

## **Criminal Code (Filming or Possessing Images of Violence Against Children) Amendment Bill 2009**

### **Clause and Explanatory Notes**

#### **Introduction**

The proposed amendments seek to provide for the confiscation of electronic devices used to record or transmit images of bullying against children (cyber bullying).

'Cyberbullying' and staging of violent events for the purposes of filming are increasing in prevalence in schools. An estimated 1 in 10 school children are victims of cyberbullying. The images are forwarded through electronic technology: mobile phones, computers and social networking internet sites. Reports of some recent suicides of young people have cited cyberbullying as a contributory factor.

#### **Short Title of the Bill**

The short title of the Bill is the *Criminal Code (Filming or Possessing Images of Violence Against Children) Amendment Bill 2009*.

#### **Objective of the Bill**

The objective of the Bill is to provide protection for children who are the targets of cyberbullying through the confiscation of devices used by bullies. Because the aim of cyberbullying is the capture of the image of bullying, the confiscation of the device effectively stops the mode and the intent of the offence.

#### **Reasons for the Bill**

- To confiscate the tools used in cyberbullying
- To protect the victims of cyberbullying

#### **Fundamental Legislative Principles**

While the amendments allow the confiscation of property, this is done to ensure the safety and dignity of children who are targets of bullying.

#### **Cost to Government**

It is not envisaged there will be a significant cost associated with the implementation of this Bill.

**Clause 1** - The short title of the Bill as it may be referred to *Criminal Code (Filming or Possessing Images of Violence Against Children) Amendment Bill 2009*

**Clause 2** - This clause advises that the Act amends the Criminal Code.

**Clause 3** - This clause amends section 207A, the definition of *child exploitation material*. Under the amendment, the words 'under 16 years' are removed, reverting the definitions for this purpose to those under the Acts Interpretation Act 1954, of 18 years. This means all children of school age are covered under this definition.

This clause also includes verbal or physical bullying under the definition of child exploitation material.

**Clause 4** – This clause inserts a new part 228DA, *Confiscating devices used to commit offences in relation to bullying*.

This amendment allows a police officer or school principal to confiscate a device that is being used or has just been used to commit an offence involving bullying under sections 228A, 228B, 228C or 228D.

These devices would include a mobile phone, a computer or any other electronic device used for the purposes of recording or transmitting of images under these sections. Examples of other devices include a camera or video recorder.

The confiscation is based on the reasonable belief of the principal or police officer.