




Speech By  
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MEMBER FOR TOOHEY

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

 **Mr RUSSO** (Toohey—ALP) (12.42 pm): I rise today in the House to support the passing of the Criminal Code (Non-consensual Sharing of Intimate Images) Amendment Bill. This bill will correct serious breaches of a person's personal privacy. In May 2017 the then law, crime and community safety council agreed to non-binding best practice principles for offences criminalising the non-consensual sharing of intimate images. A number of Australian jurisdictions have introduced specific offences that criminalise the non-consensual distribution or threatened distribution of images. At the time of the introduction of this bill Queensland did not have an offence specifically directed at the non-consensual sharing of intimate images. There were, however, a number of existing offences under the Criminal Code which may apply, depending upon the specific circumstances of the individual case. Notwithstanding the availability of these offences, a potential gap existed that will be filled by these amendments.

Whilst the bill is specific to the state of Queensland, the introduction and impending passage of this legislation today will align Queensland with the majority of other Australian jurisdictions that have specific provisions targeting the non-consensual distribution of intimate images or threats to distribute such images. In addition, New South Wales, the Australian Capital Territory and the Northern Territory have legislative provisions that allow a sentencing court to order the removal or retraction of relevant images upon conviction.

As outlined in the Attorney-General's introductory speech, the amendments in the bill fulfil the government's election commitment to create a new offence relating to the non-consensual sharing of intimate images which would apply to sending or threatening to send the intimate material without consent. As the Attorney-General outlined in her introductory speech, this is about sending a very clear message to those people who think that sharing or threatening to share an intimate image of another person without their consent is acceptable. Once the legislation is passed it will send a clear message to those who choose to engage in this type of damaging behaviour that they will face serious consequences.

Whilst the electronic age has brought with it many advantages, it has also ushered in a new era where a person's details and activities, once uploaded onto the World Wide Web, are often there for life, affecting the person's reputation, exposing them to ridicule and making it difficult to find meaningful employment. This sometimes occurs when people have uploaded personal information and images themselves. Sometimes, as some NRL players have found out the hard way when their mates have uploaded images of unsavoury behaviour, they have found successful NRL careers ruined or put on hold. Some politicians have also fallen foul of the new electronic age. Some of these examples include consensual behaviour between adults.

What we are talking about today has often been referred to as 'revenge porn'. When relationships break down, one of the unforeseen consequences for some people is that a partner who feels aggrieved may behave poorly and take revenge by posting images that at one time were personal to the

relationship but which are now used to cause personal hurt and unnecessary harm to a person's reputation. This type of behaviour is never accepted by any clear-thinking adult, but with the passing of this legislation today the power imbalance that can sometimes occur when relationships break down is addressed with a clear mechanism to address the offending behaviour.

As the Attorney-General outlined in her introductory speech on the introduction of this legislation, the non-consensual sharing of intimate images covers a broad range of horrendous behaviour that causes humiliation and distress to victims. It is a form of cyberbullying and technologically facilitated abuse. In some instances it is domestic violence—the power imbalance that I was talking about earlier in my address to this House on this important piece of groundbreaking legislation. As the Attorney-General went on to state in her introductory speech on the legislation, this type of behaviour often represents a heartbreaking abuse of trust, as these intimate images are in many instances taken and shared as part of the most intimate personal relationships.

As a form of abuse, the distribution of intimate images without consent goes beyond the breakdown of the relationship. It is used as a weapon to cause hurt, humiliate, coerce and intimidate a victim and in countless other contexts. Perpetrators of this type of abuse are not always malicious. Intimate images can be shared non-consensually for the amusement or titillation of the distributor and their audience, but this is often done with callous disregard for the impact on the person depicted.

The impact on the victim of the non-consensual distribution of an intimate image can be devastating. Some of the most damaging consequences can be caused before an image is even shared. Threats to distribute intimate images without consent can cause untold fear and anxiety. Some of the cruellest incidents are where these threats are used to control or coerce the threatened person. This type of abuse can affect anyone, but unfortunately it would most appear to affect the disadvantaged and young in the community.

The Legal Affairs and Community Safety Committee handed down its report into the Criminal Code (Non-consensual Sharing of Intimate Images) Amendment Bill in October 2018. I will now deal with some aspects of the report that I feel are important to highlight to the House. I take this opportunity to thank my fellow committee members, Parliamentary Service staff and the Department of Justice and Attorney-General for their assistance throughout the committee's inquiry into the bill. I also thank anyone who provided a written submission to the committee and persons who took the time to attend the committee's hearings. Their contribution is very important to the process of government.

I refer to the RMIT report by Nicola Henry, Anastasia Powell and Asher Flynn titled *Not just 'revenge pornography': Australians' experiences of image-based abuse—a summary report*. In relation to image based abuse the committee report states—

It is also often labelled 'revenge porn' but research has shown that revenge is not the only motive underlying the sharing of, or making a threat to share, intimate images. Other motivations include 'control, intimidation, sexual gratification, monetary gain and social status building'.

The victim of image based abuse may know the perpetrator (eg. partner, ex-partner, family member, acquaintance, friend) or the perpetrator might be a stranger.

Examples of image based abuse include:

- *Your current or ex-partner sharing an intimate image on social media without your consent.*
- *A work colleague Photoshopping an image of you with an explicit image and sharing it broadly via email.*
- *A stranger taking an intimate image without your consent, also known as ... 'creepshots', and sharing it on a website or porn site.*

The *Queensland Times* reported on 21 February 2018 a case in the Ipswich Magistrates Court. The court heard evidence that the defendant had threatened to—and did—post intimate images of the victim, his ex-partner, because of a dispute over access to his daughter.

I acknowledge that the issue of consent raised by the Women's Legal Service is a live issue. Substantial empirical evidence was presented to the committee to support the committee's recommendation that the bill be passed. I commend the bill to the House.