




Speech By
Corrine McMillan

MEMBER FOR MANSFIELD

Record of Proceedings, 12 February 2019

**CRIMINAL CODE (NON-CONSENSUAL SHARING OF INTIMATE IMAGES)
AMENDMENT BILL**

 **Ms McMILLAN** (Mansfield—ALP) (3.03 pm): I rise today to make my contribution to the Criminal Code (Non-consensual Sharing of Intimate Images) Amendment Bill, which is currently before the House. I make comment particularly to the insertion of new sections 223 and 229A which aim to deter the distribution of, or threat to distribute, intimate images of a person without their consent. For the purpose of these offences, it will be immaterial whether the image which is the subject of a threat exists.

These legislative amendments will address the potential gap in the Criminal Code by creating new offences to reprimand criminal behaviour not yet recognised by the law. It should be noted that the Commonwealth Criminal Code does include telecommunications offences that may apply to the non-consensual distribution of intimate images—for example, using a carriage service to menace, harass or cause offence. The criminal behaviour to which I refer is colloquially known as ‘revenge porn’. This technology facilitated abuse can be described as the sending of, or the threat to send, intimate images of a person without their consent. Sadly, some of these victims are children coerced by a peer to send these images. The non-consensual sharing of intimate images is exploitative, it is humiliating and it is an extremely damaging form of abuse. It is often carried out by an ex-partner, a controlling partner or a perpetrator of domestic violence.

The eSafety Commissioner suggests that as many as one in three children in 2016-17 have engaged in the sharing of intimate images. Currently, Queensland does not have an offence specifically directed at the non-consensual sharing of intimate images. With the implementation of this legislation, Queensland—like several other Australian states and territories—will have offences specifically prohibiting the distribution of, or threat to distribute, intimate images without consent of the person depicted.

The prosecution will not be required to prove that the person depicted in the image suffered distress as a result of the distribution. Rather, the court must be satisfied beyond a reasonable doubt that the way in which the intimate image was distributed would objectively, reasonably cause distress to the person depicted in all the circumstances. The bill provides that a child under 16 years of age is incapable of giving consent to the distribution of an intimate image to provide additional protection for vulnerable child victims.

As a past principal, my colleagues and I frequently witnessed firsthand the long-term devastating impact that revenge porn can have on our young people. This criminal behaviour can cause its victims to feel shame, worthlessness and in some cases cause the victim to harbour suicidal thoughts and tendencies. A threat to send intimate images harbours similar human responses and in fact can be worse as this threat creates extreme fear in response to the anticipation that these images could be sent. This threat is then used to coerce, control and harm a person. The non-consensual sharing of intimate images can diminish a person’s dignity and self-worth and inhibit their dreams and their life opportunities. Many young people refuse to come to school after such an event, resulting in long-term absences, a decline in student achievement, social withdrawal and isolation.

My work on the Premier's Anti-Cyberbullying Taskforce provided further evidence and reason for our government to introduce legislation to further protect both children and adults from the misuse and abuse of technology. I heard numerous accounts from people across Queensland where abuses of technology have created serious distress to not only the victim but also the victim's family and friends.

In an age where access to technology is abundant and evolving, it is imperative that we create legislative safeguards to protect all Queenslanders. The fact that our current laws fail to recognise the damage and hurt suffered by some of the victims of this revenge is completely unjust. The Palaszczuk government considers the creation of new offences a prerequisite to address and deter such repetitive and destructive behaviour.

As rightly stated by my learned colleague the Attorney-General and member for Redcliffe, this legislative reform, among many others, intends to send a very clear message to perpetrators that sharing, sending or threatening to share an intimate image of another person without their consent is unacceptable and justifies serious consequences—namely, a maximum penalty of three years imprisonment. The act of revenge porn is not only abhorrent but also criminal, and our legislation should reflect this. While dealing with this issue requires a multifaceted approach including civil remedies, education and awareness-raising schemes and the assistance of the community sector, comprehensive criminal laws in this area are an essential component to ensure offenders are held accountable and to reflect community condemnation for such activity.

This is yet another 2017 Palaszczuk government election commitment before the House today which will encourage and support Queenslanders to think about the decisions that they make and the consequences that these decisions have on the health and wellbeing of others. Further, I feel professional comfort knowing that our young people have greater legislative protection should they find themselves to be victims of this callous disregard, and perhaps one fewer child will suffer such humiliation as a result of this legislation. I commend this bill to the House.