



MEDIA RELEASE

**Hon. John Hatzistergos MLC
Attorney General
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NEW CONSENT LAWS TO FURTHER PROTECT VICTIMS

Attorney General John Hatzistergos will today announce new proposed laws which will make it harder for people accused of sexual assault to prove the victim consented.

Mr Hatzistergos said for the first time in NSW it means there will be a legal definition for consent which will further protect the victims of sexual assault.

“Under current laws there is no requirement for verbal agreement, and consent obtained after persuasion is still consent, Mr Hatzistergos said.

“The Government’s proposal will help lesson confusion for jurors and remove the ambiguity around this difficult issue, by not merely leaving it open to the court’s interpretation.

“It will also lessen the anxiety felt by victims when consent is raised during trials,” he said.

The draft bill will define lack of consent, meaning a person does not consent to sexual intercourse if the person:

- does not have the capacity to agree to the sexual intercourse (including intoxication by drugs or alcohol)
- has the capacity but does not have the freedom to choose whether to have sexual intercourse
- has that capacity and freedom but does not agree to the sexual intercourse

The current law also allows acquittals in some cases where the accused mistakenly believes the victim had consented, even if it seems unreasonable, such as physical resistance.

The draft bill introduces an “objective fault test” which means the accused can no longer use the defence they thought they had the victims consent, if the circumstances appears unreasonable.

The Government will hold a two month consultation period on the bill which begins with the release of a discussion paper today.

In April last year the Government's Sexual Assault Taskforce released its report into how the justice system could be improved to minimise trauma for victims.

One of the most important issues was the law relating to consent.

"Studies have found that the current definition of consent is difficult and complicated for jurors to understand.

"While it's too early to say whether this measure would increase the number of convictions, defining consent in black and white ensures the courts don't transform acquiescence into consent, Mr Hatzistergos said.

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