



"When Sharing's not Caring."

INTIMATE IMAGES BILL

2018

FIRST AND SECOND READING

Adapted by the Parliamentary Education Office from the original text of the Western Australian Parliamentary Debates, 2018-2019.

Produced by the Parliamentary Education Office

Parliament of Western Australia

CAST DATA SHEET
PARLIAMENTARY DEBATES EXERCISE

Intimate Images Bill 2018

(15 reading roles)

LEGISLATIVE ASSEMBLY
CLERK OF THE LEGISLATIVE ASSEMBLY
Hon. Peter WATSON SPEAKER

GOVERNMENT	OPPOSITION
Hon John QUIGLEY – Attorney General Member for BUTLER	Mr. Peter KATSAMBANIS Member for HILLARYS
Ms. Amber-Jade SANDERSON Member for MORLEY	Hon. Liza HARVEY Member for SCARBOROUGH
Hon Simone McGURK Member for FREMANTLE	Dr. David HONEY Member for COTTESLOE
Mr. Terry HEALY Member for SOUTHERN RIVER	Mr. Zac KIRKUP Member for DAWESVILLE
Mr. Christopher TALLENTIRE Member for THORNLIE	Mr. Sean L'Estrange Member for CHURCHLANDS
Ms. Robyn CLARKE Member for MURRY WELLINGTON	Mr. Kyran O'DONNELL Member for KALGOORLIE
Ms. Cassie ROWE Member for BELMONT	

Intimate Images Bill 2018

The following role-playing exercise is adapted from the original text from the Parliamentary Debates of the 40th Parliament of Western Australia, Legislative Assembly 2018/2019. It has been adapted by the Parliamentary Education Office to suit the needs of students.

Best results occur when the reading roles are allocated and rehearsed beforehand.

LEGISLATIVE ASSEMBLY

Introduction and First Reading

Speaker: The Attorney General and Minister for Commerce.

Attorney General: Mr Speaker, I move that the bill to amend *The Criminal Code* to introduce offences of distributing, or threatening to distribute, an intimate image and other amendments to the *Restraining Orders Act 1997* and the *Working with Children (Criminal Record Checking) Act 2004* be read a first time. I present a copy of the bill.

Speaker: The question is that the bill be read a first time.

Those in favour say "Aye" (most members say "Aye").

Those against, "No" (nobody say "No").

I think the "Ayes" have it.

The "Ayes" have it.

Presents the bill document

The bill is delivered to the Clerk for its First Reading

Clerk: Intimate Images Bill 2018. An Act to amend *The Criminal Code* to introduce offences of distributing or threatening to distribute an intimate image and other amendments to the *Restraining Orders Act 1997* and the *Working with Children (Criminal Record Checking) Act 2004*.

Attorney General: Speaker, I move that the bill be now read a second time.

The Attorney General commences the Second Reading speech.

Attorney General: Speaker, the Criminal Law Amendment (Intimate Images) Bill 2018 implements the government's pre-election commitment to criminalise the non-consensual distribution of intimate images, a form of image-based sexual abuse. This conduct is often referred to as "revenge-porn". It is a form of abuse, and should be labelled as such. As a start, I encourage all members of Parliament to refrain from using the term "revenge pornography" on the floor of this Parliament and instead use "image-based sexual abuse", a term that victims very much prefer, I commend the bill to the house.

Member for Hillarys: Speaker.

Speaker: The Member for Hillarys.

Member for Hillarys: I rise as the opposition lead speaker on the Criminal Law Amendment (Intimate Images) Bill 2018. I indicate at the outset that the Liberal opposition will support this bill. Technology is a wonderful thing and we all use it every day, but we know when there are people with bad will and bad intent, they sometimes use it to great harm.

Member for Morley: Speaker.

Speaker: The Member for Morley.

Member for Morley: I thank the previous member for his contribution. This is an incredibly important bill. I want to congratulate the Attorney General for introducing this bill. Every time we say to someone, "Don't send those images. Try not to do that," it is like saying to someone, "You shouldn't walk in the park at night. You shouldn't walk home at night." There is nothing wrong with those images. There is nothing illegal about sending those images. They are not doing anything wrong. It is the people who then misuse those images who are the problem here. This bill criminalises that act, which is why it is such a good bill. The responsibility is on the platforms, the law and the perpetrators. That is where the responsibility lies and that is very much where this legislation is pitched. I congratulate the government and the Attorney General for bringing in this legislation.

Member for Scarborough: Speaker:

Speaker: The Member for Scarborough.

Member for Scarborough: I rise to make a contribution to this debate. In researching for this debate I came across quite a few interesting publications on cyberbullying and the exposure that our children have to this particular form of abuse. A review

suggested that over 40 per cent of university students had had a photograph posted online without their permission. Further to that, despite young people having a positive attitude towards the internet, 75 per cent consider that technology is a threat to their privacy. During my time as Minister for Police, I remember several different situations, some were really awful, sad stories of suicides of teenagers who had images transmitted purposefully as part of a vengeful attack for some slight in the playground, and the relentless bullying on a 24-hour cycle of various forms of social media.

Member for Churchlands: Speaker.

Speaker: Member for Churchlands.

Member for Churchlands: One silly action of a 15-year-old could preclude them from being employed in certain areas, because once the images are online, they are online forever. Knowing that there will be penalties in place for offenders will no doubt provide some relief to individuals who have been harmed and victimised in this way. We would like to hear from the government about the value of the education piece for this legislation and how it will be managed. Will additional funding go through to schools, sporting organisations and universities to ensure that the message gets out about these new penalties?

Attorney General: I'm sorry, member, I couldn't hear what you said about if the government –

Member for Scarborough: It was about the education piece that will need to go with the legislation, educating our children and young people about the ramifications of their actions and that they need to understand the consequences. I am pleased to see this legislation before the house and I am very pleased to offer my support to government.

Member for Fremantle: Speaker.

Speaker: The Member for Fremantle.

Member for Fremantle: I want to make a few points to this bill. This is an important bill before the house. The changes it will bring are of real interest to me in my ministerial responsibilities in relation to the portfolio of women's interests, but also in the prevention of family and domestic violence. Critically, the bill focuses on the issue of consent. As the Attorney General outlined, when it comes to consent, the overarching requirement is that it is free and voluntary.

Giving out an intimate image without consent is abusive behaviour. This behaviour is about exercising control over another person. The legislation before us sends a sharp signal to would-be perpetrators. Distributing without consent is the harm.

[Interruption from the gallery]

Speaker: I am conscious there is some noise from the gallery. I do not want to be a wowser, but I might advise people that they are free to go and get some fresh air, because I think the speech they are waiting for is not for half an hour or so.

Member for Fremantle: I was making the point that this law does not require the victim to prove that they have suffered harm or injury or that the accused intended to cause any particular harm to the victim. Just as importantly when it comes to the impacts of abuse, this bill puts victims at the centre of the picture. I believe this bill goes a long way to improving women's safety in the community. As Minister for Women's Interests, I am proud we are taking steps to put measures in place that create accountability and provide protection for victims.

Member for Cottesloe: Speaker.

Speaker: Member for Cottesloe.

Member for Cottesloe: This is a really important bill. The motivation for this bill is very clear. As with all such issues, there is a wide range of causes and a wide range of intents of these potential incidents. At one extreme, an individual may obtain intimate images of someone without their consent and then distribute those images with the intent of humiliating and causing harm, either personal or professional harm. They are typically the examples that we hear as the justification for this legislation. Those examples are at the extreme end and there is a clear intent that the person distributed those images to cause harm. Everyone recognises that it is important for governments to respond to those sorts of issues. However, as with all legislation, we should be concerned about the breadth of this legislation. At the other end, we may end up capturing people who do something that does not fall within the boundaries of what would be regarded as a criminal offence.

Member for Kalgoorlie: Speaker.

Speaker: Member for Kalgoorlie.

Member for Kalgoorlie: It is interesting that the children in my family range from children to adults. I think we have the most profound generation gap that has existed since the 1960s. The way that people under 30 years of age view a whole range of issues, is profoundly different from the view held by older people. I hate to say it, but all of us seem to be old fogies, and some of us may be older fogies than others.

Member for Dawesville: What's your definition of an old fogie?

Member for Kalgoorlie: Over the age of 30, member for Dawesville – that is the definition. I have a query and am concerned about another part of the legislation. I understand that if a parent took a photo of a very young child in the bath and forwarded it to people without consent – of course, a child under the age of 16 cannot give consent – that may also be a criminal offence under this legislation. I am happy if that is not the case, but I am concerned that it could be the case. Finally, I reinforce the point that the Deputy Leader of the Opposition made: when the legislation is passed, if a large education package does not accompany it, it will result in an overwhelming outcome for the courts. We will need to educate people on this legislation and to change attitudes.

Member for Southern River:

Speaker.

Speaker: Member for Southern River.

Member for Southern River:

We are in changing times. I wish to speak about the grave dangers for young people and of my experience as a high school teacher. I am very honoured to have taught at two of the three high schools in my electorate. Unfortunately, I have found that the sharing of intimate images is a very prolific and common thing amongst young people. This bill is very important, because it will create an appropriate offence and punishment. One thing I seek to discuss is, unfortunately, the sheer number of images that are shared by young people. That is a cause for concern. An educational awareness program about these new laws is needed. I am very proud to say that I have already spoken to some of the principals in my electorate about how they are going to continue to raise that awareness. I look forward to helping promote responsible well-informed young people and ensuring that they are protected.

Member for Dawesville:

Together with my colleagues who have spoken already, we obviously fully support this legislation. It is legislation that is good in spirit and is something that we would have endeavoured to introduce had we been in government. I am one of the only millennial members of the Legislative Assembly, and that means that with the majority of my generation, I have been connected electronically for most of my life. In fact, I figured out that since I was in year 10 at Governor Stirling Senior High School, I had a phone with a camera. That was 2002 or thereabout. Since that time, more than half my life has been connected, in the mobile sense, with a screen and a camera. A recent episode of *Four Corners* was an expose of Facebook that made very clear that Facebook's model is entirely based on money and commercialisation of viral images.

Speaker: Members, could you take your conversation outside or keep it low.

Member for Dawesville: It is very unfortunate to see this type of irresponsibility. I think it is absolutely fair that a victim should be able to take action against a content provider, whose responsibility it is to host these types of images. That would be an important addition.

Member for Thornlie: Wouldn't the best way to regulate that be that if the company – Facebook – does not respond to the complaint?

Member for Dawesville: That makes a lot of sense to me because the mechanism at least would be in place. If it fails to meet those mechanisms within a reasonable time, then, yes, that should absolutely be the next step.

Member for Murray-Wellington: What if they're a US-based company, you couldn't hold them to account?

Member for Dawesville: The member is right. But if it were a WA-based company that did that, perhaps we could pursue them here.

Member for Belmont: Speaker.

Speaker: Member for Belmont.

Member for Belmont: The issue of the sharing of intimate images of a person without their consent is a huge problem. It has devastating effects on victim's lives. Nobody is immune from falling victim to such abuse. Most worrying is when young people

fall victim to what will hopefully be crimes if this legislation is passed and we can stamp out this behaviour. As a mother of two young girls, this is something that is a big concern. They are still very young, but it is a real concern. I do not want my children to grow up in an environment in which we tolerate that kind of behaviour. I would like to commend the bill to the house.

Member for Kalgoorlie: Speaker.

Speaker: Member for Kalgoorlie.

Member for Kalgoorlie: As a former police officer, a father and a sporting coach, I have dealt with youth for over 34 years. My observations and experience are that it has become a way of life for youth. It has become “the norm”. Two 16-year-old boys were laughing near me, so I asked them what they were laughing about. They were looking at a phone. They said, “We just got another photo from a girl.” I took the phone straightaway. I then spoke to the boys and they said it is common practice not just for the girls to do it, but for the boys to do it – it was acceptable. I tried to tell them, and I have tried to tell others that it is not acceptable. It can be very embarrassing. I commend the government for doing this. It is a very good bill.

Attorney General: I would like to thank members on all sides for their contributions during this debate. I would particularly like to thank the opposition for confirming its support for this important piece of legislation. It sends a strong message to the community that this conduct will no longer be tolerated.

Speaker, I move this bill be now read a second time.

Speaker: Members, the question is that the bill be read a second time.

Those in favour say “Aye” (members say “Aye”).

Those against say “Noe” (nobody says “Noe”).

I think the “Ayes” have it, the “Ayes” have it.

Clerk: Intimate Images Bill 2018. An Act to amend *The Criminal Code* to introduce offences of distributing or threatening to distribute an intimate image and other amendments to the *Restraining Orders Act 1997* and the *Working with Children (Criminal Record Checking) Act 2004*.