




Speech By  
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**MEMBER FOR NINDERRY**

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

 **Mr PURDIE** (Ninderry—LNP) (4.22 pm): I rise this afternoon to speak on the Criminal Code (Non-consensual Sharing of Intimate Images) Amendment Bill which was introduced by the Attorney-General back in August last year. The objective of the bill is to create a new offence related to non-consensual sharing of intimate images that would apply to sending or threatening to send intimate material without the person's consent. The bill specifically amends the Criminal Code to introduce new offences and to provide new powers to the court targeting the non-consensual distribution of intimate images.

The Legal Affairs and Community Safety Committee tabled its report on 5 October 2018 recommending the bill be passed, but I note that during the committee process some stakeholders did raise legitimate concerns about sections of the bill. Notably, there were a significant number of stakeholders who raised concerns around the definition of consent. The bill seeks to create a new offence to protect vulnerable people from the distribution or threats of sharing intimate images or recordings without a person's consent. Consent is defined in the bill to mean consent freely and voluntarily given by a person with a cognitive capacity to give the consent.

As a former detective with the Queensland Police Service's Child Protection and Investigation Unit, the section of this bill that I would like to focus on is that involving children. The bill extends protections to children under the age of 16 by expressly recognising that children under the age of 16 cannot consent.

Some stakeholders were concerned about the impact the proposed offence may have on children, with some rightly expressing support for alternatives other than prosecution. The Queensland Family and Child Commission noted that there are some concerns that the bill may criminalise a large cohort of children under 16 who share intimate images in circumstances which should not be treated through a criminal response.

Not only as a former CPIU detective, but as a father of two young girls, I am deeply concerned about the number of vulnerable young people who share intimate images of themselves. This is most often done in the privacy of their own bedrooms on a smart phone or tablet while their busy parents are outside thinking their child is diligently attending to their homework. These vulnerable young kids underestimate the hurt, the damage and the potential embarrassment they are subjecting themselves to. If these images find their way into the wrong hands, as they often do, they can result in terrible consequences.

When investigating a youth suicide on the Sunshine Coast a few years back, I was asked by the coroner to investigate any surrounding, potential online cyberbullying that may have contributed to the death. During my research in compiling this report for the coroner, I became familiar with the story of Amanda Todd. I am sure a lot of members might recall this tragic story. Amanda Todd was a 15-year-old Canadian girl who was a victim of cyberbullying and committed suicide.

Before her death, Todd posted a video on YouTube in which she used a series of flash cards to tell of her experience of being blackmailed into exposing herself via webcam. The offender later blackmailed her by threatening to give the photographs to her friends unless she gave him more photos. The flash card video went viral after her death, resulting in international media attention. Regardless of tragic examples like these, unfortunately, the sharing of intimate images between teenagers—commonly known as sexting—is occurring in epidemic proportions.

As we have heard other members highlight this afternoon, an RMIT University study conducted online surveyed over 4,000 participants. This, along with the results of a 2017 online survey by the Commonwealth Office of the eSafety Commissioner and a 2018 Triple J survey of over 10,000 Australians, reveals just how broad this problem is. It is reported that one in three kids have shared intimate images online.

From my own experience during a drug investigation at a large high school on the Sunshine Coast, not long before I left the CPIU, we had cause to seize and lawfully examine a number of mobile phones belonging to some high school students who were suspects in the drug supply investigation. I was gobsmacked to find that these phones were full of intimate images of young students at the school. I am not talking about a handful of kids or a small cohort of kids; I am talking about dozens and dozens of kids from that school and surrounding local schools who had taken and shared these images. It is an area that police have struggled to manage for some time.

Currently, essentially, every child who takes and sends an intimate sexual image is committing a serious offence under section 228 of the Criminal Code of possessing, producing and/or distributing child exploitation material. This is a serious offence that not only attracts a maximum sentence of 14 years imprisonment, but can also result in the offender being classified as a reportable child sex offender. I note this new legislation has a maximum sentence of three years.

When investigating CEM, child exploitation material, offences, particularly between consenting teenagers, police often rightly and most commonly use options available under the Youth Justice Act to caution these kids and to divert them away from the court system. As touched on earlier, an issue I have with this bill is that any child under the age of 16 is incapable of giving consent which would result in every sexting exchange essentially becoming a criminal offence.

Education is by far the best option. I note the committee has recommended that the Queensland Police Service be responsible for education around this issue and this new legislation. The Queensland Police Service, particularly the CPIU, who I can tell members now will be the ones left responsible for the rollout of this education, are already stretched past breaking point. The sexting epidemic occurring in our schools and communities at the moment is a whole-of-community issue—an issue for parents and schools as much as it is for the Queensland Police Service.

Another major issue with this bill from an investigative perspective relates to the difficulty of prosecuting people who anonymously upload prohibited images or recordings. This may include instances where someone uploads material from a device that has particular anonymous qualities to it such as a phone with a prepaid SIM card. This circumstance may result in the prosecution being unable to prove who the offender is.

Similarly, there are concerns about the practicality of the bill and whether it will have application to offenders who live outside Queensland. If an offender lives interstate or overseas, they will be subject to any offence in that jurisdiction. While victims may make a request to the eSafety Commissioner, there are limitations attached to this process.

In conclusion, there is a need for this law to keep pace with rapidly changing technology and how that interfaces with social behaviours. While there are concerns about unintended consequences from the operation of these new laws, I agree that they are necessary and I will not be opposing this bill.