

# Men who rape children less likely to be jailed than those who rape adults

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Sex with a child under 12 is one of the offences targeted by the former state government's "baseline sentencing" laws, which have been ruled "incapable of being given any practical operation". *Photo: John Donegan*

Men who rape children under 12 are less likely to be jailed in Victoria, and are being jailed for less time than those convicted of raping adults.

The shocking statistics have emerged as Victoria's Sentencing Advisory Council launches an investigation into what the state's courts are taking into account when judging the seriousness of sexual offences against children.

The council is due to report to Attorney-General Martin Pakula on the sentencing of offenders convicted of the sexual penetration of a child aged under 12 in June.

Its own data shows that between July 2009 and June 2014, 72 men were convicted in Victoria of sexually penetrating a child younger than 12 (no women were convicted of the same offence in that period).

Of those men, 75 per cent were jailed. The median length of jail sentences was four years.

Almost 14 per cent received a wholly suspended jail sentence, and another 8.4 per cent were handed partially suspended sentences, community-correction orders or community-based orders. Another 2.8 per cent either received youth justice orders or had their charges discharged or dismissed.

In contrast, of the 211 Victorian men convicted of rape of adults between 2009 and 2014 (again, no women were convicted of rape in that period), 91 per cent were jailed. The median length of imprisonment was five years.

The remaining 9 per cent were given wholly or partially suspended sentences, youth justice centre orders, community correction orders, community-based orders or other punishments. None had their charges discharged or dismissed.

Both offences carry a maximum penalty of 25 years' imprisonment and/or a fine of 3000 penalty units.

Sexual penetration of a child under 12 is one of the seven serious offences targeted by the former state government's "baseline sentencing" laws, which were intended to increase jail terms for serious violence and sex offences.

Baseline sentencing, which took effect in 2014, specified prison sentences for seven nominated offences, including incest.

The law was intended to direct judges to fix sentences so that, over time, the median length of sentences given for a particular offence would match the term of imprisonment specified in the statute. For example, over a period of time the median term of imprisonment for the rape of a child under 12 would equal 10 years.

However, Victoria's highest court, the Court of Appeal, ruled in November that the laws were "incapable of being given any practical operation" as they required judges to divine what other judges might sentence offenders to.

Announcing a review of the laws, Mr Pakula said: "The current situation involving baseline sentencing provisions is clearly unworkable and requires urgent attention."

Mr Pakula directed the Sentencing Advisory Council to look into the issue and make recommendations to the government. He said the government was committed to "ensuring that sentencing laws are workable and that sentencing meets community expectations".

The council has invited the public to make submissions on the issue before January 29.

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