




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

 **Mr WATTS** (Toowoomba North—LNP) (4.53 pm): I rise to make a brief contribution on the Criminal Code (Non-consensual Sharing of Intimate Images) Amendment Bill 2018. I make this contribution both as a father of four children and a husband and as someone who has been involved in an industry where often jokes and a bit of banter are bandied around. I worked in hospitality running pubs and clubs, and over the years it has moved from banter and a bit of a joke, to intimidation, to making people feel very uncomfortable. This technology has grown in our community and legislation needs to keep up, so I am pleased to see that we are here debating this. I am also pleased to see that it will be reviewed, because this legislation will grow old very quickly. We need to be aware and afford our young people in particular the opportunity to be protected from themselves and others who might prey on their innocence without them even realising it.

The objectives of the bill are to protect vulnerable people from the distribution or threat of sharing intimate images or recordings without a person's consent. There are a couple of issues there. I think there is a missed opportunity in relation to audio because it could easily have been included here and also defining consent so that we have the ability to know when consent is given and the ability for consent to be withdrawn. Upon review it will be good to tighten up some of those areas. Under new section 233, the new offence of distributing an intimate image provides that—

- (1) A person who distributes an intimate image of another person—
- (a) without the other person's consent; and
 - (b) in a way that would cause the other person distress reasonably arising in all the circumstances; commits a misdemeanour.

I think we can all agree that that is a good thing.

We have heard plenty of people talk about situations where these kinds of things are used to control, harass, intimidate and coerce. As I say, I have two daughters and I hate to think they would have distributed these kind of images. If someone had such images and was using them to try and coerce them or intimidate them into doing something they did not want to do or behave in a particular way, that would be dreadful. As far as I am concerned, three years is exactly what I would want to see brought down upon someone who did that.

Two new offences have been created: prohibiting threats to distribute, without consent, intimate images or prohibited visual recordings. It is important that 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 of another person. The threat of doing it is as important and deserves the same punishment as actually doing it. That is a good thing, because obviously if you are trying to intimidate and coerce someone, to a certain extent once it is out there the capacity for intimidation is lost. Making it an offence to both do it and to threaten to do it is important.

The rectification order provision allows the court to direct convicted offenders to remove or delete intimate images or prohibited visual recordings. That is a good thing, although because these images live pretty much forever on the internet the retrospectivity that could have applied to this might have been useful, particularly in relation to getting some of those images down. At the moment, victims will have to invoke Commonwealth jurisdiction and submit a request to the eSafety Commissioner to have the image or recording removed. We should have had the capacity in our jurisdiction for someone to be instructed to remove that, even if the image existed before this bill sees assent. Consent is defined in the bill as consent that is 'freely and voluntarily given by a person with cognitive capacity to consent.' The issue that I want to raise about consent relates to 16-year-olds.

As our young people grow up in this world of sophisticated electronics we need to provide them with protections not only from others but also from themselves. The fact that an under-16-year-old can be criminalised as a punishment for their behaviour concerns me a little. We definitely should be focusing on education. Having heard the contribution of the education minister, I would like to think that is something that will find its way into our schools. In particular, police officers and community safety officers will be charged with the operation of this legislation. I hope that the legislation is supported by some dollars on the ground—not only for police and the education department to provide education but also for officers to be trained in exactly what the enforcement of this legislation means for them and their ability to use it to stop this kind of harassment and coercion that has the potential to come from these images being shared in our community.

Others have spoken about the issue of children under the age of 16 so I will not go into it in any great detail, but I think it is an area that may need to be tightened up so that people do not find themselves having committed a criminal offence because they were consenting 15-year-olds without the capacity to give consent. It is definitely a tricky area. It will be very important to review this legislation and keep it up to date.

For me, this legislation represents the first step along a path. We know that other jurisdictions have been moving in this space for some time so Queensland is playing a little bit of catch-up. We need to make sure that the police are educated in how to administer the legislation, that police have the capacity to provide education and training to both police officers and outside groups and that the people we are aiming to protect are educated about the fact they can bring charges and have this material removed. People may find themselves in quite desperate and very frightening circumstances with someone trying to intimidate and coerce them. We need to ensure that the objectives of this bill are communicated to both the general population and our young people so that they understand the implications of what they are doing through technology. We also need to ensure that officers have the training and education they need. If we do those things and keep the legislation up to date and review it regularly then it can serve well.

I do not like constraining people's freedoms in any way at all, but someone who is being bullied, coerced and intimidated deserves the protection of this House. This legislation will provide that. I think there are some areas that need to be tidied up and reviewed. Going forward, we should remain vigilant and not just put this on a dusty shelf somewhere and say, 'Yep, done that. Tick that box. Let's move on.' It is a matter of asking questions. Is it working? Is it having the desired effect in the community? Are we making sure that people understand the implications of their actions? With regard to consent, we need to make sure that holders of images have a clear understanding that if someone withdraws consent they no longer have consent and are committing an offence.