



The Honourable Rod Welford MP



**Attorney-General
Minister for Justice**

In reply please quote: 2002/02251

Your reference:

21 JUN 2002

Ms J Strohefeldt
President
P.L.E.A.S.E.
PO Box 2899
BUNDABERG QLD 4670

Dear Ms Strohefeldt

Thank you for your two letters, each dated 12 March 2002, concerning legislation shortcomings related to runaway children.

Issues relating to the rights of the child and the parent come within the *Child Protection Act 1999*, which falls within the portfolio of the Minister for Families, the Honourable Judy Spence, MP. I have taken the liberty of forwarding copies of your letters and submission to her for her consideration and reply direct to you and for her consideration of a possible referral of these issues to the Community Services Ministers Conference (CSMC). In light of my responses below to the specific issues raised by you, I believe the CSMC to be the appropriate body to consider your concerns, as apposed to the Standing Committee of Attorneys-General.

Request to review laws relating to children in sexual relationships

~~You specifically refer to the situation where a girl under 16 years of age is in a sexual relationship but is unwilling to make a complaint to the police.~~

In order to prosecute a person with the charge of *Unlawful carnal knowledge* there must be evidence of the act of intercourse but there must also exist evidence of the identity of the offender. In your example, the pregnancy would be evidence of the fact that intercourse occurred but the pregnancy does not establish the identity of the offender. In the absence of a statement from the girl there will be no evidence establishing identity, unless it is a situation where there is a witness to the act of intercourse or where the offender has made an admission to the police. Secondhand information as to identity is called hearsay evidence and is inadmissible for obvious reasons.

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Immunity from criminal charges when parent acting in the interests of their child

In your letter you refer to a case where a mother was charged with deprivation of liberty and assault after she took her 14 year old runaway daughter to hospital for medical treatment. The matter was subsequently discontinued.

Although I can sympathise with a parent in the situation as outlined above, it would be unwise to attempt to amend legislation to provide that parents in such situations are immune from criminal charges.

From a legislative viewpoint it would not be possible to devise a rigid formula that would cover all the various circumstances that could arise. Such an approach would inevitably lead to injustices and has the potential to create a loophole for those circumstances where a parent has genuinely physically abused their child.

Thank you for bringing your concerns to my attention.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rod Welford', written in a cursive style with a large loop at the end.

Rod Welford MP