

**2025**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

**CRIMINAL CODE AMENDMENT (USING TECHNOLOGY TO GENERATE CHILD  
ABUSE MATERIAL) BILL 2025**

**EXPLANATORY MEMORANDUM  
and  
STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

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Kate Chaney MP

# **Criminal Code Amendment (Using Technology to Generate Child Sexual Exploitation Material) Bill 2025**

## **OUTLINE**

This Bill amends the *Criminal Code Act 1995 (Cth)* to create new offences targeting the misuse of emerging technologies – particularly high impact generative artificial intelligence (AI) services - to create, train, or use tools that facilitate the production of child abuse material. These provisions are designed to address a growing threat where individuals use sophisticated tools specifically to generate illegal content depicting the sexual abuse or exploitation of children.

The amendments, introduced as Subdivision DA under Subdivision D of Division 474, criminalise the use of a carriage service to:

- Download, access, supply, or offer access to a technology whose sole or dominant purpose is the creation of child abuse material; or
- Collect, scrape or distribute data for the purpose of training or developing a technology to create child abuse material.

The Bill also provides limited defences for conduct that is clearly in the public interest, such as legitimate law enforcement, compliance monitoring, or pre-approved research.

## **FINANCIAL IMPACT**

The bill will have no financial impact.

## **NOTES ON CLAUSES**

### **Clause 1 – Short Title**

This clause provides that the Act may be cited as the Criminal Code Amendment (Using Technology to Generate Child Abuse Material) Act 2025.

### **Clause 2 – Commencement**

This clause provides that the Act will commence on the day after Royal Assent.

### **Clause 3 – Schedule**

This clause gives effect to the amendments to the Criminal Code Act 1995, as outlined in Schedule 1.

## **SCHEDULE 1 – AMENDMENTS TO THE CRIMINAL CODE ACT 1995**

### **Item 1 - Insertion of Subdivision 474DA**

This item introduces **Subdivision 474DA** - Offences relating to technology for creating child sexual abuse material. It comprises four new sections.

#### **Section 474.24D – Downloading etc. technology for creating child sexual abuse material**

This section creates an offence where a person uses a carriage service to download, access, supply, enable access to, or offer to supply a technology, the sole or dominant purpose of which is to create child abuse material.

Penalty: Up to 15 years imprisonment.

#### **Section 474.24E – Collecting etc. data with the intention to train or create technology for creating child sexual abuse material**

This section creates an offence where a person uses a carriage service to collect, scrape, or distribute data, with the intention of training or creating technology with the sole or dominant purpose of generating child abuse material.

Penalty: Up to 15 years imprisonment.

#### **Section 474.24F – Defences**

This section provides specific statutory defences for otherwise criminal conduct under Division 474DA.

##### **Subsection (1): Public Benefit Defence**

A person is not criminally responsible if their conduct:

- Is of public benefit; and
- Does not extend beyond what is necessary for that public benefit.

##### **Subsection (2) Public Benefit**

The public benefit is defined narrowly in subsection (2), covering:

- Enforcement or monitoring or investigating of Commonwealth, State, or Territory laws;
- Administration of justice; or

- Scientific, medical, or educational research approved in writing by the AFP Minister.

**Subsection (3): Law Enforcement and Intelligence Officer Defence**

This subsection protects officers acting:

- In the course of their lawful duties; and
- In a manner that is reasonable in the circumstances.

**Subsection (4): Cross-reference to Part 10.6 Definitions**

This provision ensures that key terms such as law enforcement officer, intelligence or security officer, and AFP Minister are defined consistently with the rest of the Criminal Code Act 1995.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

### **Criminal Code Amendment (Using Technology to Generate Child Abuse Material) Bill 2025**

This bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

While the Bill engages certain rights (e.g. freedom of expression and privacy), any limitations are reasonable, necessary, and proportionate in pursuit of a legitimate aim which is upholding Australia's international obligations under the UN Convention on the Rights of the Child and associated protocols.

#### **Overview of the bill**

#### **Human rights implications**

The human rights and freedoms engaged by the Bill fall under the following conventions to which Australia is a State Party:

- *Convention on the Rights of the Child* [1991] ATS 4 (CRC)
- *International Covenant on Civil and Political Rights* [1980] ATS 23 (ICCPR)
- *International Covenant on Economic, Social and Cultural Rights* [1976] ATS 5 (ICESCR), and
- *Convention on the Elimination of All Forms of Discrimination Against Women* [1983] ATS 9 (CEDAW).

The measures contained in Schedule 1 of the Bill give further effect to Australia's obligations under the CRC and engage with the principles underpinning— and the fundamental rights and freedoms protected by— the CRC, including:

- the best interests of the child as a primary consideration (Article 3)

- the right of the child to be protected from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse (Article 19)
- the right of the child to be protected from all forms of sexual exploitation and sexual abuse (Article 34),
- the right of the child to be protected against all other forms of exploitation prejudicial to any aspects of the child's welfare (Article 36), and
- the right of the child not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment (Article 37).

The Bill also engages, and in some cases positively engages, the following rights from the ICCPR:

- the presumption of innocence (Article 14(2))
- right to protection against arbitrary and unlawful interferences with privacy (Article 17(1))

The bill engaged with the right to protection against arbitrary and unlawful interferences with privacy (Article 17(1) of the ICCPR).

Article 17(1) of the ICCPR recognises the right to protection against arbitrary or unlawful interference with privacy, family, home or correspondence, and to unlawful attacks on a person's reputation.

The term 'unlawful' in Article 17 means no interference can take place except in cases authorised by law. In order for an interference with the right to privacy not to be arbitrary, the interference must be for a reason consistent with the provisions, aims and objectives of the ICCPR and be reasonable in particular circumstances. The United Nations Human Rights Committee has interpreted reasonableness in this context to imply that any interference with privacy must be proportional to the end sought and be necessary in the circumstances of any given case.

#### *Generation of child abuse material*

The Bill creates a new offence of generating child sexual abuse material using a carriage service.

This measure engages the right to privacy as it interferes with a person's personal property, including what may be contained within a family home.

This measure is clearly lawful (as it is prescribed by law) and it is not arbitrary, as it is reasonable, necessary and proportionate to achieve the legitimate objectives of protecting public morals, public order and protecting the rights and freedoms of children.

This measure is necessary to achieve these objectives as such material may victimise and abuse the subject of the material, if it depicts an actual child, and normalises criminal and abusive material.

This measure is also reasonable and proportionate in achieving these objectives. In determining whether material is 'child sexual exploitation material', a factor for consideration is whether a reasonable person would regard the depiction as offensive, taking into account the considerations outlined at section 473.4 of the Criminal Code. These include the standards of morality decency and propriety generally accepted by reasonable adults, the literary, artistic or educational merit (if any) of the material, and the general character of the material (including whether it is of a medical, legal or scientific character).

Where the measure limits the right to privacy, it therefore does so to achieve legitimate objectives in a necessary, reasonable and proportionate manner.

## **Conclusion**

The *Criminal Code Amendment (Using Technology to Generate Child Abuse Material) Bill 2025* represents a proactive and targeted legislative response to the abuse of advanced technologies for criminal purposes. It affirms Australia's commitment to preventing child exploitation in all forms, including emerging digital environments, and ensures that the law keeps pace with technical developments that threaten community safety.

**Kate Chaney MP**