




Speech By
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MEMBER FOR BONNEY

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

 **Mr O'CONNOR** (Bonney—LNP) (3.38 pm): I rise to make a contribution to the debate of the Criminal Code (Non-consensual Sharing of Intimate Images) Amendment Bill 2018 to create new offences for sending or threatening to send private images without consent. As a young Queensland, I support this legislation. It is a bill that will close loopholes and bring us into line with other jurisdictions where it is already an offence to share or threaten to share private content without consent. More importantly, though, it shows that breaching someone's trust like this is not on.

Laws need to keep up with society and technology. Smart phones have been around for about a decade now. They have fundamentally changed the way we communicate. Our entire lives are run through these small rectangles. That of course includes how people communicate with their partners in the most intimate ways.

There is a dark side to all of this though. With so much being texted, sent, snapped and ultimately recorded, people have more opportunities to do the wrong thing. I do not think this is just an issue of having private content on a major social media site. That might have been a problem in the first days of social media, but now they all have automatic, in-built filters and ways of reporting inappropriate content in order to have it removed in a timely manner. There are of course websites that have come up in the media where people, particularly men, cowardly and anonymously post private content of their former partners. These are often with enough information to allow the victim to be identified, even something as basic as a suburb.

I think the real issue is what is sent within messaging apps—that is, ways of privately sending photos and videos among people who know each other. This happens on a smaller scale and it can impact people within their own circles, whether it is a school, a university or a workplace. The legislation has been dubbed the revenge porn bill, but in most cases this does not come down to a motivation of revenge or what could even be called porn. I can think of one example from a local school where a girl had sent an image to a male student. He shared it around via some of those messaging apps and suddenly practically everyone at the school and even at other nearby schools had seen it. He was punished—as he should have been—by being removed from the school, but that poor girl had to suffer the same fate and leave the school herself because it was too difficult to be around fellow students knowing that many of them had seen her so intimately.

This is a widespread problem, particularly for young people who practically live within their smart phones. The data on this is surprising given a 2016 RMIT survey and similar findings from an Office of the eSafety Commissioner survey. It is extraordinary to see that 23 per cent of Australians surveyed by RMIT had gone through image based abuse, with one in five having an image taken without their consent, one in 10 having images shared without their consent and about the same number of people having been threatened with the release of images. This is clearly an issue which disproportionately

impacts women, who are twice as likely to fall victim than men, but the data also shows that 56 per cent of Australians with a disability reported being a victim of this type of abuse as well as half of Indigenous Australians and a third of gay, lesbian and bisexual people.

This is thankfully taken into account with the drafting of the definition of 'consent' with the inclusion of the need for the person to have the cognitive capacity to voluntarily give it. There is some issue around the inclusion of a distress test in section 223(1)(b) that was raised by stakeholders in the committee's report. It is a fair question to ask if it needs to be added on. It should be enough that a private image has been shared without consent. Distress is implicit. Is it not unnecessary and a potential barrier to prosecution to prove that it has caused distress?

The Commonwealth Senate Legal and Constitutional Affairs References Committee noted this and said that offences should not include intent to cause or proof of harm elements. The more detail an offence provision has, the higher the threshold for the prosecution to address and prove it. The main thing we are trying to address here is the non-consensual sharing of intimate images. I have doubts about whether it is necessary to prove distress has been caused. Perhaps a more established term like 'detriment' could be used, as was suggested by the Queensland Law Society.

I also note that the Office of the eSafety Commissioner has an easy to complete online form which is a good, practical solution to help combat this. It is a great resource that can assist to remove intimate images or videos and can even take action against the person who shared it without consent. There has been relatively recent reporting about a similar way Facebook was working with this government body to use its filters to block an image before it was even posted. If a person was being threatened with the release of an intimate image by a former partner, they could get in touch with the eSafety Commissioner's office, which would then flag the issue with Facebook.

It is already an offence for some ways of sharing these images using a carriage service, but people have been falling through the cracks or could potentially get caught out, particularly when it comes to a threat. It is important legislation to support victims, particularly those most vulnerable like women and young people. I hope the increase in penalties to a maximum three years imprisonment will act as a deterrent to make people think twice before sending out private content without consent. If it does happen, having specific criminal provisions will mean that those impacted will feel that they can now ask for help and prevent this having a greater impact on their life. The law will back them. I hope these new laws raise awareness that this sort of behaviour is unacceptable.

I back the calls from R4Respect that every young Queenslander must receive mandatory respectful relationship education. I am proud to represent three high schools—Southport State High School, Coombabah State High School and AB Paterson College. I know they all have policies in place to deal with this, but the reality is young people all have phones and these sorts of issues will happen. They need to be aware of this new law to help them think about their behaviour and to stop this disgusting practice from happening.