

TASMANIA

COMMUNITY PROTECTION (OFFENDER REPORTING) AMENDMENT BILL 2011

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COMMUNITY PROTECTION (OFFENDER REPORTING) AMENDMENT BILL 2011

*(Brought in by the Minister for Health, the Honourable
Michelle Anne O'Byrne)*

A BILL FOR

An Act to amend the *Community Protection (Offender Reporting) Act 2005*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Community Protection (Offender Reporting) Amendment Act 2011*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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3. Principal Act

In this Act, the *Community Protection (Offender Reporting) Act 2005** is referred to as the Principal Act.

4. Section 15 amended (Class 3 offences)

Section 15 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (f) “offender.” and substituting “offender; or”;
- (b) by inserting the following paragraph after paragraph (f):
 - (g) an offence against section 159 of the *Criminal Code* if there are reasonable grounds to believe that, in the course of or as part of the events surrounding the commission of that offence, an offence specified in Schedule 1, 2 or 3 was committed by the offender.

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5. Section 17 amended (Report by reportable offender of personal details)

Section 17 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (b) in subsection (1):
 - (ba) any application he or she has made, or intends to make, to the Registrar of Births, Deaths and Marriages for a change of details; and
- (b) by inserting the following paragraphs after paragraph (i) in subsection (1):
 - (ia) details of any internet service provider or provider of a carriage service (within the meaning of the *Telecommunications Act 1997* of the Commonwealth) used, or intended to be used, by the person; and
 - (ib) details of the type of any internet connection used, or intended to be used, by the person, including whether the connection is a wireless, broadband, asymmetric digital subscriber line (ADSL), satellite or dial-up connection; and
 - (ic) details of any email addresses, internet user names, instant

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messaging user names, chat room user names or any other user name or identity used, or intended to be used, by the person through the internet or other electronic communication service and any passwords associated with each of these; and

- (c) by inserting the following subsection after subsection (1):

(1A) A reportable offender must present to the Registrar or an authorised person for inspection all valid passports held by the offender and provide to the Registrar or an authorised person updated details in relation to any of those passports.

6. Section 19 amended (Intended absence from Tasmania to be reported)

Section 19 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “7” and substituting “14”;
- (b) by omitting from subsection (2) “details of”;

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- (c) by omitting from subsection (2)(a) “each” and substituting “details of each”;
 - (d) by omitting from subsection (2)(b) “the approximate” and substituting “details of the approximate”;
 - (e) by omitting from subsection (2)(c) “each address” and substituting “details of each address”;
 - (f) by omitting from subsection (2)(e) “intention.” and substituting “intention; and”;
 - (g) by inserting the following paragraph after paragraph (e) in subsection (2):
 - (f) all valid passports for inspection.
 - (h) by inserting the following subsection after subsection (2):
 - (2A) A reportable offender must present all valid passports to the Registrar or an authorised person for inspection within 7 days after returning to Tasmania.
 - (i) by omitting subsection (3) and substituting the following subsection:
 - (3) A reportable offender, whether in Tasmania or elsewhere, who decides to make a change to anything presented to the Registrar or an authorised person

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under subsection (2A) must, as soon as practicable, notify the Registrar of the change.

7. Section 24 amended (Length of reporting period)

Section 24 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

- (3) A reportable offender must continue to comply with the reporting obligations imposed by this Part for the remainder of his or her life or such lesser period as is determined by the court, if he or she –
 - (a) is a reportable offender in respect of an offence described by section 15(f) or (g); or
 - (b) has been sentenced for –
 - (i) 2 or more Class 2 offences; or
 - (ii) 2 or more Class 3 offences; or
 - (iii) one or more Class 2 offences and one or more Class 3 offences.

8. Section 25 amended (Reduced period applies for young reportable offenders)

Section 25 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:

- (2) The maximum reporting period for a person who was a child at the time when he or she committed an offence referred to in section 24(1) must not exceed 4 years.
- (3) The maximum reporting period for a person who was a child when he or she committed an offence referred to in section 24(2) or (3) must not exceed 7 years 6 months.

9. Section 33 amended (Failure to comply with reporting obligations)

Section 33 of the Principal Act is amended as follows:

- (a) by omitting from the penalty “50” and substituting “100”;
- (b) by omitting from the penalty “6 months” and substituting “2 years”.

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10. Section 36 substituted

Section 36 of the Principal Act is repealed and the following section is substituted:

36. Notice to be given to reportable offender

- (1) A court must provide a reportable offender with written notice of –
 - (a) his or her reporting obligations;
and
 - (b) the consequences that may ensue if he or she fails to comply with those, or any of those, obligations.
- (2) A court may order that a reportable offender remain in the court until a notice of his or her reporting obligations can be prepared and served on the offender.

11. Section 44A inserted

After section 44 of the Principal Act, the following section is inserted in Part 4:

44A. Provision of information to Registrar of Births, Deaths and Marriages

- (1) The Commissioner or the Registrar may in writing provide to the Registrar of Births, Deaths and Marriages information from the Register, including but not

limited to the name, date of birth and addresses of a reportable offender.

- (2) The Registrar of Births, Deaths and Marriages must inform the Commissioner in writing of any application received from a reportable offender for a change of name of the reportable offender.
- (3) On receipt of the information under subsection (2) –
 - (a) the Commissioner may, in writing, order the Registrar of Births, Deaths and Marriages to refuse to register the change of name of a reportable offender; and
 - (b) advise the reportable offender in writing that the Commissioner has ordered the Registrar of Births, Deaths and Marriages to refuse to register the change of name.
- (4) A reportable offender who is aggrieved by the decision of the Commissioner to order the Registrar of Births, Deaths and Marriages to refuse to register the change of name may apply to the Magistrates Court (Administrative Appeals Division) for a review of that decision.

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12. Section 47 amended (Matters not to be heard in public)

Section 47 of the Principal Act is amended by omitting “section 8, 28, 33 or 34” and substituting “section 8, 28, 33, 34 or 44A”.

13. Schedule 1 amended (Class 1 offences)

Schedule 1 to the Principal Act is amended by omitting

Section 474.19

Using a carriage service to access child pornography material

Using a carriage service to cause child pornography material to be transmitted

Using a carriage service to transmit child pornography material

Using a carriage service to make child pornography material available

Using a carriage service to access child pornography material

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Section 474.20

Using a carriage service to publish or otherwise distribute child pornography material

Possessing child pornography material for use through a carriage service

Producing child pornography material for use through a carriage service

Supplying child pornography material for use through a carriage service

Obtaining child pornography material for use through a carriage service

Section 474.22

Using a carriage service to access child abuse material

Using a carriage service to cause child abuse material to be transmitted

Using a carriage service to transmit child abuse material

Using a carriage service to make child abuse material available

Using a carriage service to access child abuse material

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	Using a carriage service to publish or otherwise distribute child abuse material
Section 474.23	Possessing child abuse material for use through a carriage service
	Producing child abuse material for use through a carriage service
	Supplying child abuse material for use through a carriage service
	Obtaining child abuse material for use through a carriage service
Section 474.26	Using a carriage service to procure persons under 16 years of age
Section 474.27	Using a carriage service to “groom” persons under 16 years of age

and substituting:

Section 273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia
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Section 273.6	Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia
Section 471.16	Using a postal or similar service for child pornography material
Section 471.17	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service
Section 471.19	Using a postal or similar service for child abuse material
Section 471.20	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service
Section 471.24	Using a postal or similar service to procure persons under 16
Section 471.25	Using a postal or similar service to “groom” persons under 16
Section 471.26	Using a postal or similar service to send indecent material to person under 16
Section 474.19	Using a carriage service for child pornography material

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Section 474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service
Section 474.22	Using a carriage service for child abuse material
Section 474.23	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service
Section 474.25A	Using a carriage service for sexual activity with person under 16 years of age
Section 474.26	Using a carriage service to procure persons under 16 years of age
Section 474.27	Using a carriage service to “groom” persons under 16 years of age
Section 474.27A	Using a carriage service to transmit indecent communication to person under 16 years of age

14. Schedule 2 amended (Class 2 offences)

Schedule 2 to the Principal Act is amended as follows:

(a) by omitting

<i>Crimes Act 1914</i> of the Commonwealth	
Section 50BC	Sexual conduct involving child under 16 years of age
Section 50BD	Inducing child under 16 years of age to be involved in sexual conduct
Section 50DA	Benefiting from offence against Part IIIA
Section 50DB	Encouraging offence against Part IIIA

and substituting the following items:

<i>Criminal Code Act 1995</i> of the Commonwealth	
Section 272.9	Sexual activity (other than sexual intercourse) with a child outside Australia
Section 272.12	Sexual intercourse with young person outside Australia – defendant in position of trust or authority

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Section 272.13	Sexual activity (other than sexual intercourse) with young person outside Australia – defendant in position of trust or authority
Section 272.14	Procuring child to engage in sexual activity outside Australia
Section 272.15	“Grooming” child to engage in sexual activity outside Australia
Section 272.20	Preparing for or planning offence against this Division
Section 273.7	Aggravated offence – offence involving conduct on 3 or more occasions and 2 or more people
Section 471.22	Aggravated offence – offence involving conduct on 3 or more occasions and 2 or more people
Section 474.24A	Aggravated offence – offence involving conduct on 3 or more occasions and 2 or more people
Section 474.25B	Aggravated offence – child with mental impairment or under care, supervision or authority of defendant

(b) by inserting after

Criminal Code

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the following item:

Section 122		Unnatural crimes
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15. Schedule 3 amended (Class 3 offences)

Schedule 3 to the Principal Act is amended as follows:

(a) by omitting

<i>Crimes Act 1914</i> of the Commonwealth		
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and substituting the following item:

<i>Criminal Code Act 1995</i> of the Commonwealth		
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(b) by omitting

Section 50BA		Sexual intercourse with a child under 16 years of age
Section 50BB		Inducing child under 16 years of age to engage in sexual intercourse

and substituting the following items:

Section 272.8		Sexual intercourse with a child outside Australia
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Section 272.10	Aggravated offence – child with mental impairment or under care, supervision or authority of defendant
Section 272.11	Persistent sexual abuse of child outside Australia
Section 272.18	Benefiting from offence against this Division
Section 272.19	Encouraging offence against this Division

16. Repeal of Act

This Act is repealed on the ninetieth day from the day on which it commences.