




Speech By  
**Steve Minnikin**

**MEMBER FOR CHATSWORTH**

---

Record of Proceedings, 13 February 2019

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

 **Mr MINNIKIN** (Chatsworth—LNP) (12.58 pm): It gives me a great deal of pleasure to rise and make a contribution in relation to the Criminal Code (Non-consensual Sharing of Intimate Images) Amendment Bill 2018. Like a lot of people, at the end of last year during the summer break I took the opportunity to do a bit of tidying up at home. I had an old box of camera gear. It had in it my beloved Canon T50 camera from many years ago—the old 35-millimetre camera.

**A government member** interjected.


**Mr MINNIKIN:** A great camera. I will take that interjection. I also had an old polaroid camera. My youngest son, who is 16, was there. He said, 'Dad, I saw the old camera there with the old negative film.' He was aware of that one. He was not too familiar or au fait with the instamatic polaroid from 30 or 40 years ago. I explained to him what it was all about.

I said, 'Let's just talk about that. There's a huge difference between what you have now in your pocket and your older brother has in his pocket. That is that everything and everybody is a walking/talking journalist and photographer.' It basically gave me a prompt to talk to him and remind him about what he gets up to on his social media platform. Fingers crossed, so far so good. It was still worthwhile taking that opportunity to speak to him about it.

There have been some great speeches on both sides of the chamber. Very occasionally there are some bills that bring us together as a chamber. This is one of those particular bills. I note from the outset that the LNP will not be opposing the bill.

I note that the committee recommended that this bill be passed. Again, it gives me a great deal of pleasure to make a contribution. I read in the explanatory notes what the background objectives of the bill are. It 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.

Sitting suspended from 1.00 pm to 2.00 pm.

 **Mr MINNIKIN:** Before the lunchbreak I was saying that I have read the policy objectives in the explanatory notes. I note that the key objectives of the bill are to create new offences to protect vulnerable people from the distribution or threats of sharing intimate images.

There is a new offence of 'distributing intimate images'. Effectively, any person who distributes an intimate image of another person without the other person's consent and in a way that would cause the other person distress reasonably arising in all the circumstances commits a misdemeanour which carries a maximum penalty of three years imprisonment.

There are two new offences of 'threats to distribute intimate image or prohibited visual recording'. These include making a threat to a person depicted in the image or recording or making a threat to a person to distribute an image to another person. In this modern era, as was said before, when most

people carry and have at their beck and call a high-powered camera with decent audio recordings, this legislation is not only welcome but I would say overdue. I commend all of the speakers who have risen in this chamber and supported the bill to date.

There is also a new 'rectification order' provision to allow the courts to direct convicted offenders to remove or delete images or prohibited visual recordings. I think that was also a very important part of this bill.

However, there are a couple of issues with the bill in terms of future considerations. Whilst members of the LNP on this side of the chamber do in fact support the objectives of the bill, some concerns have been raised by key stakeholders about particular aspects of the bill. I would like to dwell on those in the next couple of minutes, if I may.

One of the concerns was with the definition of 'intimate image'. Some stakeholders have raised concerns that the definition of 'intimate image' will not go so far as to protect people from specifically audio material and, therefore, the bill in its current form is constrained to past technologies. Whilst it is great that this legislation will go a long way to alleviating concerns in relation to an intimate image, so to speak, there is still a concern in relation to an audio digital file. That is something that I am sure will be looked at and hopefully discussed in consideration in detail.

Another concern is in relation to the definition of 'consent'. 'Consent' is defined in the bill as meaning 'consent freely and voluntarily given by a person with the cognitive capacity to give the consent'. Some of the feedback that I believe has been given to committee members from stakeholders is that they would like to see a provision explicitly stated in the bill making it clear that consent given on one occasion only does not apply to all other occasions.

Another concern is in relation to retrospective application. The bill only has prospective application and therefore offenders will face prosecution for conduct that occurs only after the bill is passed and becomes law. Essentially, victims who are currently being threatened or who are trying to have images removed or destroyed will have no remedy. The only option that victims will have available is to invoke the Commonwealth jurisdiction and submit a request to the eSafety Commissioner to have the image or recording removed. As I say, this bill has a lot of merits, but one anomaly or flaw is in relation to the lack of retrospectivity. Effectively, for some people who are feeling very vulnerable—and this bill is trying to alleviate their concerns—this bill may not be exactly the measure in all circumstances.

Another point that I have discovered in my reading for making this contribution is in relation to prosecuting a person acting anonymously. The bill fails to reflect circumstances where a person acts anonymously to upload prohibited images or recordings. This may include instances where someone uploads material from a device that has particular anonymising qualities to it such as a phone with a prepaid SIM card. I think that is a valid point. A prepaid SIM card is very cheap to buy and readily available. This circumstance may result in the prosecution being unable to prove who the offender is. I think that that needs to be flagged in this contribution.

Also, in the case where the prosecution cannot prove who uploaded a distressing image, a rectification order cannot be ordered by the court as this order can only be made when someone is convicted of an offence. The issue is whether there will be any restorative action that victims can rely on in circumstances where a person is not convicted of an offence.

At the end of the day—and I have made this clear already, as have many members on this side of the chamber—the LNP supports any measures aimed at protecting Queenslanders from intimidating and threatening behaviour, particularly in this modern era when it involves the non-consensual sharing of images that are and absolutely should remain private. Women, men and children should never be victims of such damaging conduct. There have been some sad but I think very timely examples raised by members on both sides of the chamber as to the deleterious effect that it can have on people's lives, not just in their immediate future but also potentially for the rest of their life.

In this day and age literally everyone has access to Google and within seconds can google anything they want—and more often than not some of the things that turn up can be a surprise packet. Again, I started this contribution making reference to my two sons. One is past being a teenager—he is 22. The other one, though, is 16. He is in that prime category for making sure that front and centre, as, relatively speaking, a digital native, he knows potentially some of the traps not just for young players but for old players as well.

This legislation is well and truly overdue. The best time to live I have always said is right now. The good old days were just that, but the best time to live is right now. Inherent in living right now is making sure that we are cognisant of some of the dangers of new technology. I welcome this bill.