mental illness	X	
VIC	Crimes Act 1958 (Vic)	52C	Sexual assault of a person with a cognitive impairment or mental illness	X	
VIC	Crimes Act 1958 (Vic)	52D	Sexual activity in the presence of a person with a cognitive impairment or mental illness	X	
VIC	Crimes Act 1958 (Vic)	52E	Causing a person with a cognitive impairment or mental illness to be present during sexual activity	X	
VIC	Crimes Act 1958 (Vic)	53E	Aggravated sexual servitude	X	
VIC	Crimes Act 1958 (Vic)	53G	Aggravated deceptive recruiting for commercial sexual services	X	
VIC	Sex Work Act 1994 (Vic)	5	Causing or inducing a child to take part in sex work		
VIC	Sex Work Act 1994 (Vic)	6	Obtaining payment for sexual services provided by a child		
VIC	Sex Work Act 1994 (Vic)	7	Agreement for provision of sexual services provided by a child		
VIC	Sex Work Act 1994 (Vic)	11	Allowing child to take part in sex work		
Cth	Criminal Code (Cth)	271.4	Trafficking in children		VIC
Cth	Criminal Code (Cth)	271.7	Domestic trafficking in children		VIC
Cth	Criminal Code (Cth)	273.5(1)	Possessing, controlling, producing, distributing or obtaining child pornography material outside of Australia		VIC
Cth	Criminal Code (Cth)	471.16	Using a postal or similar service for child pornography material		VIC
Cth	Criminal Code (Cth)	471.17	Possess, control, produce, supply or obtain child pornography material for use through postal service		VIC

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
Cth	Criminal Code (Cth)	474.19(1)	Using a carriage service for child pornography material		VIC
Cth	Criminal Code (Cth)	474.20(1)	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service		VIC
Cth	Customs Act 1901 (Cth)	233BAB	Import / Export relating to tier 2 goods (if the offence involves child pornography or child abuse material)		VIC
QLD	Classification of Computer Games Images Act 1995 (Qld)	26(3)	Possession of a child abuse computer game		
QLD	Classification of Computer Games Images Act 1995 (Qld)	27(3)	Making or producing a child abuse computer game		
QLD	Classification of Computer Games Images Act 1995 (Qld)	27(4)	Copying a child abuse computer game		
QLD	Classification of Computer Games Images Act 1995 (Qld)	28	Obtaining a minor for making or production of an objectionable computer game		
QLD	Classification of Films Act 1991 (Qld)	41(3)	Possession of a child abuse film		
QLD	Classification of Films Act 1991 (Qld)	42(3)	Making a child abuse film		
QLD	Classification of Films Act 1991 (Qld)	42(4)	Copying a child abuse film		
QLD	Classification of Films Act 1991 (Qld)	43	Procurement of a minor for making or production of an objectionable film		
QLD	Classification of Publication Act 1991 (Qld)	12	Sale etc. of a prohibited publication or child abuse photograph (if the offence involves a child abuse publication or child abuse photograph)		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
QLD	Classification of Publication Act 1991 (Qld)	13	Possession of a prohibited publication (if the offence involves a child abuse publication or child abuse photograph)		
QLD	Classification of Publication Act 1991 (Qld)	14	Possession of a child abuse publication or child abuse photograph		
QLD	Classification of Publication Act 1991 (Qld)	15	Exhibition or display of a prohibited publication or child abuse photograph (if the offence involves a child abuse publication or child abuse photograph)		
QLD	Classification of Publication Act 1991 (Qld)	16	Leaving a prohibited publication or child abuse photograph in or on a public place (if the offence involves a child abuse publication or child abuse photograph)		
QLD	Classification of Publication Act 1991 (Qld)	17(1)	Making or production of a prohibited publication (if the offence involves a child abuse publication or child abuse photograph)		
QLD	Classification of Publication Act 1991 (Qld)	17(2)	Copying a prohibited publication (if the offence involves a child abuse publication or child abuse photograph)		
QLD	Classification of Publication Act 1991 (Qld)	17(3)	Making or production of a child abuse publication		
QLD	Classification of Publication Act 1991 (Qld)	17(4)	Copying a child abuse publication		
QLD	Classification of Publication Act 1991 (Qld)	18	Procurement of a minor for making or production of an RC publication (if the offence involves a child abuse publication or child abuse photograph)		
QLD	Classification of Publication Act 1991 (Qld)	20	Leaving a prohibited publication in or on private premises if the offence involves a child abuse publication or child abuse photograph		
QLD	Criminal Code (Qld)	208	Unlawful sodomy (if the offence was committed against or in relation to a child) (repealed 23.9.16)	X	
QLD	Criminal Code (Qld)	209	Attempted sodomy (if the offence was committed against or in relation to a child) (repealed 23.10.08)	X	

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
QLD	Criminal Code (Qld)	210	Indecent treatment of children under 16		
QLD	Criminal Code (Qld)	212	Defilement of girls under twelve (repealed 30.3.1989)		
QLD	Criminal Code (Qld)	213	Owner etc. permitting abuse of children on premises		
QLD	Criminal Code (Qld)	214	Attempt to abuse girl under ten (repealed 30.3.1989)		
QLD	Criminal Code (Qld)	215	Carnal knowledge with or of children under 16		
QLD	Criminal Code (Qld)	216	Abuse of persons with an impairment of the mind	X	
QLD	Criminal Code (Qld)	217	Procuring young person etc. for carnal knowledge	X	
QLD	Criminal Code (Qld)	218	Procuring sexual acts by coercion etc.	X	
QLD	Criminal Code (Qld)	218A	Using the internet etc. to procure children under 16		
QLD	Criminal Code (Qld)	218B	Taking child for immoral purposes		
QLD	Criminal Code (Qld)	219	Taking child for immoral purposes		
QLD	Criminal Code (Qld)	220	Unlawful detention with intent to defile or in a brothel (repealed 30/3/1989)	X	
QLD	Criminal Code (Qld)	221	Conspiracy to defile	X	
QLD	Criminal Code (Qld)	222	Incest	X	
QLD	Criminal Code (Qld)	223	Incest by adult female (repealed 3/4/1997)	X	
QLD	Criminal Code (Qld)	228	Obscene publications and exhibitions	X	
QLD	Criminal Code (Qld)	228A	Involving child in making child exploitation material		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
QLD	Criminal Code (Qld)	228B	Making child exploitation material		
QLD	Criminal Code (Qld)	228C	Distributing child exploitation material		
QLD	Criminal Code (Qld)	228D	Possessing child exploitation material		
QLD	Criminal Code (Qld)	228DA	Administering child exploitation material website		
QLD	Criminal Code (Qld)	228DB	Encouraging use of child exploitation material website		
QLD	Criminal Code (Qld)	228DC	Distributing information about avoiding detection		
QLD	Criminal Code (Qld)	229B	Accessing child exploitation material		
QLD	Criminal Code (Qld)	229G	Procuring engagement in prostitution	X	
QLD	Criminal Code (Qld)	229H	Knowingly participating in provision of prostitution	X	
QLD	Criminal Code (Qld)	229I	Persons found in places reasonably suspected of being used for prostitution etc.	X	
QLD	Criminal Code (Qld)	229L	Permitting young person etc. to be at place used for prostitution	X	
QLD	Criminal Code (Qld)	300	Unlawful homicide (in circumstances that amount to murder)	X	
QLD	Criminal Code (Qld)	337	Sexual assaults (repealed 13/10/2000)	X	
QLD	Criminal Code (Qld)	344	Aggravated assaults (if the offence was of a sexual nature) (repealed 3/4/1997)	X	
QLD	Criminal Code (Qld)	349	Rape	X	
QLD	Criminal Code (Qld)	350	Attempted rape	X	
QLD	Criminal Code (Qld)	351	Assault with intent to commit rape	X	

s15AAA Crimes Act 1914 – Bail and Commonwealth Child Sex Offences Guide

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
QLD	Criminal Code (Qld)	352	Sexual assaults	X	
Cth	Customs Act 1901 (Cth)	233BAB	Special offence relating to tier 2 goods (if the offence involves child pornography or child abuse material)	X	QLD
Cth	Criminal Code (Cth)	270.6	Sexual servitude offences	X	QLD
Cth	Criminal Code (Cth)	270.7	Deceptive recruiting for labour or services, where the person against whom the offence is committed is a child	X	QLD
Cth	Criminal Code (Cth)	271.4	Trafficking in children		QLD
Cth	Criminal Code (Cth)	271.7	Domestic trafficking in children		QLD
Cth	Crimes Act 1914 (Cth)	50BA	Sexual intercourse with child under 16		WA
Cth	Crimes Act 1914 (Cth)	50BB	Inducing child under 16 to be involved in sexual intercourse		WA
Cth	Crimes Act 1914 (Cth)	50BC	Sexual conduct involving child under 16		WA
Cth	Crimes Act 1914 (Cth)	50BD	Inducing child under 16 to be involved in sexual conduct		WA
Cth	Crimes Act 1914 (Cth)	50DA	Benefiting from offence against Part IIIA		WA
Cth	Crimes Act 1914 (Cth)	50DB	Encouraging offence against Part IIIA		WA
Cth	Customs Act 1901 (Cth)	233BAB	Special offences relating to tier 2 goods (if the offence involves items of child pornography or of child abuse material)		WA
WA	Criminal Code Act 1913 (WA)	186	Occupier or owner allowing child to be on premises for unlawful carnal knowledge	X	
WA	Criminal Code Act 1913 (WA)	187	Facilitating sexual offences against children outside Western Australia		
WA	Criminal Code Act 1913 (WA)	204A	Showing offensive material to child under 16		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
WA	Criminal Code Act 1913 (WA)	204B(2)	Using electronic communication to procure, or to expose to indecent matter, a child under 16		
WA	Criminal Code Act 1913 (WA)	204B(3)	Using electronic communication to procure, or to expose to indecent matter, a child under 13		
WA	Criminal Code Act 1913 (WA)	217	Involving child in child exploitation		
WA	Criminal Code Act 1913 (WA)	218	Production of child exploitation material		
WA	Criminal Code Act 1913 (WA)	219	Distribution of child exploitation material		
WA	Criminal Code Act 1913 (WA)	220	Possession of child exploitation material		
WA	Criminal Code Act 1913 (WA)	279	Murder (if the person against whom the offence is committed is a child)	X	
WA	Criminal Code Act 1913 (WA)	320, except 320(6)	Sexual offences against child under 13		
WA	Criminal Code Act 1913 (WA)	320(6)	Indecently recording child under 13		
WA	Criminal Code Act 1913 (WA)	321, except 321(6)	Sexual offences against child of or over 13 and under 16		
WA	Criminal Code Act 1913 (WA)	321(6)	Indecently recording child of or over 13 and under 16		
WA	Criminal Code Act 1913 (WA)	321A	Persistent sexual conduct with child under 16		
WA	Criminal Code Act 1913 (WA)	322, except 322(6)	Sexual offences against child of or over 16 by person in authority etc.		
WA	Criminal Code Act 1913 (WA)	322(6)	Indecently recording child of or over 16 by person in authority etc.		
WA	Criminal Code Act 1913 (WA)	323	Indecent assault (if the person against whom the offence is committed is a child)	X	
WA	Criminal Code Act 1913 (WA)	324	Aggravated indecent assault (if the person against whom the offence is committed is a child)	X	

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
WA	Criminal Code Act 1913 (WA)	325	Sexual penetration without consent (if the person against whom the offence is committed is a child)	X	
WA	Criminal Code Act 1913 (WA)	326	Aggravated sexual penetration without consent (if the person against whom the offence is committed is a child)	X	
WA	Criminal Code Act 1913 (WA)	327	Sexual coercion (if the person against whom the offence is committed is a child)	X	
WA	Criminal Code Act 1913 (WA)	328	Aggravated sexual coercion (if the person against whom the offence is committed is a child)	X	
WA	Criminal Code Act 1913 (WA)	329, except 329(8)	Sexual offences by relatives and the like	X	
WA	Criminal Code Act 1913 (WA)	330	Sexual offences against incapable person	X	
WA	Criminal Code Act 1913 (WA)	331B	Sexual servitude (if the person against whom the offence is committed is a child)	X	
WA	Criminal Code Act 1913 (WA)	331C	Conducting business involving sexual servitude (if the person against whom the offence is committed is a child)	X	
WA	Criminal Code Act 1913 (WA)	331D	Deceptive recruiting for commercial sexual services (if the person against whom the offence is committed is a child)	XX	
WA	Criminal Code Act 1913 (WA)	332	Kidnapping (if the person against whom the offence is committed is a child who is neither a de facto child nor lineal relative, as defined in <i>The Criminal Code</i> section 329(1), of the offender)	X	
WA	Criminal Code Act 1913 (WA)	343	Child stealing (if the child against whom the offence is committed is neither a de facto child nor lineal relative, as defined in <i>The Criminal Code</i> section 329(1), of the offender)	X	
WA	Criminal Code Act 1913 (WA)	557K(4)	Deceptive recruiting for commercial sexual services (if the person against whom the offence is committed is a child)	X	

s15AAA Crimes Act 1914 – Bail and Commonwealth Child Sex Offences Guide

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
WA	Criminal Code Act 1913 (WA)	557K(6)	Child sex offender being in or near a place where children are regularly present		
WA	Prostitution Act 2000 (WA)	16	Causing, permitting or seeking to induce child to act as prostitute		
WA	Prostitution Act 2000 (WA)	17	Obtaining payment for prostitution by a child		
WA	Classification (Publications, Films and Computer Games) Enforcement Act 1996 (WA)	60	Child pornography		
WA	Classification (Publications, Films and Computer Games) Enforcement Act 1996 (WA)	101	Objectionable material offences (if the objectionable material is child pornography)		
WA	Children and Community Services Act 2004 (WA)	192	Children not to be employed to perform in indecent manner etc		
Cth	Criminal Code (Cth)	271.4	Trafficking in children		WA
Cth	Criminal Code (Cth)	271.7	Domestic trafficking in children		WA
Cth	Criminal Code (Cth)	273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia		WA
Cth	Criminal Code (Cth)	471.16	Using a carriage service for child pornography material		WA
Cth	Criminal Code (Cth)	471.17	Possess, control, produce, supply or obtain child pornography material for use through postal service		WA
Cth	Criminal Code (Cth)	474.19	Using a carriage service for child pornography material		WA

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
Cth	Criminal Code (Cth)	474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service		WA
SA	Criminal Law Consolidation Act 1935 (SA)	11	Murder, if the offence arises from the same incident as a sexual offence	X	
SA	Criminal Law Consolidation Act 1935 (SA)	13	Manslaughter, where the victim is a child and arises from same incident as a sexual offence	X	
SA	Criminal Law Consolidation Act 1935 (SA)	29(1)	Endangering the life of a person, if the offence arises from the same incident as a sexual offence	X	
SA	Criminal Law Consolidation Act 1935 (SA)	29(2)	Creating risk of serious harm to a person, where the victim is a child and arises from same incident as a sexual offence	X	
SA	Criminal Law Consolidation Act 1935 (SA)	39	Kidnapping, if done with the intention of committing a sexual offence against a child	X	
SA	Criminal Law Consolidation Act 1935 (SA)	48	Rape		
SA	Criminal Law Consolidation Act 1935 (SA)	48A	Compelled sexual manipulation	X	
SA	Criminal Law Consolidation Act 1935 (SA)	49	Unlawful sexual intercourse	X	
SA	Criminal Law Consolidation Act 1935 (SA)	50	Persistent sexual abuse of a child	X	
SA	Criminal Law Consolidation Act 1935 (SA)	51	Sexual exploitation of person with a cognitive impairment	X	
SA	Criminal Law Consolidation Act 1935 (SA)	56	Indecent assault	X	
SA	Criminal Law Consolidation Act 1935 (SA)	58	Gross indecency	X	

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
SA	Criminal Law Consolidation Act 1935 (SA)	59	Abduction	X	
SA	Criminal Law Consolidation Act 1935 (SA)	60	Procuring sexual intercourse	X	
SA	Criminal Law Consolidation Act 1935 (SA)	63	Production or dissemination of child exploitation material		
SA	Criminal Law Consolidation Act 1935 (SA)	63A	Possession of child exploitation material		
SA	Criminal Law Consolidation Act 1935 (SA)	63AB(1)	Offences relating to websites		
SA	Criminal Law Consolidation Act 1935 (SA)	63AB(5)	Offences relating to websites		
SA	Criminal Law Consolidation Act 1935 (SA)	63AB(7)	Offences relating to websites		
SA	Criminal Law Consolidation Act 1935 (SA)	63B(1)	Procuring child to commit an indecent act		
SA	Criminal Law Consolidation Act 1935 (SA)	63B(3)	Procuring child to commit an indecent act		
SA	Criminal Law Consolidation Act 1935 (SA)	66(1)	Inflicting sexual servitude	X	
SA	Criminal Law Consolidation Act 1935 (SA)	66(2)	Unduly influencing a person to provide commercial sexual services	X	
SA	Criminal Law Consolidation Act 1935 (SA)	67	Deceptive recruiting for commercial sexual services	X	
SA	Criminal Law Consolidation Act 1935 (SA)	68(1)	Use of a child in commercial sexual services		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
SA	Criminal Law Consolidation Act 1935 (SA)	68(2)	Use of children in commercial sexual services		
SA	Criminal Law Consolidation Act 1935 (SA)	68(3)	Use of children in commercial sexual services		
SA	Criminal Law Consolidation Act 1935 (SA)	69	Bestiality	X	
SA	Criminal Law Consolidation Act 1935 (SA)	72	Incest, if the person with whom the offender had sexual intercourse was under the age of 17 years	X	
SA	Criminal Law Consolidation Act 1935 (SA)	207B	Assault with intent, if intention is to commit a class 1 or class 2 offence	X	
SA	Criminal Law Consolidation Act 1876 (SA)	60	Rape – where the victim was a child	X	
SA	Criminal Law Consolidation Act 1876 (SA)	61	Attempt to commit rape, including assault with intent to commit – where the victim was a child	X	
SA	Criminal Law Consolidation Act 1876 (SA)	62	Procure the defilement of a woman under age, being under the age of 21, by false pretences, false representations or fraudulent means – where the victim was a child	X	
SA	Criminal Law Consolidation Act 1876 (SA)	63	Carnal knowledge of a girl under the age of 12		
SA	Criminal Law Consolidation Act 1876 (SA)	64	Attempt carnal knowledge of a girl under the age of 12, including assault with intent to commit		
SA	Criminal Law Consolidation Act 1876 (SA)	65	Carnal knowledge of a girl between 12 and 13		
SA	Criminal Law Consolidation Act 1876 (SA)	66	Indecent assault – where the victim was a child		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
SA	Criminal Law Consolidation Act 1876 (SA)	67	Child under 12 incapable of consent		
SA	Criminal Law Consolidation Act 1876 (SA)	68	Abduction of a woman against her will, from motives of lucre – where the victim was a child	X	
SA	Criminal Law Consolidation Act 1876 (SA)	69	Forcible abduction of any woman with intent to marry her – where the victim was a child	X	
SA	Criminal Law Consolidation Act 1876 (SA)	70(2)	Abduction of a girl under 16- where the victim was a child		
SA	Criminal Law Consolidation Act 1876 (SA)	71	Sodomy and bestiality – where the victim was a child	X	
SA	Criminal Law Consolidation Act 1876 (SA)	72	Attempt to commit sodomy or bestiality – where the victim was a child	X	
SA	Criminal Law Consolidation Act 1876 (SA)	74	Incest –where the victim was a child	X	
SA	Sentencing Act (SA)	53(1)(c)	Use of a child in commercial sexual services		
SA	Sentencing Act (SA)	57	Indictable offence against a child that results in the person being sentenced as an offender incapable of controlling, or unwilling to control, sexual instincts		
SA	Child Offenders Registration Act 2006 (SA)		Attempt to commit class 1 or class 2 offence		
SA	Child Offenders Registration Act 2006 (SA)		Aiding, abetting, counselling or procuring the commission of class 1 or class 2 offence		
SA	Child Offenders Registration Act 2006 (SA) – Crimes Act 1914 (Cth)		Offence against a law of the Commonwealth previously in force that corresponds to an offence referred to		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
Cth	Customs Act 1901 (Cth)	233BAB	Import / Export relating to tier 2 goods (if the offence consists of or includes items of child pornography)		SA
Cth	Criminal Code (Cth)	270.6	Sexual servitude offences		SA
Cth	Criminal Code (Cth)	270.7	Deceptive recruiting for labour or services, where the person against whom the offence is committed is a child		SA
Cth	Criminal Code (Cth)	271.4	Trafficking in children		SA
Cth	Criminal Code (Cth)	271.7	Domestic trafficking in children		SA
Cth	Criminal Code (Cth)	273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia		SA
Cth	Criminal Code (Cth)	471.16	Using a postal or similar service for child pornography material		SA
Cth	Criminal Code (Cth)	471.17	Possess, control, produce, supply or obtain child pornography material for use through postal service		SA
Cth	Criminal Code (Cth)	474.19	Using a carriage service for child pornography material		SA
Cth	Criminal Code (Cth)	474.20	Possessing, controlling, producing, distributing or obtaining child pornography material for use through a carriage service		SA
TAS	Classification (Publications, Films and Computer Games) Enforcement act 1995 (Tas)	72A	Making or reproducing child exploitation material, causing or permitting child exploitation material to be made or being in any way involved in the making or reproduction of child exploitation material		
TAS	Classification (Publications, Films and Computer Games) Enforcement act 1995 (Tas)	73	Procuring, or inviting or attempting to procure, child to be involved in making child exploitation material		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
TAS	Classification (Publications, Films and Computer Games) Enforcement act 1995 (Tas)	73A	Distributing child exploitation material or facilitating the distribution of child exploitation material		
TAS	Classification (Publications, Films and Computer Games) Enforcement act 1995 (Tas)	74A	Possessing, accessing or attempting to access child exploitation material		
TAS	Police Offences Act 1935 (Tas)	7A	Loitering near children	X	
TAS	Police Offences Act 1935 (Tas)	8(1A)(a)	Exposing person	X	
TAS	Police Offences Act 1935 (Tas)	13A	Observation or recording in breach of privacy	X	
TAS	Police Offences Act 1935 (Tas)	13B	Publishing or distributing prohibited visual recording	X	
TAS	Police Offences Act 1935 (Tas)	13C	Possession of prohibited visual recording	X	
TAS	Police Offences Act 1935 (Tas)	21	Indecent or offensive behaviour	X	
TAS	Police Offences Act 1935 (Tas)	35(3)	Assaulting with indecent intent	X	
TAS	Sex Industries Offences Act 2005 (Tas)	7(1)(a)	Intimidating, assaulting or threatening to assault a sex worker		
TAS	Sex Industries Offences Act 2005 (Tas)	7(1)(d)	Administering to a sex worker, or causing a sex worker to take, any drug or other substance with the intent to stupefy or overpower that sex worker		
TAS	Sex Industries Offences Act 2005 (Tas)	7(2)	Intimidating, assaulting or threatening to assault person or threatening to cause person to be deported for purpose of inducing provision or continued provision of – (a) sexual services in a sexual services business; or		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
			(b) fee or reward derived from provision of sexual services in a sexual services business		
TAS	Sex Industries Offences Act 2005 (Tas)	9(1)	Procuring or otherwise causing or permitting a child to provide sexual services in a sexual services business		
TAS	Sex Industries Offences Act 2005 (Tas)	9(2)	Receiving a fee or reward from sexual services provided by a child in a sexual services business		
TAS	Public Offences Act 1935	7A	Loitering near Children		
TAS	Criminal Code (Tas)	122	Unnatural crimes		
TAS	Criminal Code (Tas)	124	Sexual intercourse with a young person under the age of 17 years		
TAS	Criminal Code (Tas)	125	Permitting unlawful sexual intercourse with a young person on premises		
TAS	Criminal Code (Tas)	125A	Maintaining sexual relationship with young person under the age of 17 years		
TAS	Criminal Code (Tas)	125B	Indecent act with or directed at young person under the age of 17 years		
TAS	Criminal Code (Tas)	125C(2)	Procuring unlawful sexual intercourse with young person		
TAS	Criminal Code (Tas)	125C(3)	Procuring indecent act by, or with, young person		
TAS	Criminal Code (Tas)	125D(1)	Communicating with intent to procure a person under the age of 17 years to engage in an unlawful sexual act		
TAS	Criminal Code (Tas)	125D(3)	Making a communication with intention of exposing a person under the age of 17 years to indecent material		
TAS	Criminal Code (Tas)	126	Sexual intercourse with person with mental impairment	X	
TAS	Criminal Code (Tas)	127(1)	Indecent assault	X	

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
TAS	Criminal Code (Tas)	127A(1)	Aggravated sexual assault (if the person against whom the offence is committed is a child)		
TAS	Criminal Code (Tas)	130	Involving a person under the age of 18 years in the production of child exploitation material		
TAS	Criminal Code (Tas)	130A	Producing child exploitation material		
TAS	Criminal Code (Tas)	130B(1)	Distributing child exploitation material		
TAS	Criminal Code (Tas)	130C	Possessing child exploitation material		
TAS	Criminal Code (Tas)	130D	Accessing child exploitation material		
TAS	Criminal Code (Tas)	133(1)	Incest (if the person against whom the offence is committed is a child)		
TAS	Criminal Code (Tas)	137	Indecency	X	
TAS	Criminal Code (Tas)	138	Exhibiting obscene matter	X	
TAS	Criminal Code (Tas)	139(b)	Interfering (indirectly) with human remains	X	
TAS	Criminal Code (Tas)	169	Administering a drug with intent to facilitate the commission of an offence		
TAS	Criminal Code (Tas)	185	Rape	X	
TAS	Criminal Code (Tas)	186(1)	Forcible abduction	X	
TAS	Criminal Code (Tas)	189	Abduction of a young person under the age of 17 years		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
TAS	Criminal Code (Tas)	191(1)	Abduction of a child		
TAS	Criminal Code (Tas)	191A(a)	Kidnapping	X	
TAS	Criminal Code (Tas)	191(2)	Harbouring an abducted child		
TAS	Criminal Code (Tas)	192(1)	Stalking and bullying (if the person against whom the offence is committed is a child)		
CTH	Customs Act 1901 (Cth)	233BAB	Special Offences relating to tier 2 goods (if the offence involves child pornography or child exploitation material)		TAS
CTH	Criminal Code (Cth)	273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside of Australia.		TAS
CTH	Criminal Code (Cth)	471.16	Using a postal or similar service for child pornography material.		TAS
CTH	Criminal Code (Cth)	471.17	Possessing, controlling, producing, supplying or obtaining child pornography material or use through postal or similar service.		TAS
CTH	Criminal Code (Cth)	474.19	Using a carriage service for child pornography material		TAS
CTH	Criminal Code (Cth)	474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service.		TAS
Cth	Crimes Act 1914 (Cth)	50BA	Sexual intercourse with child under 16 years		NT
Cth	Crimes Act 1914 (Cth)	50BB	Inducing child under 16 years to engage in sexual intercourse		NT
Cth	Crimes Act 1914 (Cth)	50BC	Sexual conduct involving child under 16 years		NT
Cth	Crimes Act 1914 (Cth)	50BD	Inducing child under 16 years to be involved in sexual conduct		NT

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
Cth	Crimes Act 1914 (Cth)	50DA	Benefiting from offence and encouraging offence, respectively		NT
NT	Prostitution Regulation Act 1992 (NT)	13	Causing or inducing infant to take part in prostitution		
NT	Prostitution Regulation Act 1992 (NT)	14	Allowing infant to take part in prostitution		
NT	Prostitution Regulation Act 1992 (NT)	15	Obtaining payment in respect of prostitution services provided by infant		
NT	Prostitution Regulation Act 1992 (NT)	16	Entering into agreement for provision of prostitution services by infant		
NT	Criminal Law Consolidation Act 1876 (SA)	60	Rape – where the victim was a child		
NT	Criminal Law Consolidation Act 1876 (SA)	61	Attempt to commit rape, including assault with intent to commit – where the victim was a child		
NT	Criminal Law Consolidation Act 1876 (SA)	62	Procure the defilement of a woman under age, being under the age of 21, by false pretences, false representations or fraudulent means – where the victim was a child		
NT	Criminal Law Consolidation Act 1876 (SA)	63	Carnal knowledge of a girl under the age of 12		
NT	Criminal Law Consolidation Act 1876 (SA)	64	Attempt carnal knowledge of a girl under the age of 12, including assault with intent to commit		
NT	Criminal Law Consolidation Act 1876 (SA)	65	Carnal knowledge of a girl between 12 and 13		
NT	Criminal Law Consolidation Act 1876 (SA)	66	Indecent assault – where the victim was a child		
NT	Criminal Law Consolidation Act 1876 (SA)	67	Child under 12 incapable of consent		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
NT	Criminal Law Consolidation Act 1876 (SA)	68	Abduction of a woman against her will, from motives of lucre – where the victim was a child		
NT	Criminal Law Consolidation Act 1876 (SA)	69	Forcible abduction of any woman with intent to marry her – where the victim was a child		
NT	Criminal Law Consolidation Act 1876 (SA)	70(2)	Abduction of a girl under 16- where the victim was a child		
NT	Criminal Law Consolidation Act 1876 (SA)	71	Sodomy and bestiality – where the victim was a child		
NT	Criminal Law Consolidation Act 1876 (SA)	72	Attempt to commit sodomy or bestiality – where the victim was a child		
NT	Criminal Law Consolidation Act 1876 (SA)	74	Incest –where the victim was a child		
NT	Criminal Code (NT)	125B	Possession of child pornography and certain indecent articles		
NT	Criminal Code (NT)	125C	Publishing indecent articles – where the article is indecent because it portrays a child who is under, or who looks like he or she is under, the age of 16 years		
NT	Criminal Code (NT)	125E	Using child for production of child abuse material or pornographic or abusive performance		
NT	Criminal Code (NT)	127	Sexual intercourse or gross indecency involving child under 16 years		
NT	Criminal Code (NT)	128	Sexual intercourse or gross indecency involving child over 16 years under special care		
NT	Criminal Code (NT)	130	Sexual intercourse or gross indecency by provider of services to mentally ill or handicapped person – where the victim is a child		
NT	Criminal Code (NT)	131	Attempts to procure child under 16 years		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
NT	Criminal Code (NT)	131A	Sexual relationship with a child		
NT	Criminal Code (NT)	132	Indecent dealing with child under 16 years		
NT	Criminal Code (NT)	134(2)	Incest where the close family member is a child over the age of 10 years and under the age of 16		
NT	Criminal Code (NT)	134(3)	Incest where the close family member is a child under the age of 10 years		
NT	Criminal Code (NT)	156	Murder, where the victim is a child	X	
NT	Criminal Code (NT)	160	Manslaughter, where the victim is a child	X	
NT	Criminal Code (NT)	188(1)	Indecent assault - in the circumstances referred to in subsection (2)(k) of that section (indecent assault) – where the victim is a child	X	
NT	Criminal Code (NT)	192	Sexual intercourse and gross indecency without consent – where the victim is a child	X	
NT	Criminal Code (NT)	192B	Coerced sexual self-manipulation – where the victim is a child	X	
NT	Criminal Code (NT)	193	Assaults with intent to commit an offence – where the intent is to commit a reportable offence	X	
NT	Criminal Code (NT)	201	Abduction, enticement or detention of child under 16 years for immoral purpose		
NT	Criminal Code (NT)	202B(2)	Sexual servitude – where the victim is a child	X	
NT	Criminal Code (NT)	202C(2)	Conducting business involving sexual servitude- where the victim is a child	X	
NT	Criminal Code (NT)	202D(2)	Deceptive recruiting for sexual services – where the victim is a child	X	
NT	Criminal Code (NT)	271.4(1)	Trafficking in children to provide sexual services		

s15AAA Crimes Act 1914 – Bail and Commonwealth Child Sex Offences Guide

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
CTH	Criminal Code (NT)	271.4 (2)	Trafficking in children to provide sexual services		NT
CTH	Criminal Code (NT)	271.7	Domestic trafficking in children to provide sexual services		NT
CTH	Criminal Code (NT)	474.19	Using a carriage service for child pornography material		NT
CTH	Criminal Code (NT)	474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service		NT
ACT	Crimes Act 1900 (ACT)	12	Murder where the person murdered is a child and the person committed the murder in the course of, or immediately after, the commission or attempted commission by the person (or an accomplice of the person) of a class 1 or class 2 offence against the child	X	
ACT	Crimes Act 1900 (ACT)	51(1)	Sexual assault in the first degree where the third person or other person who is present nearby (as mentioned in the section) is a child	X	
ACT	Crimes Act 1900 (ACT)	51(2)	Sexual assault in the first degree where the third person or other person who is present nearby (as mentioned in the section) is a child	X	
ACT	Crimes Act 1900 (ACT)	52(1)	Sexual assault in the second degree where the other person or third person (as mentioned in the section) is a child	X	
ACT	Crimes Act 1900 (ACT)	52(2)	Sexual assault in the second degree where the other person or third person (as mentioned in the section) is a child	X	
ACT	Crimes Act 1900 (ACT)	53(1)	Sexual assault in the third degree where the other person or third person (as mentioned in the section) is a child	X	
ACT	Crimes Act 1900 (ACT)	53(2)	Sexual assault in the third degree where the third person or other person who is present nearby (as mentioned in the section) is a child	X	
ACT	Crimes Act 1900 (ACT)	55(1)	Sexual intercourse with a young person.		

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
ACT	Crimes Act 1900 (ACT)	55(2)	Sexual intercourse with a young person.		
ACT	Crimes Act 1900 (ACT)	55A(1)	Sexual intercourse with young person under special care		
ACT	Crimes Act 1900 (ACT)	56(2)	Maintaining sexual relationship with young person or person under special care		
ACT	Crimes Act 1900 (ACT)	57	Act of indecency in the first degree where the other person or third person (as mentioned in the section) is a child		
ACT	Crimes Act 1900 (ACT)	58	Act of indecency in the second degree where the other person or third person (as mentioned in that section) is a child.		
ACT	Crimes Act 1900 (ACT)	59	Act of indecency in the third degree where the other person or the third person (as mentioned in that section) is a child		
ACT	Crimes Act 1900 (ACT)	61(1)	Act of indecency with young person		
ACT	Crimes Act 1900 (ACT)	61(2)	Act of indecency with young person		
ACT	Crimes Act 1900 (ACT)	61A(1)	Act of indecency with young person under special care		
ACT	Crimes Act 1900 (ACT)	63	Abduction where the other person or third person is a child, or where the (b) the person committed the abduction in the course of, or immediately after, the commission or attempted commission by the person (or an accomplice of the person) of a class 1 or class 2 offence against the child or the third person		
ACT	Crimes Act 1900 (ACT)	64(1)	Using child for production of child exploitation material		
ACT	Crimes Act 1900 (ACT)	64(3)	Using child for production of child exploitation material		
ACT	Crimes Act 1900 (ACT)	64A(1)	Trading in child exploitation material		

s15AAA Crimes Act 1914 – Bail and Commonwealth Child Sex Offences Guide

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
ACT	Crimes Act 1900 (ACT)	65(1)	Possessing child exploitation material		
ACT	Crimes Act 1900 (ACT)	66(1)	Using the internet etc to deprave young person		
ACT	Crimes Act 1900 (ACT)	66(2)	Using the internet etc to deprave young person		
ACT	Crimes Act 1900 (ACT)	66B	Course of conduct charge - child sexual offences		
ACT	Sex Work Act 1992 (Cth)	19(2)	Accosting child for commercial sexual services		
ACT	Sex Work Act 1992 (Cth)	20(1)	Causing child under 12 to provide commercial sexual services		
ACT	Sex Work Act 1992 (Cth)	20(3)	Causing child 12 or older to provide commercial sexual services		
ACT	Sex Work Act 1992 (Cth)	21(1)	Proceeds of commercial sexual services by child		
Cth	Criminal Code (Cth)	270.6(1)	Sexual servitude where the other person (as mentioned in that section) is a child		ACT
Cth	Criminal Code (Cth)	270.6(2)	Sexual servitude where the other person (as mentioned in that section) is a child		ACT
Cth	Criminal Code (Cth)	270.7(1)	Deceptive recruiting for sexual services - aggravated offence		ACT
Cth	Criminal Code (Cth)	270.8(1)	Deceptive recruiting for sexual services - aggravated offence		ACT
Cth	Criminal Code (Cth)	271.4	Trafficking in children		ACT
Cth	Criminal Code (Cth)	271.7	Domestic trafficking in children		ACT

Human Exploitation and Border Protection Practice Group

State	Legislation	Section	Offence	If Victim Under 18	Register
Cth	Criminal Code (Cth)	270.14	Procure child to engage in sexual activity outside Australia		ACT
Cth	Criminal Code (Cth)	270.15	Groom child for sexual activity outside Australia		ACT
Cth	Criminal Code (Cth)	270.20	Prepare or plan offence against section 272.8, 272.9, 272.10, 272.11 or 272.18 of the <i>Criminal Code (Cth)</i>		ACT
Cth	Criminal Code (Cth)	273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia		ACT
Cth	Criminal Code (Cth)	273.6	Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia		ACT
Cth	Criminal Code (Cth)	273.7	Aggravated offence - offence involving conduct on 3 or more occasions and 2 or more people		ACT
Cth	Criminal Code (Cth)	471.16	Using a postal or similar service for child pornography material		ACT
Cth	Criminal Code (Cth)	471.17	Possess, control, produce, supply or obtain child pornography material for use through postal service		ACT
Cth	Criminal Code (Cth)	474.19	Using a carriage service for child pornography material		ACT
Cth	Criminal Code (Cth)	474.20	Possessing, controlling, producing, distributing or obtaining child pornography material for use through a carriage service		ACT
Cth	Customs Act 1901 (Cth)	233BAB(5)	Importing tier 2 goods which are items of child exploitation material or child abuse material		ACT
Cth	Customs Act 1901 (Cth)	233BAB(6)	Exporting tier 2 goods which are items of child exploitation material or child abuse material		ACT

Explanatory Memorandum Extract

Schedule 7—Presumption against bail

Commencement: 23 June 2020, being one day after the Day of Assent.

Application: Relates to a decision made on or after commencement by a bail authority whether to grant bail to a person charged with, or convicted of, an offence (whether the person was charged with, or convicted of, the offence before, on or after the commencement).

Extracts from Explanatory Memorandum

228. This Part introduces an offence-based presumption against bail for certain Commonwealth child sex offences.

229. The criminal conduct involved in this crime type targets one of the most vulnerable groups in the community — children. While bail conditions may act as an effective deterrent to reoffending, they are only as good as the practical measures taken to enforce those conditions. The ease in using anonymising practices such as encryption and virtual private networks makes the enforcement of conditions particularly difficult where that relates to internet offending.

230. This Part only applies to offences that attract a minimum penalty as set out in Schedule 6, namely the most serious Commonwealth child sex offences and those offences where the alleged perpetrator has a previous conviction(s) for a child sex offence(s).

231. The intention of the Part is to provide that for the protection of the community, the starting point is that bail be refused for persons alleged to have committed a Commonwealth child sex offence to which the minimum penalty scheme in Schedule 6 would apply, unless circumstances exist justifying the grant of bail. The presumption against bail is rebuttable and provides judicial discretion in determining whether a person's risk on bail can be mitigated through appropriate conditions which make the granting of bail appropriate in the circumstances. Flexibility is provided by the open nature of the presumption which is not limited to specific criteria.

233. The proposed paragraph 15AAA(1)(a) applies the presumption against persons charged with, or convicted of, the most serious Commonwealth child sex offences to which mandatory minimum penalties apply (see table in the proposed section 16AAA in Schedule 6).

234. The proposed paragraph 15AAA(1)(b) applies the presumption for all offences subject to a mandatory minimum penalty on a second or subsequent offence (see proposed table under subsection 16AAB(2) in Schedule 6), that is, where the person seeking bail for such an offence has been previously convicted of a child sexual abuse offence. The definition of a child sexual abuse offence will be inserted item 1 of Schedule 14.

235. Applying this definition, the proposed paragraph 15AAA(1)(b) captures persons previously convicted of state and territory registrable child sex offences and Commonwealth child sex offences. It will also capture child sex offences which were committed under Commonwealth legislation that has since been repealed...

236. Proposed subsection 15AAA(2) will require that, in addition to any other matters, a bail authority be satisfied that circumstances exist to grant bail to a person taking into account such of the matters outlined in paragraphs 15AAA(2)(a) – (f) as are relevant and known to the bail authority.

237. In considering these matters, the bail authority will be required, as part of its assessment, to consider the bail conditions which could reasonably be imposed on the person to address those matters.

238. Proposed paragraph 15AAA(2)(a) requires that the bail authority consider whether the person would be likely to fail to appear at any proceedings for the offence if the person were granted bail.

239. Proposed paragraph 15AAA(2)(b) requires the bail authority consider whether the person would be likely to commit a further offence if the person were granted bail.

240. Proposed paragraph 15AAA(2)(c) requires the bail authority consider whether the person would likely put at risk the safety of the community or cause a person to suffer any harm if the person were granted bail.

241. Proposed paragraph 15AAA(2)(d) requires the bail authority consider whether a person would be likely to conceal, fabricate or destroy evidence or intimidate a witness if the person were granted bail.

242. Proposed paragraph 15AAA(2)(e) requires the bail authority to consider the impact a refusal of bail would have on someone who is aged under 18 years. A person who is under the age of 18 years can be severely affected by being remanded into custody and a decision to do so should be considered a matter of last resort.

243. Where a person has pleaded guilty to a charge or been convicted of the offence, proposed section 15AAA(2)(f) requires the bail authority to consider whether that person would not be likely to undertake a rehabilitation program, or not comply with any bail conditions relating to rehabilitation or treatment, while released on bail. A key aspect of preventing further offending for this crime type may be active participation in, and compliance with, rehabilitation or treatment programs.

244. The person will have the opportunity to put forward relevant information regarding the above factors and any other information to demonstrate their suitability to be released on bail. If the bail authority is satisfied by the person that the above matters can be addressed through bail conditions, and there are no other matters the bail authority deems relevant to the refusal of granting bail, the person may be released on bail.

245. Consistent with the proposed new section 15AA(3AAA), where a bail authority is a court and does grant bail, the court must state those reasons, and cause those reasons to be entered in the court's records. Given the seriousness of the offences to which the proposed new section 15AAA of the *Crimes Act* would apply, and the potential risk to the most vulnerable members of the community if bail is granted, it is important that the court be required to state its reasons for granting bail.

246. Despite any law of the Commonwealth, subsection 15AAA(4) ensures there is right of appeal for the Director of Public Prosecutions or the person against the decision of a bail authority where bail is granted or refused pursuant to subsection 15AAA(1).

247. Subsections 15AAA(5) – (7) set out how an appeal may be initiated, notification requirements for the Director of Public Prosecutions, and when a decision is stayed until appeal decision. Subsections 15AAA(5)-(8) are similar to the existing provisions relating to the presumption against bail in section 15AA of the *Crimes Act*. Subsection 15AAA(8) puts beyond doubt that subsections 15AAA(1), (4), (5), (6) and (7) override state and territory laws.

Legislation under State or Territory law establishing a child protection offender register

Regulations not included.

NSW: [Child Protection \(Offenders Registration\) Act 2000](#) (NSW)

Vic: [Sex Offenders Registration Act 2004](#) (Vic)

Qld [Child Protection \(Offender Reporting and Offender Prohibition Order\) Act 2004](#) (Qld)

SA: [Child Offenders Registration Act 2006](#) (SA)

WA: [Community Protection \(Offender Reporting\) Act 2004](#) (WA)

Tas: [Community Protection \(Offender Reporting\) Act 2005](#) (Tas)

ACT: [Crimes \(Child Sex Offenders\) Act 2005](#) (ACT)

NT: [Child Protection \(Offender Reporting and Registration\) Act 2004](#) (NT)