

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

CRIMES AMENDMENT BILL 2001

EXPLANATORY MEMORANDUM

**Circulated by authority of
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Independent**

Outline

The Internet has become a popular pastime and useful education tool for both adults and children the world over. Unfortunately, there are also risks from those who would seek to upset or cause harm to others. This can be done by sending unwanted material, such as explicit pictures or messages. In extreme cases, an adult or child may receive an invitation to meet an adult who has the intention of causing them harm. The practice of sending such electronic messages is now commonly referred to as "cyberstalking".

This Bill has two main points: one is to specifically include all current forms of electronic communication in the sections of the Crimes Act relating to stalking offences, the second is to establish a new offence where electronic messages are sent to a young person that contain either pornographic material or a suggestion to include the young person in acts of a sexual nature.

Clauses 1 and 2 name the Act and state that it comes into effect on the day it is notified in the Gazette.

Clause 3 states that the Act being amended is the *Crimes Act 1900*.

Clause 4 inserts two new sub-paragraphs in subsection 34A (2) which provides criteria for stalking offences. The new sub-paragraphs includes various electronic forms of communication in the range of stalking offences.

Sub-paragraph (f) broadens the definition by including the words "sends electronic messages". Sub-paragraphs (fa) and (fb) includes sending or making available electronic messages about the stalked person to anybody else as a stalking offence.

Clause 5 provides for section 34A (2) to be renumbered when the Act is next republished.

Clause 6 inserts new section 92NC in the Act to provide two new offences where electronic messages are sent to a young person.

Firstly, a person must not, by means of electronic communication, suggest that a young person participate in an act of a sexual nature or to suggest they be present when another person participates in an act of a sexual nature. An act of a sexual nature means sexual intercourse or an act of indecency.

Secondly, a person must not electronically send a young person pornographic material. Pornographic material is defined as material depicting, describing or otherwise representing an act of a sexual nature or a naked or partially naked person in a way that a reasonable adult would find offensive.

A young person is a person under the age of 16 years.

The new section also states that it is not defence for the accused to not know the person to whom the message was sent was a young person or that the young person had consented to receiving the material.