



Queensland

Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Bill 2019



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2019

A Bill

for

An Act to amend the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, the *Childrens Court Act 1992*, the *Corrective Services Act 2006*, the Criminal Code, the *Criminal Law (Sexual Offences) Act 1978*, the *Disability Services Act 2006*, the *Evidence Act 1977*, the *Justices Act 1886*, the *Oaths Act 1867*, the *Penalties and Sentences Act 1992*, the *Police Powers and Responsibilities Act 2000*, the *Transport Operations (Passenger Transport) Act 1994*, the *Working with Children (Risk Management and Screening) Act 2000* and the *Youth Justice Act 1992* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2019*. 4
5
6

Clause 2 Commencement 7

(1) This Act, other than the provisions mentioned in subsection (2), commences on the day after the date of assent. 8
9

(2) The following provisions commence on a day to be fixed by proclamation— 10
11

(a) part 3; 12

(b) part 5, division 3; 13

(c) part 6, division 3; 14

(d) part 7, division 3; 15

(e) part 8, division 3; 16

(f) parts 9 and 10; 17

(g) part 14, division 3. 18

Part 2	Amendment of Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004	1 2 3 4
Clause 3	Act amended	5
	<i>This part amends the <i>Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004</i>.</i>	6 7
Clause 4	Amendment of sch 1 (Prescribed offences)	8
(1)	Schedule 1, item 4, entry for the Criminal Code, entry for section 218B, '(Grooming children under 16)'—	9 10
	<i>omit, insert—</i>	11
	(Grooming child under 16 years or parent or carer of child under 16 years)	12 13
(2)	Schedule 1, item 4, entry for the Criminal Code—	14
	<i>insert—</i>	15
	<ul style="list-style-type: none">• section 228I (Producing or supplying child abuse object)• section 228J (Possessing child abuse object)	16 17 18
(3)	Schedule 1, item 6, entry for the Criminal Code (Cwlth)—	19
	<i>insert—</i>	20
	<ul style="list-style-type: none">• section 273A.1 (Possession of child-like sex dolls etc.)• section 474.22A (Possessing or controlling child abuse material obtained or accessed using a carriage service)	21 22 23 24 25

[s 5]

Part 3	Amendment of Childrens Court Act 1992	1 2
Clause 5	Act amended This part amends the <i>Childrens Court Act 1992</i> .	3 4
Clause 6	Amendment of s 20 (Who may be present at a proceeding) Section 20(1)— <i>insert</i> — (da) a person who is an intermediary under the <i>Evidence Act 1977</i> , part 2, division 4C for a witness giving evidence; or	5 6 7 8 9 10 11 12
Part 4	Amendment of Corrective Services Act 2006	13 14
Clause 7	Act amended This part amends the <i>Corrective Services Act 2006</i> .	15 16
Clause 8	Amendment of sch 1 (Sexual offences) Schedule 1, entry for the Criminal Code, entry for section 218B, '(Grooming children under 16)'— <i>omit, insert</i> — (Grooming child under 16 years or parent or carer of child under 16 years)	17 18 19 20 21 22

Part 5	Amendment of Criminal Code	1
Division 1	Preliminary	2
Clause 9	Code amended	3
	This part amends the Criminal Code.	4
Division 2	Amendments commencing on day after assent	5
		6
Clause 10	Amendment of s 1 (Definitions)	7
	Section 1—	8
	<i>insert—</i>	9
	<i>child abuse object</i> , for part 4, chapter 22, see section 207A.	10
		11
Clause 11	Amendment of s 207A (Definitions for this chapter)	12
	Section 207A—	13
	<i>insert—</i>	14
	<i>child abuse object</i> means a doll, robot or other object if—	15
		16
	(a) a reasonable adult would consider—	17
	(i) the doll, robot or other object is a representation or portrayal of a person, or part of a person, who is a child under 16 years; or	18
		19
		20
		21
	(ii) the predominant impression conveyed by the doll, robot or other object is that it is a representation or portrayal of a person, or part of a person, who is a	22
		23
		24
		25

[s 12]

	child under 16 years, irrespective of whether it has adult characteristics; and	1 2
	(b) the doll, robot or other object has been used, or a reasonable adult would consider it is intended for use, in an indecent or sexual context including, for example, engaging in a sexual activity.	3 4 5 6 7
Clause 12	Amendment of s 215 (Carnal knowledge with or of children under 16)	8 9
	Section 215—	10
	<i>insert—</i>	11
	<i>Note—</i>	12
	See section 745 in relation to the application of this section as in force from time to time before the commencement of the <i>Criminal Code, Evidence Act and Other Acts Amendment Act 1989</i> , section 14.	13 14 15 16
Clause 13	Replacement of s 218B (Grooming children under 16)	17
	Section 218B—	18
	<i>omit, insert—</i>	19
	218B Grooming child under 16 years or parent or carer of child under 16 years	20 21
	(1) In this section—	22
	(a) a reference to a <i>child</i> , in relation to an adult engaging in conduct in relation to a child, is a reference to—	23 24 25
	(i) a person under 16 years; or	26
	(ii) a person the adult believes is under 16 years, whether the person is a real person or a fictitious person who is represented to the adult as a real person under 16 years; and	27 28 29 30 31

-
- (b) a reference to a *child*, in relation to an adult engaging in conduct in relation to another person who has care of a child, is a reference to—
- (i) a person under 16 years; or
 - (ii) a person the adult believes is under 16 years; and
- (c) a reference to a *person who has care of a child*, in relation to an adult engaging in conduct in relation to another person who has care of a child, includes a reference to a person whom the adult believes is a person who has care of a child.
- (2) An adult who engages in conduct in relation to a child, or a person who has care of a child, with intent to—
- (a) facilitate the procurement of the child to engage in a sexual act, either in Queensland or elsewhere; or
 - (b) expose, without legitimate reason, the child to any indecent matter, either in Queensland or elsewhere;
- commits a crime.
- Note—*
- See section 1 for the definition *indecent matter*.
- Maximum penalty—5 years imprisonment.
- (3) The adult is liable to 10 years imprisonment if the child is—
- (a) a person under 12 years; or
 - (b) a person, including a fictitious person, the adult believes is under 12 years.
- (4) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.

[s 13]

- (5) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer. 1
2
3
4
5
- (6) For subsection (2)(a), a child engages in a sexual act if the child— 6
7
- (a) allows a sexual act to be done to the child; 8
or 9
- (b) does a sexual act to the child’s own body or the body of another person; or 10
11
- (c) otherwise engages in an act of an indecent nature. 12
13
- (7) Subsection (6) is not limited to sexual intercourse or acts involving physical contact. 14
15
- (8) For subsection (2)(a)— 16
- (a) it is not necessary to prove that the adult intended to facilitate the procurement of the child to engage in any particular sexual act; and 17
18
19
20
- (b) it does not matter that, by reason of circumstances not known to the adult, it is impossible in fact for the child to engage in the sexual act; and 21
22
23
24
- (c) it does not matter when the adult intended the child would be procured to engage in a sexual act. 25
26
27
- (9) Evidence that the child was represented to the adult as being under 16 years, or under 12 years, as the case may be, is, in the absence of evidence to the contrary, proof that the adult believed the child was under that age. 28
29
30
31
32
- (10) It is a defence to a charge under this section to prove the adult believed on reasonable grounds that the child was at least 16 years. 33
34
35

	(11)	For an offence defined in subsection (2) alleged to have been committed with the circumstance of aggravation mentioned in subsection (3), it is a defence to the circumstance of aggravation to prove that the adult believed on reasonable grounds that the child was at least 12 years.	1 2 3 4 5 6
	(12)	In this section— <i>person who has care of a child</i> includes a parent, foster-parent, step-parent, guardian or other adult in charge of the child, whether or not the person has lawful custody of the child. <i>procure</i> means knowingly entice or recruit for the purposes of sexual exploitation.	7 8 9 10 11 12 13
Clause 14		Amendment of s 228G (Forfeiture of child exploitation material etc.)	14 15
	(1)	Section 228G, heading, after ‘of’— <i>insert</i> — child abuse objects,	16 17 18
	(2)	Section 228G(1)(b), ‘or 228DC’— <i>omit, insert</i> — , 228DC, 228I or 228J	19 20 21
	(3)	Section 228G(2), ‘or material’— <i>omit, insert</i> — , material or object	22 23 24
Clause 15		Amendment of s 228H (Possession etc. of child exploitation material by law enforcement officer)	25 26
	(1)	Section 228H, heading, after ‘of’— <i>insert</i> — child abuse objects or	27 28 29

[s 16]

- (2) Section 228H(1), ‘or 228DC’— 1
omit, insert— 2
, 228DC, 228I or 228J 3

Clause 16 Insertion of new ss 228I–228K 4

After section 228H— 5
insert— 6

228I Producing or supplying child abuse object 7

- (1) A person who produces or supplies a child abuse 8
object commits a crime. 9
Maximum penalty— 10
(a) if the production or supply is for a 11
commercial purpose—20 years 12
imprisonment; or 13
(b) otherwise—14 years imprisonment. 14
(2) The *Penalties and Sentences Act 1992*, section 15
161Q also states a circumstance of aggravation 16
for an offence against this section. 17
(3) An indictment charging an offence against this 18
section with the circumstance of aggravation 19
stated in the *Penalties and Sentences Act 1992*, 20
section 161Q may not be presented without the 21
consent of a Crown Law Officer. 22
(4) In this section— 23
produce includes— 24
(a) prepare, manufacture or package; and 25
(b) offer to produce; and 26
(c) do or offer to do any act in preparation for or 27
furtherance of, or for the purpose of, an act 28
of producing. 29
supply includes— 30

-
- (a) give, distribute, sell or transport; and 1
 - (b) offer to supply; and 2
 - (c) do or offer to do any act in preparation for or 3
furtherance of, or for the purpose of, an act 4
of supply. 5

228J Possessing child abuse object 6

- (1) A person who knowingly possesses a child abuse 7
object commits a crime. 8
Maximum penalty—14 years imprisonment. 9
- (2) The *Penalties and Sentences Act 1992*, section 10
161Q states a circumstance of aggravation for an 11
offence against this section. 12
- (3) An indictment charging an offence against this 13
section with the circumstance of aggravation 14
stated in the *Penalties and Sentences Act 1992*, 15
section 161Q may not be presented without the 16
consent of a Crown Law Officer. 17

228K Defence for ss 228I and 228J 18

- (1) It is a defence for a person charged with an 19
offence against section 228I or 228J to prove 20
that— 21
 - (a) the person engaged in the conduct that is 22
alleged to constitute the offence for a 23
genuine artistic, educational, legal, medical, 24
scientific or public benefit purpose; and 25
 - (b) the person's conduct was, in the 26
circumstances, reasonable for that purpose. 27
- (2) Whether conduct was engaged in for a purpose 28
mentioned in subsection (1)(a) is a question of 29
fact. 30

[s 17]

Clause 17	Amendment of s 229B (Maintaining a sexual relationship with a child)	1 2
	Section 229B—	3
	<i>insert</i> —	4
	<i>Note</i> —	5
	See sections 746 and 747 in relation to—	6
	(a) the application of this section in relation to acts done before 3 July 1989; and	7 8
	(b) the application of this section during the period 3 July 1989 to 30 April 2003.	9 10
Clause 18	Amendment of s 632 (Corroboration)	11
	Section 632(3)—	12
	<i>insert</i> —	13
	<i>Note for subsection (3)</i> —	14
	See also the <i>Criminal Law (Sexual Offences) Act 1978</i> , section 4A and the <i>Evidence Act 1977</i> , section 132BA.	15 16
Clause 19	Amendment of s 668A (Reference by Attorney-General of pre-trial direction or ruling)	17 18
	(1) Section 668A, heading and subsection (2), ‘Attorney-General’—	19 20
	<i>omit, insert</i> —	21
	Crown Law Officer	22
	(2) Section 668A(1), ‘The Attorney-General’—	23
	<i>omit, insert</i> —	24
	A Crown Law Officer	25
Clause 20	Amendment of s 669A (Appeal by Attorney-General)	26
	(1) Section 669A, heading, after ‘Attorney-General’—	27
	<i>insert</i> —	28

	or Crown Law Officer	1
(2)	Section 669A(1A), ‘The Attorney-General’—	2
	<i>omit, insert—</i>	3
	A Crown Law Officer	4
Clause 21	Insertion of new pt 9, ch 102, ch div 1	5
	Part 9—	6
	<i>insert—</i>	7
	Chapter 102 Transitional and declaratory provisions for Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2019	8 9 10 11 12 13 14
	Chapter division 1 Provisions commencing on day after assent	15 16 17
	744 Application of repealed s 212	18
(1)	Repealed section 212 is taken always to have applied as if the limitation provision of the section were not, and had never been, in force.	19 20 21
(2)	To remove any doubt, it is declared that any immunity from prosecution acquired because of the limitation provision of repealed section 212 is abolished.	22 23 24 25
(3)	In this section—	26

[s 21]

1989 amendment means the *Criminal Code, Evidence Act and Other Acts Amendment Act 1989*, section 13. 1
2
3

limitation provision, of repealed section 212, means the provision of repealed section 212 that limited the period within which a prosecution for either of the offences defined in the section must be begun. 4
5
6
7
8

repealed section 212 means section 212 as in force from time to time before the commencement of the 1989 amendment. 9
10
11

745 Application of former s 215 12

- (1) Former section 215 is taken always to have applied as if the limitation provision of the section were not, and had never been, in force. 13
14
15
- (2) To remove any doubt, it is declared that any immunity from prosecution acquired because of the limitation provision of former section 215 is abolished. 16
17
18
19
- (3) However, subsections (1) and (2) do not apply in relation to the limitation provision of former section 215 to the extent it applied, from time to time before the commencement of the 1976 amendment, to a prosecution for an offence in relation to a girl of 16 years. 20
21
22
23
24
25
- (4) In this section— 26
- 1976 amendment** means the *Criminal Code Amendment Act 1976*, section 19. 27
28
- 1989 amendment** means the *Criminal Code, Evidence Act and Other Acts Amendment Act 1989*, section 14. 29
30
31
- former section 215** means section 215 as in force from time to time before the commencement of the 1989 amendment. 32
33
34

limitation provision, of former section 215, 1
means the provision of former section 215 that 2
limited the period within which a prosecution for 3
either of the offences firstly defined in the section 4
must be begun. 5

**746 Application of s 229B to acts done before 3 6
July 1989 7**

- (1) Section 229B as in force on the commencement of 8
this section applies, and is taken always to have 9
applied, in relation to acts done before the 10
commencement of the 1989 amendment. 11
- (2) For applying section 229B under subsection (1), 12
the section applies, and is taken always to have 13
applied, as if— 14
- (a) the maximum penalty under section 15
229B(1) were— 16
- (i) if in the course of the unlawful sexual 17
relationship the adult committed an 18
unlawful sexual act for which the adult 19
is liable to imprisonment for 14 years 20
or more—life imprisonment; or 21
- (ii) if in the course of the unlawful sexual 22
relationship the adult committed an 23
unlawful sexual act for which the adult 24
is liable to imprisonment for 5 years or 25
more but less than 14 years—14 years 26
imprisonment; or 27
- (iii) otherwise—7 years imprisonment; and 28
- (b) the reference in section 229B(10), definition 29
offence of a sexual nature to an offence 30
defined in section 210 (other than section 31
210(1)(e) or (f)), 215, 222, 349, 350 or 352 32
included a reference to an offence— 33

[s 21]

- (i) defined in a provision of this Code as 1
in force from time to time before the 2
commencement of the 1989 3
amendment; and 4
- (ii) constituted by an act that would, if 5
committed on the commencement of 6
this section, constitute an offence 7
defined in a section mentioned in that 8
definition. 9
- (3) Subsection (1) does not apply in relation to an act 10
done before the commencement of the 1989 11
amendment if, before the commencement of this 12
section, the act was the subject of a charge of an 13
offence, whether or not the charge was finally 14
dealt with. 15
- (4) In this section— 16
1989 amendment means the *Criminal Code*, 17
Evidence Act and Other Acts Amendment Act 18
1989, section 23. 19
- 747 Application of s 229B during period 3 July 20
1989 to 30 April 2003 21**
- (1) Section 229B as in force on the commencement of 22
this section applies, and is taken always to have 23
applied, during the following periods— 24
- (a) the period starting on the commencement of 25
the 1989 amendment and ending 26
immediately before the commencement of 27
the 1997 amendment; 28
- (b) the period starting on the commencement of 29
the 1997 amendment and ending 30
immediately before the commencement of 31
the 2003 amendment. 32
- (2) For applying section 229B under subsection 33
(1)(a), the section applies, and is taken always to 34

-
- have applied, as if— 1
- (a) the maximum penalty under section 229B(1) were— 2
3
- (i) if in the course of the unlawful sexual 4
relationship the adult committed an 5
unlawful sexual act for which the adult 6
is liable to imprisonment for 14 years 7
or more—life imprisonment; or 8
- (ii) if in the course of the unlawful sexual 9
relationship the adult committed an 10
unlawful sexual act for which the adult 11
is liable to imprisonment for 5 years or 12
more but less than 14 years—14 years 13
imprisonment; or 14
- (iii) otherwise—7 years imprisonment; and 15
- (b) the reference in section 229B(10), definition 16
offence of a sexual nature to an offence 17
defined in section 210 (other than section 18
210(1)(e) or (f)), 215, 222, 349, 350 or 352 19
included a reference to an offence— 20
- (i) defined in a provision of this Code as 21
in force from time to time before the 22
commencement of the 1997 23
amendment; and 24
- (ii) constituted by an act that would, if 25
committed on the commencement of 26
this section, constitute an offence 27
defined in a section mentioned in that 28
definition. 29
- (3) For applying section 229B under subsection 30
(1)(b), the section applies, and is taken always to 31
have applied, as if— 32
- (a) the maximum penalty under section 33
229B(1) were— 34

[s 21]

- (i) if in the course of the unlawful sexual relationship the adult committed an unlawful sexual act for which the adult is liable to imprisonment for 14 years or more—life imprisonment; or
 - (ii) otherwise—14 years imprisonment; and
- (b) the reference in section 229B(10), definition *offence of a sexual nature* to an offence defined in section 210 (other than section 210(1)(e) or (f)), 215, 222, 349, 350 or 352 included a reference to an offence—
 - (i) defined in a provision of this Code as in force from time to time before the commencement of the 2003 amendment; and
 - (ii) constituted by an act that would, if committed on the commencement of this section, constitute an offence defined in a section mentioned in that definition.
- (4) If an adult has been charged, before the commencement of this section, with committing an offence against section 229B over a period that includes any part of a period mentioned in subsection (1)(a) or (b), subsection (1) does not apply in relation to the period the subject of the charge for—
 - (a) the proceeding for the offence; or
 - (b) any appeal against a conviction or sentence for the offence.
- (5) Also, section 229B as applied under subsection (1) does not apply in relation to an act done during a period mentioned in subsection (1)(a) or (b) if, before the commencement of this section, the act was the subject of a charge of an offence, whether

or not the charge was finally dealt with.	1
(6) In this section—	2
1989 amendment means the <i>Criminal Code, Evidence Act and Other Acts Amendment Act 1989</i> , section 23.	3 4 5
1997 amendment means the <i>Criminal Law Amendment Act 1997</i> , section 33.	6 7
2003 amendment means the <i>Sexual Offences (Protection of Children) Amendment Act 2003</i> , section 18.	8 9 10
748 Proceedings for offences against s 229B	11
(1) This section applies in relation to an offence committed by a person against section 229B as applied under section 746 or 747.	12 13 14
(2) A proceeding for the offence may be started, and the person may be convicted of and punished for the offence, as if section 229B had always applied in the way provided for under section 746 or 747.	15 16 17 18
(3) This section applies despite section 11 and the <i>Acts Interpretation Act 1954</i> , section 20C.	19 20
749 Application of former s 218B to certain conduct	21 22
(1) If conduct constituting an offence against former section 218B started before the commencement and continues after the commencement, former section 218B continues to apply in relation to all of the conduct constituting the offence.	23 24 25 26 27
(2) In this section—	28
former section 218B means section 218B as in force from time to time before the commencement.	29 30 31

[s 22]

750 Application of amended ss 668A and 669A 1

- (1) Section 668A, as amended by the amending Act, 2
applies in relation to the referral, after the 3
commencement, of a point of law mentioned in 4
section 668A(1), whether the direction or ruling 5
in relation to which the point of law has arisen 6
was given before, or is given after, the 7
commencement. 8
- (2) Section 669A, as amended by the amending Act, 9
applies in relation to the making of an appeal, 10
after the commencement, against an order staying 11
proceedings or further proceedings on an 12
indictment, whether the order was made before, or 13
is made after, the commencement. 14
- (3) In this section— 15
amending Act means the *Criminal Code (Child* 16
Sexual Offences Reform) and Other Legislation 17
Amendment Act 2019. 18

Division 3 **Amendments commencing by** 19
proclamation 20

- Clause 22** **Amendment of s 1 (Definitions)** 21
- Section 1— 22
insert— 23
child sexual offence, for part 4, chapter 22, see 24
section 207A. 25
religious confession, for part 4, chapter 22, see 26
section 207A. 27

- Clause 23** **Amendment of s 207A (Definitions for this chapter)** 28
- Section 207A— 29
insert— 30

child sexual offence means an offence of a sexual nature committed in relation to a child, including, for example, an offence against a provision of this chapter or chapter 32.

religious confession means a confession made by a person to a member of the clergy in the member's professional capacity according to the ritual of the member's church or religious denomination.

Clause 24	Amendment of s 228F (Excluding non-essential persons from court when child exploitation material displayed)	10
	(1) Section 228F(2)—	12
	<i>insert—</i>	13
	(da) a person who is an intermediary under the <i>Evidence Act 1977</i> , part 2, division 4C for a witness giving evidence; or	14
	(2) Section 228F(2)(e), 'section 5(1)(f)'—	17
	<i>omit, insert—</i>	18
	section 5(1)(g)	19
	(3) Section 228F(2)(da) to (g)—	20
	<i>renumber</i> as section 228F(2)(e) to (h).	21
	(4) Section 228F(3), 'subsection (2)(f) or (g)'—	22
	<i>omit, insert—</i>	23
	subsection (2)(g) or (h)	24
Clause 25	Insertion of new ss 229BB and 229BC	25
	After section 229B—	26
	<i>insert—</i>	27

[s 25]

229BB Failure to protect child from child sexual offence	1 2
(1) An accountable person commits a crime if—	3
(a) the person knows there is a significant risk that another adult (the <i>alleged offender</i>) will commit a child sexual offence in relation to a child; and	4 5 6 7
(b) the alleged offender—	8
(i) is associated with an institution; or	9
(ii) is a regulated volunteer; and	10
(c) the child is under the care, supervision or control of an institution; and	11 12
(d) the child is either—	13
(i) under 16 years; or	14
(ii) a person with an impairment of the mind; and	15 16
(e) the person has the power or responsibility to reduce or remove the risk; and	17 18
(f) the person wilfully or negligently fails to reduce or remove the risk.	19 20
Maximum penalty—5 years imprisonment.	21
(2) For subsection (1), it does not matter that the knowledge was gained by the accountable person during, or in connection with, a religious confession.	22 23 24 25
(3) For this section, an adult is <i>associated</i> with an institution if the adult—	26 27
(a) owns, or is involved in the management or control of, the institution; or	28 29
(b) is employed or engaged by the institution; or	30
(c) works as a volunteer for the institution; or	31

-
- (d) engages in an activity in relation to the institution for which a working with children authority under the *Working with Children (Risk Management and Screening) Act 2000* is required; or
- (e) engages in the delivery of a service to a child who is under the care, supervision or control of the institution.
- (4) In this section—
- accountable person** means an adult who is associated with an institution, other than a regulated volunteer.
- institution** means an entity, other than an individual, that—
- (a) provides services to children; or
- (b) operates a facility for, or engages in activities with, children under the entity’s care, supervision or control.
- Examples of institutions—*
- schools, government agencies, religious organisations, hospitals, child care centres, licensed residential facilities, sporting clubs, youth organisations
- regulated volunteer** means an adult who is taken to be a volunteer employed or engaged in regulated employment at a person’s home, residence or household under any of the following provisions of the *Working with Children (Risk Management and Screening) Act 2000*, schedule 1—
- (a) section 4(2) or (3);
- (b) section 9(2);
- (c) section 14(2).

[s 25]

229BC Failure to report belief of child sexual offence committed in relation to child	1
	2
(1) This section applies to an adult if—	3
(a) the adult gains information that causes the adult to believe on reasonable grounds, or ought reasonably to cause the adult to believe, that a child sexual offence is being or has been committed against a child by another adult; and	4 5 6 7 8 9
(b) at the relevant time, the child is or was—	10
(i) under 16 years; or	11
(ii) a person with an impairment of the mind.	12 13
(2) If, without reasonable excuse, the adult fails to disclose the information to a police officer as soon as reasonably practicable after the belief is, or ought reasonably to have been, formed, the adult commits a misdemeanour.	14 15 16 17 18
Maximum penalty—3 years imprisonment.	19
(3) For subsection (1), it does not matter that the information was gained by the adult during, or in connection with, a religious confession.	20 21 22
(4) Without limiting what may be a reasonable excuse for subsection (2), an adult has a reasonable excuse if—	23 24 25
(a) the adult believes on reasonable grounds that the information has already been disclosed to a police officer; or	26 27 28
(b) the adult has already reported the information under any of the following provisions, or believes on reasonable grounds that another person has done or will do so—	29 30 31 32 33

-
- (i) the *Child Protection Act 1999*, chapter 2, part 1AA; 1
2
- (ii) the *Education (General Provisions) Act 2006*, chapter 12, part 10; 3
4
- (iii) the *Youth Justice Act 1992*, part 8 or 9; 5
or 6
- (c) the adult gains the information after the 7
child becomes an adult (the *alleged victim*), 8
and the adult reasonably believes the alleged 9
victim does not want the information to be 10
disclosed to a police officer; or 11
- (d) both of the following apply— 12
- (i) the adult reasonably believes disclosing 13
the information to a police officer 14
would endanger the safety of the adult 15
or another person, other than the 16
alleged offender, regardless of whether 17
the belief arises because of the fact of 18
the disclosure or the information 19
disclosed; 20
- (ii) failure to disclose the information to a 21
police officer is a reasonable response 22
in the circumstances. 23
- (5) An adult who, in good faith, discloses information 24
mentioned in subsection (1)(a) to a police officer 25
is not liable civilly, criminally or under an 26
administrative process for making the disclosure. 27
- (6) In this section— 28
- relevant time*, in relation to the child sexual 29
offence mentioned in subsection (1)(a), means the 30
time that the adult— 31
- (a) believes to be the time of commission of the 32
offence; or 33
- (b) ought reasonably to believe to be the time of 34
commission of the offence. 35

[s 26]

Clause 26	Amendment of s 552B (Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial)	1 2 3
	(1) Section 552B(1)—	4
	<i>insert—</i>	5
	(cb) an offence against section 229BB;	6
	(2) Section 552B(1)(j), (k) and (l), ‘paragraphs (a) to (i)’—	7
	<i>omit, insert—</i>	8
	paragraphs (a) to (k)	9
	(3) Section 552B(1)(ca) to (l)—	10
	<i>renumber</i> as section 552B(1)(d) to (n).	11
Clause 27	Amendment of s 590AA (Pre-trial directions and rulings)	12
	Section 590AA(2)(l), ‘division 4A’—	13
	<i>omit, insert—</i>	14
	division 4, 4A, 4C	15
Clause 28	Insertion of new pt 9, ch 102, ch div 2	16
	Part 9, chapter 102, as inserted by this Act—	17
	<i>insert—</i>	18
	Chapter division 2 Provision commencing by proclamation	19 20
	751 Application of s 229BC	21
	Section 229BC applies to an adult in relation to information gained on or after the commencement whether the information relates to an alleged offence believed to have been committed by an alleged offender before or after the	22 23 24 25 26

	commencement.	1
Part 6	Amendment of Criminal Law (Sexual Offences) Act 1978	2 3
Division 1	Preliminary	4
Clause 29	Act amended	5
	This part amends the <i>Criminal Law (Sexual Offences) Act 1978</i> .	6 7
Division 2	Amendment commencing on day after assent	8 9
Clause 30	Amendment of s 4A (Evidence of complaint generally admissible)	10 11
	Section 4A(5)—	12
	<i>insert—</i>	13
	<i>Note—</i>	14
	See also the Criminal Code, section 632 and the <i>Evidence Act 1977</i> , section 132BA.	15 16
Division 3	Amendment commencing by proclamation	17 18
Clause 31	Amendment of s 5 (Exclusion of public)	19
	(1) Section 5(1)—	20
	<i>insert—</i>	21

[s 32]

	(da) an intermediary under the <i>Evidence Act 1977</i> , part 2, division 4C for the complainant;	1 2 3
(2)	Section 5(1)(da) to (h)— <i>renumber</i> as section 5(1)(e) to (i).	4 5
Part 7	Amendment of Disability Services Act 2006	6 7
Division 1	Preliminary	8
Clause 32	Act amended This part amends the <i>Disability Services Act 2006</i> .	9 10
Division 2	Amendments commencing on day after assent	11 12
Clause 33	Amendment of sch 2 (Current serious offences)	13
(1)	Schedule 2, item 4, entry for the Criminal Code, section 218B, second column, ‘Grooming children under 16’— <i>omit, insert—</i> Grooming child under 16 years or parent or carer of child under 16 years	14 15 16 17 18
(2)	Schedule 2, item 4, entry for the Criminal Code— <i>insert—</i>	19 20
228I	Producing or supplying child abuse object	
228J	Possessing child abuse object	
(3)	Schedule 2, item 6, entry for the Criminal Code (Cwlth)—	21

insert—

1

273A.1 Possession of child-like sex dolls etc.

273B.4 Failing to protect child at risk of child sexual abuse offence

474.22A Possessing or controlling child abuse material obtained or accessed using a carriage service

Clause 34 Amendment of sch 3 (Repealed or expired serious offences)

2

3

Schedule 3, item 1, entry for the Criminal Code—

4

insert—

5

218B Grooming children under 16 as the provision was in force from time to time before its repeal by the *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2019*

Clause 35 Amendment of sch 4 (Current disqualifying offences)

6

(1) Schedule 4, item 4, entry for the Criminal Code—

7

insert—

8

228I Producing or supplying child abuse object

228J Possessing child abuse object

(2) Schedule 4, item 5, entry for the Criminal Code (Cwlth)—

9

insert—

10

[s 36]

273A.1 Possession of child-like sex dolls etc.

474.22A Possessing or controlling child abuse material obtained or accessed using a carriage service

Clause 36	Amendment of sch 5 (Repealed or expired disqualifying offences)	1
	Schedule 5, item 1, entry for the Criminal Code—	2
	<i>insert—</i>	3
		4

218B Grooming children under 16 as the provision was in force from time to time before its repeal by the *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2019*

Division 3	Amendment commencing by proclamation	5
		6

Clause 37	Amendment of sch 2 (Current serious offences)	7
	Schedule 2, item 4, entry for the Criminal Code—	8
	<i>insert—</i>	9

229BB Failure to protect child from child sexual offence

Part 8	Amendment of Evidence Act 1977	1
		2
Division 1	Preliminary	3
Clause 38	Act amended	4
	This part amends the <i>Evidence Act 1977</i> .	5
Division 2	Amendments commencing on day after assent	6
		7
Clause 39	Insertion of new s 132BA	8
	After section 132B—	9
	<i>insert—</i>	10
	132BA Delay in prosecuting offence	11
	(1) This section applies in relation to a criminal proceeding in which there is a jury.	12
		13
	(2) The judge may, on the judge’s own initiative or on the application of a party to the proceeding, give the jury a direction under this section if the judge is satisfied the defendant has suffered a significant forensic disadvantage because of the effects of delay in prosecuting an offence the subject of the proceeding.	14
		15
		16
		17
		18
		19
		20
	(3) For subsection (2), a significant forensic disadvantage is not established by the mere fact of delay in prosecuting the offence.	21
		22
		23
	(4) In giving the direction, the judge—	24
	(a) must inform the jury of—	25
	(i) the nature of the disadvantage; and	26

[s 40]

	(ii) the need to take the disadvantage into account when considering the evidence; but	1 2 3
	(b) must not warn or in any way suggest to the jury that—	4 5
	(i) it would be dangerous or unsafe to convict the defendant; or	6 7
	(ii) the complainant’s evidence should be scrutinised with great care.	8 9
	(5) However, the judge need not give the direction if there are good reasons for not doing so.	10 11
	(6) The judge must not, other than under this section, give the jury a direction about the disadvantages suffered by the defendant because of the effects of delay in prosecuting the offence.	12 13 14 15
	(7) In this section— <i>delay</i> , in prosecuting an offence, includes delay in reporting the offence.	16 17 18
Clause 40	Insertion of new pt 9, div 10	19
	Part 9—	20
	<i>insert</i> —	21
	Division 10 Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2019	22 23 24 25
	154 Application of s 132BA	26
	(1) Section 132BA applies in relation to a criminal proceeding only if the trial of the proceeding starts on or after the commencement.	27 28 29

[s 43]

Clause 43	Amendment of s 21AU (Exclusion of public)	1
	(1) Section 21AU(4), definition <i>essential person</i> —	2
	<i>insert</i> —	3
	(ca) an intermediary under division 4C for the child;	4
		5
	(2) Section 21AU(4), definition <i>essential person</i> , paragraphs (ca) to (f)—	6
	<i>renumber</i> as paragraphs (d) to (g).	7
		8
Clause 44	Insertion of new pt 2, div 4C	9
	Part 2—	10
	<i>insert</i> —	11
	Division 4C Intermediaries	12
	Subdivision 1 Preliminary	13
	21AZI Definitions for division	14
	In this division—	15
	<i>directions hearing</i> see section 21AZP(1).	16
	<i>intermediaries panel</i> see section 21AZV(4).	17
	<i>intermediary</i> means a person appointed as an intermediary under an order made under section 21AZL.	18
		19
		20
	<i>relevant proceeding</i> see section 21AZJ.	21
	21AZJ Meaning of <i>relevant proceeding</i>	22
	(1) A <i>relevant proceeding</i> is a criminal proceeding—	23
	(a) for a child sexual offence; and	24

-
- (b) held before a court at a place prescribed by regulation. 1
2
- (2) For subsection (1)(a), it does not matter whether the criminal proceeding also relates to other offences. 3
4
5
- (3) In this section— 6
- child sexual offence* means an offence of a sexual nature committed in relation to a child, including, for example, an offence against a provision of the Criminal Code, chapter 22 or 32. 7
8
9
10

21AZK References to particular matters 11

- (1) A reference in this division to a witness in a relevant proceeding includes a reference to a person who is to be called to give evidence in the proceeding. 12
13
14
15
- (2) A reference in this division to the giving of evidence by a witness in a relevant proceeding includes a reference to— 16
17
18
- (a) if the witness is a special witness—the giving of evidence by the witness in a way provided for under section 21A; and 19
20
21
- (b) if the witness is an affected child under section 21AC—the taking of the witness’s evidence in a way provided for under division 4A. 22
23
24
25
- (3) In a provision of this division about a relevant proceeding— 26
27
- (a) a reference to the prosecutor is a reference to the prosecutor for the proceeding; and 28
29
- (b) a reference to the defendant is a reference to— 30
31

[s 44]

- (i) if there is 1 defendant in the proceeding—the defendant in the proceeding; or
- (ii) if there is more than 1 defendant in the proceeding—a defendant in the proceeding.

Subdivision 2 Appointment and functions

21AZL Appointment

- (1) This section applies in relation to a witness for the prosecution in a relevant proceeding who—
 - (a) is under 16 years; or
 - (b) is a person with an impairment of the mind as defined under the Criminal Code; or
 - (c) has difficulty communicating; or
 - (d) is of a class prescribed by regulation.
- (2) The court may, on its own initiative or on the application of a party to the relevant proceeding, make an order appointing a person as an intermediary for the witness.
- (3) The order may be made at any stage of the relevant proceeding.
- (4) A person may be appointed as an intermediary for the witness only if—
 - (a) the person is included on the intermediaries panel; and
 - (b) the person is not an excluded person.
- (5) For subsection (4)(b), a person is an *excluded person* if the person—

-
- (a) is a relative, friend or acquaintance of the witness or of the defendant; or
- (b) is a party to the relevant proceeding; or
- (c) is a potential witness in the relevant proceeding; or
- (d) has, in a professional capacity—
- (i) assisted the witness, other than in the capacity of an intermediary; or
- (ii) assisted the defendant.
- (6) The court must not make an order appointing a person as an intermediary for the witness if the court is satisfied—
- (a) the witness—
- (i) is aware an application may be made for an order appointing a person as an intermediary for the witness; but
- (ii) wishes to give evidence in the relevant proceeding without the help of an intermediary; and
- (b) it would not be in the interests of justice to make the order.
- (7) An order made under this section for a witness mentioned in subsection (1)(a) has effect even if the witness is 16 years or older when the witness gives evidence in the relevant proceeding.
- (8) Also, an order made under this section must not be subject to interlocutory appeal but may be raised as a ground of appeal against conviction or sentence.

21AZM Functions

- (1) An intermediary for a witness in a relevant proceeding has the following functions in relation

[s 44]

to the witness’s evidence in the proceeding—	1
(a) to communicate or explain to the witness	2
questions put to the witness, to the extent	3
necessary to enable the witness to	4
understand the questions;	5
(b) to communicate or explain to a person	6
asking questions of the witness the answers	7
given by the witness in reply, to the extent	8
necessary to enable the person to understand	9
the answers.	10
(2) An intermediary for a witness in a relevant	11
proceeding also has the functions conferred on the	12
intermediary under subdivision 3 in relation to	13
directions hearings.	14
(3) In performing a function under this division, an	15
intermediary—	16
(a) is an officer of the court; and	17
(b) must act impartially.	18
21AZN Oath before performing particular functions	19
An intermediary for a witness in a relevant	20
proceeding must not perform a function under	21
section 21AZM(1) in relation to the witness’s	22
evidence in the proceeding without first taking an	23
oath under the <i>Oaths Act 1867</i> , section 30A.	24
Subdivision 3 Directions hearings	25
21AZO Application of subdivision	26
This subdivision applies if an intermediary is	27
appointed for a witness in a relevant proceeding.	28

-
- 21AZP Directions for holding directions hearings** 1
- (1) The court must, on making the order under which 2
the intermediary is appointed, give a direction that 3
a hearing under this subdivision (a *directions* 4
hearing) be held in relation to the giving of 5
evidence by the witness in the relevant 6
proceeding. 7
- (2) Subsection (1) does not prevent the court, with the 8
consent of the parties to the relevant proceeding, 9
holding the directions hearing immediately after 10
making the order mentioned in subsection (1). 11
- (3) Also, at any stage of the relevant proceeding, the 12
court may, on its own initiative or on the 13
application of a party to the proceeding, give a 14
direction that a further directions hearing be held 15
in relation to the giving of evidence by the witness 16
in the proceeding. 17
- (4) In giving a direction under subsection (1) or (3) 18
for the holding of a directions hearing, the court 19
may, if it considers it appropriate, direct that— 20
- (a) the intermediary prepare a written report for 21
the court that states— 22
- (i) the communication needs of the 23
witness; and 24
- (ii) the intermediary’s recommendations 25
about the most effective way to 26
communicate with the witness; or 27
- (b) a stated person attend the hearing. 28
- (5) The intermediary must comply with a direction 29
given under subsection (4)(a). 30

- 21AZQ Attendance at directions hearing** 31
- (1) The following persons must attend a directions 32
hearing held in the relevant proceeding— 33

[s 44]

(a) the prosecutor or a person representing the prosecutor;	1 2
(b) the legal practitioner representing the defendant or, if the defendant is unrepresented, the defendant;	3 4 5
(c) the intermediary;	6
(d) a person directed to attend the directions hearing under section 21AZP(4)(b).	7 8
(2) The witness may, but is not required to, attend the directions hearing.	9 10
(3) Subsections (1) and (2) apply subject to any direction of the court.	11 12
21AZR Functions of intermediary at directions hearing	13 14
(1) The intermediary must, at a directions hearing held in the relevant proceeding—	15 16
(a) inform the court of the communication needs of the witness; and	17 18
(b) recommend to the court the most effective way to communicate with the witness.	19 20
(2) The information and recommendations may be given or made in any way the court considers appropriate, including, for example—	21 22 23
(a) in a report prepared in compliance with a direction given under section 21AZP(4)(a); or	24 25 26
(b) in a report prepared by the intermediary before the intermediary was appointed for the witness.	27 28 29
21AZS Court may give directions	30
(1) The court may, at a directions hearing held in the	31

-
- relevant proceeding, give the directions about the giving of evidence by the witness that the court considers appropriate for the fair and efficient conduct of the proceeding. 1
2
3
4
- (2) Without limiting subsection (1), a direction may be given about 1 or more of the following matters— 5
6
7
- (a) the manner of questioning the witness; 8
- (b) the duration of questioning the witness; 9
- (c) the questions that may, or may not, be put to the witness; 10
11
- (d) if there is more than 1 defendant—the allocation among the defendants of the topics about which the witness may be questioned; 12
13
14
15
- (e) the use of models, plans, body maps or similar aids to— 16
17
- (i) help communicate a question to be put to the witness; or 18
19
- (ii) help the witness communicate an answer to a question put to the witness; 20
21
- (f) the use of an audio visual link or another communication facility— 22
23
- (i) to enable the witness and the intermediary to communicate with each other; or 24
25
26
- (ii) for another purpose, including, for example, to enable the court, the prosecutor and the legal practitioner representing the defendant to communicate with the intermediary. 27
28
29
30
31
- (3) In deciding whether to give a direction under this section, the court may have regard to the information given, and recommendations made, 32
33
34

[s 44]

by the intermediary under section 21AZR. 1

- (4) Subsections (1) and (2) do not limit the Criminal Code, section 590AA or the *Justices Act 1886*, section 83A. 2
3
4

Subdivision 4 Giving of evidence and jury instructions 5 6

21AZT Way evidence of witness to be given 7

- (1) This section applies if an intermediary is appointed for a witness in a relevant proceeding. 8
9
- (2) The witness's evidence in the relevant proceeding must be given— 10
11
- (a) in the presence of the intermediary; or 12
- (b) in compliance with a direction given under section 21AZS(2)(f)(i). 13
14

21AZU Instructions to be given to jury 15

- (1) This section applies in relation to a relevant proceeding on indictment if a witness's evidence in the proceeding is given under section 21AZT(2)(a) or (b). 16
17
18
19
- (2) The judge presiding at the relevant proceeding must instruct the jury that— 20
21
- (a) the jury should not draw any inference as to the defendant's guilt from the use of the intermediary; and 22
23
24
- (b) the probative value of the evidence of the witness is not increased or decreased because of the use of the intermediary; and 25
26
27
- (c) the evidence of the witness is not to be given any greater or lesser weight because of the use of the intermediary. 28
29
30

-
- (3) However, the judge must not give an instruction 1
under subsection (2)(b) or (c) if the judge is 2
satisfied it would not be in the interests of justice 3
to give the instruction. 4

Subdivision 5 Intermediaries panel 5

21AZV Chief executive to establish intermediaries 6 panel 7

- (1) The chief executive must establish a panel of 8
persons the chief executive is satisfied are suitable 9
to perform the functions of an intermediary. 10
- (2) A person is not suitable to perform the functions 11
of an intermediary unless the person— 12
- (a) has a relevant qualification; and 13
- (b) meets any requirements for professional 14
registration, licensing or authorisation 15
prescribed by regulation; and 16
- (c) meets any other requirements prescribed by 17
regulation. 18
- (3) Subsection (2) does not limit the matters to which 19
the chief executive may have regard in 20
considering the suitability of a person to perform 21
the functions of an intermediary. 22
- (4) The panel established under this section is the 23
intermediaries panel. 24
- (5) In this section— 25
relevant qualification means— 26
- (a) a tertiary qualification in occupational 27
therapy, psychology, social work or speech 28
pathology; or 29
- (b) other qualifications, training, experience or 30
skills prescribed by regulation. 31

[s 44]

21AZW Removal of person from intermediaries panel	1 2
(1) This section applies if the chief executive decides a person included on the intermediaries panel is no longer suitable to perform the functions of an intermediary.	3 4 5 6
(2) The chief executive must—	7
(a) remove the person from the intermediaries panel; and	8 9
(b) give the person a written notice stating the reasons for the decision.	10 11
21AZX Criminal history report	12
(1) This section applies for deciding under section 21AZV or 21AZW whether a person is suitable to perform the functions of an intermediary.	13 14 15
(2) The chief executive may ask the commissioner of the police service for—	16 17
(a) a written report about the criminal history of the person; and	18 19
(b) a brief description of the circumstances of a conviction mentioned in the criminal history.	20 21 22
(3) However, the chief executive may make the request only if the person has given the chief executive written consent for the request.	23 24 25
(4) The commissioner of the police service must comply with the request.	26 27
(5) However, the duty to comply applies only in relation to information in the commissioner's possession or to which the commissioner has access.	28 29 30 31
(6) In this section—	32

-
- criminal history*, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions. 1
2
3
4
- spent conviction* means a conviction— 5
- (a) to which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and 6
7
8
- (b) that is not revived under section 11 of that Act. 9
10

21AZY Confidentiality of criminal history information 11
12

- (1) This section applies to a person who possesses criminal history information because the person is or was an officer, employee or agent of the department. 13
14
15
16
- (2) The person must not, directly or indirectly, disclose the criminal history information to another person unless the disclosure is permitted under subsection (3). 17
18
19
20
- Maximum penalty—100 units. 21
- (3) The person may disclose the criminal history information to another person— 22
23
- (a) to the extent necessary to perform the person's functions under this Act; or 24
25
- (b) if the disclosure is authorised under an Act; or 26
27
- (c) if the disclosure is otherwise required or permitted by law; or 28
29
- (d) if the person to whom the information relates consents to the disclosure; or 30
31

[s 45]

	(e) if the disclosure is in a form that does not identify the person to whom the information relates; or	1 2 3
	(f) if the information is, or has been, lawfully accessible to the public.	4 5
	(4) The chief executive must ensure a document containing criminal history information is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.	6 7 8 9 10
	(5) In this section— <i>criminal history information</i> means a report, or information contained in a report, given to the chief executive under section 21AZX.	11 12 13 14
Clause 45	Amendment of s 21M (Meaning of <i>protected witness</i>)	15
	Section 21M(3), definition <i>prescribed offence</i> — <i>insert</i> —	16 17
	229BB, 229BC,	18
Clause 46	Insertion of new s 155	19
	After section 154, as inserted by this Act— <i>insert</i> —	20 21
	155 Application of pt 2, div 4C	22
	(1) Part 2, division 4C applies in relation to a relevant proceeding whether the proceeding was started before, or is started after, the commencement.	23 24 25
	(2) In this section— <i>relevant proceeding</i> see section 21AZJ.	26 27

Clause 47	Amendment of sch 3 (Dictionary)	1
(1)	Schedule 3, definition <i>relevant proceeding</i> —	2
	<i>omit.</i>	3
(2)	Schedule 3—	4
	<i>insert</i> —	5
	<i>directions hearing</i> , for part 2, division 4C, see section 21AZP(1).	6 7
	<i>intermediaries panel</i> , for part 2, division 4C, see section 21AZV(4).	8 9
	<i>intermediary</i> , for part 2, division 4C, see section 21AZI.	10 11
	<i>relevant proceeding</i> means—	12
	(a) for part 2, division 4A—see section 21AC;	13
	or	14
	(b) for part 2, division 4C—see section 21AZJ.	15
Part 9	Amendment of Justices Act 1886	16 17
Clause 48	Act amended	18
	This part amends the <i>Justices Act 1886</i> .	19
Clause 49	Amendment of s 83A (Direction hearing)	20
(1)	Section 83A(5)(g)(i)—	21
	<i>omit, insert</i> —	22
	(i) the arrangements necessary for the giving of evidence by a special witness or an affected child under the <i>Evidence Act 1977</i> , part 2, division 4 or 4A; or	23 24 25 26

[s 50]

- (ia) matters relating to the *Evidence Act 1977*,
part 2, division 4C; or 1
2
(2) Section 83A(5)(g)(ia) and (ii)— 3
renumber as section 83A(5)(g)(ii) and (iii). 4

Part 10 Amendment of Oaths Act 1867 5

Clause 50 Act amended 6
This part amends the *Oaths Act 1867*. 7

Clause 51 Insertion of new s 30A 8
After section 30— 9
insert— 10
30A Intermediaries' oath 11
(1) Intermediaries may be sworn in the criminal 12
proceedings in which they are appointed in the 13
following form or in a form to the same effect— 14
'You swear that you will well and truly 15
communicate and explain the questions put to the 16
witness and the answers given by the witness to 17
the best of your knowledge, skill and ability So 18
help you God.' 19
(2) In this section— 20
intermediary means a person appointed as an 21
intermediary under an order made under the 22
Evidence Act 1977, section 21AZL. 23

Part 11	Amendment of Penalties and Sentences Act 1992	1
		2
Clause 52	Act amended	3
	This part amends the <i>Penalties and Sentences Act 1992</i> .	4
Clause 53	Amendment of s 9 (Sentencing guidelines)	5
(1)	Section 9(4)—	6
	<i>omit, insert—</i>	7
(4)	Also, in sentencing an offender for any offence of a sexual nature committed in relation to a child under 16 years or a child exploitation material offence—	8 9 10 11
(a)	the court must have regard to the sentencing practices, principles and guidelines applicable when the sentence is imposed rather than when the offence was committed; and	12 13 14 15 16
(b)	the principles mentioned in subsection (2)(a) do not apply; and	17 18
(c)	the offender must serve an actual term of imprisonment, unless there are exceptional circumstances.	19 20 21
(2)	Section 9(5), ‘subsection (4)(b)’—	22
	<i>omit, insert—</i>	23
	subsection (4)(c)	24
(3)	Section 9(6)—	25
	<i>insert—</i>	26
(da)	any relationship between the offender and the child; and	27 28
(4)	Section 9(6)(da) to (j)—	29

[s 53]

- renumber* as section 9(6)(e) to (k). 1
- (5) Section 9(6A)— 2
omit, insert— 3
- (6A) However, for subsection (6)(h), the court must not 4
have regard to the offender’s good character if it 5
assisted the offender in committing the offence. 6
- (6) Section 9(7), ‘to whom subsection (6A) applies’— 7
omit, insert— 8
for a child exploitation material offence 9
- (7) Section 9(7)(a)— 10
omit, insert— 11
- (a) for an offence other than an offence against 12
the Criminal Code, section 228I or 228J— 13
the nature of any material describing or 14
depicting a child that the offence involved, 15
including the apparent age of the child and 16
any activity shown; and 17
- (aa) for an offence against the Criminal Code, 18
section 228I or 228J—the nature of the doll, 19
robot or other object representing or 20
portraying a child that the offence involved, 21
including the apparent age of the child; and 22
- (ab) the offender’s conduct or behaviour in 23
relation to the material, doll, robot or other 24
object that the offence involved; and 25
- (ac) any relationship between the offender and 26
the child the subject of the material, or 27
represented or portrayed by the doll, robot 28
or other object, that the offence involved; 29
and 30
- (8) Section 9, after subsection (7)— 31
insert— 32
- (7AA) However, for subsection (7)(d), the court must not 33

	have regard to the offender’s good character if it assisted the offender in committing the offence.	1 2
(9)	Section 9(12)—	3
	<i>insert—</i>	4
	<i>child exploitation material offence</i> means any of the following offences—	5 6
	(a) an offence against the <i>Classification of Computer Games and Images Act 1995</i> , section 28 if the objectionable computer game is a child abuse computer game under the Act;	7 8 9 10 11
	(b) an offence against any of the following provisions of the <i>Classification of Films Act 1991</i> —	12 13 14
	(i) section 41(3) or 42(3) or (4);	15
	(ii) section 43 if the offence involves a child abuse publication under the Act;	16 17
	(c) an offence against the Criminal Code, section 228A, 228B, 228C, 228D, 228DA, 228DB, 228DC, 228I or 228J.	18 19 20
Clause 54	Insertion of new s 195E	21
	After section 195D—	22
	<i>insert—</i>	23
	195E Court may require copies of report to be given to corrective services department	24 25
	(1) A court that sentences an offender for an offence may order that a copy of a medical or other report tendered during the sentencing proceeding must be given to the corrective services department.	26 27 28 29
	<i>Note—</i>	30
	Information contained in the report may be confidential information under the <i>Corrective Services Act 2006</i> ,	31 32

[s 55]

	section 341 that must not be disclosed other than under that section.	1 2
	(2) The order may include—	3
	(a) the time within which the copy must be given to the corrective services department; and	4 5 6
	(b) any other requirement to facilitate the giving of the copy to the corrective services department.	7 8 9
	(3) In this section—	10
	<i>corrective services department</i> means the department in which the <i>Corrective Services Act 2006</i> is administered.	11 12 13
Clause 55	Insertion of new pt 14, div 21	14
	Part 14—	15
	<i>insert</i> —	16
	Division 21	Transitional provisions for
		Criminal Code (Child
		Sexual Offences Reform)
		and Other Legislation
		Amendment Act 2019
		17 18 19 20 21
	256 Sentencing guidelines	22
	Section 9, as amended by the <i>Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2019</i> , applies to the sentencing of an offender after the commencement whether the offence or conviction happened before, or happens after, the commencement.	23 24 25 26 27 28 29

257 Application of s 195E 1

Section 195E applies to a court sentencing an offender after the commencement— 2
3

(a) whether the offence or conviction happened before, or happens after, the commencement; and 4
5
6

(b) even if the sentence is imposed on appeal or reopening of sentencing proceedings under section 188. 7
8
9

Clause 56 Amendment of sch 1C (Prescribed offences) 10

(1) Schedule 1C, entry for the Criminal Code— 11

insert— 12

- section 228I (Producing or supplying child abuse object) 13
14

- section 228J (Possessing child abuse object) 15

(2) Schedule 1C, entry for the Criminal Code, entry for section 218B, '(Grooming children under 16)'— 16
17

omit, insert— 18

(Grooming child under 16 years or parent or carer of child under 16 years) 19
20

Part 12 Amendment of Police Powers and Responsibilities Act 2000 21
22

Clause 57 Act amended 23

This part amends the *Police Powers and Responsibilities Act 2000*. 24
25

[s 58]

Clause 58	Amendment of s 789A (Power to demand production of employment-screening document)	1 2
	(1) Section 789A(1)(b)(i), after ‘charged with a’—	3
	<i>insert—</i>	4
	serious offence or	5
	(2) Section 789A(8)—	6
	<i>insert—</i>	7
	<i>serious offence</i> means a serious offence within the meaning of the Working with Children Act.	8 9
Clause 59	Amendment of sch 2 (Relevant offences for controlled operations and surveillance device warrants)	10 11
	Schedule 2, item 4, entry for the Criminal Code, entry for section 218B, ‘(Grooming children under 16)’—	12 13
	<i>omit, insert—</i>	14
	(Grooming child under 16 years or parent or carer of child under 16 years)	15 16
Part 13	Amendment of Transport Operations (Passenger Transport) Act 1994	17 18 19
Clause 60	Act amended	20
	This part amends the <i>Transport Operations (Passenger Transport) Act 1994</i> .	21 22
Clause 61	Amendment of sch 1A (Driver disqualifying offences)	23
	(1) Schedule 1A, part 1, division 1—	24
	<i>insert—</i>	25

10H	section 228I (Producing or supplying child abuse object)		
10I	section 228J (Possessing child abuse object)		
(2)	Schedule 1A, part 1, division 1, item 7A, '(Grooming children under 16)'—	1 2	
	<i>omit, insert—</i>	3	
	(Grooming child under 16 years or parent or carer of child under 16 years)	4 5	
(3)	Schedule 1A, part 1—	6	
	<i>insert—</i>	7	
	Division 3B	Provision of the Criminal Code repealed by the Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2019	8 9 10 11 12 13
1	section 218B (Grooming children under 16)		
(4)	Schedule 1A, part 1, division 4—	14	
	<i>insert—</i>	15	
2A	section 273A.1 (Possession of child-like sex dolls etc.)		
5A	section 474.22A (Possessing or controlling child abuse material obtained or accessed using a carriage service)		

[s 62]

Part 14	Amendment of Working with Children (Risk Management and Screening) Act 2000	1 2 3
Division 1	Preliminary	4
Clause 62	Act amended	5
	This part amends the <i>Working with Children (Risk Management and Screening) Act 2000</i> .	6 7
Division 2	Amendments commencing on day after assent	8 9
Clause 63	Amendment of sch 2 (Current serious offences)	10
	(1) Schedule 2, item 4, entry for the Criminal Code, entry for section 218B, column 2, ‘Grooming children under 16’—	11 12
	<i>omit, insert—</i>	13
	Grooming child under 16 years or parent or carer of child under 16 years	14 15
	(2) Schedule 2, item 4, entry for the Criminal Code—	16
	<i>insert—</i>	17
228I	Producing or supplying child abuse object	
228J	Possessing child abuse object	
	(3) Schedule 2, item 6, entry for the Criminal Code (Cwlth)—	18
	<i>insert—</i>	19
273A.1	Possession of child-like sex dolls etc.	

273B.4 Failing to protect child at risk of
child sexual abuse offence

474.22A Possessing or controlling child
abuse material obtained or
accessed using a carriage service

Clause 64	Amendment of sch 3 (Repealed or expired serious offences)	1
	Schedule 3, item 1, entry for the Criminal Code—	2
	<i>insert—</i>	3
		4
218B	Grooming children under 16	as the provision was in force from time to time before its repeal by the <i>Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2019</i>
Clause 65	Amendment of sch 4 (Current disqualifying offences)	5
(1)	Schedule 4, item 4, entry for the Criminal Code, entry for section 218B, column 2, ‘Grooming children under 16’—	6
	<i>omit, insert—</i>	7
	Grooming child under 16 years or parent or carer of child under 16 years	8
		9
		10
(2)	Schedule 4, item 4, entry for the Criminal Code—	11
	<i>insert—</i>	12
228I	Producing or supplying child abuse object	
228J	Possessing child abuse object	
(3)	Schedule 4, item 5, entry for the Criminal Code (Cwlth)—	13

[s 66]

insert—

1

273A.1 Possession of child-like sex dolls
etc.

474.22A Possessing or controlling child
abuse material obtained or
accessed using a carriage service

Clause 66 Amendment of sch 5 (Repealed or expired disqualifying offences)

2

3

Schedule 5, item 1, entry for the Criminal Code—

4

insert—

5

218B Grooming children under 16 as the provision was in force from time to time before its repeal by the *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2019*

Division 3 Amendment commencing by proclamation

6

7

Clause 67 Amendment of sch 2 (Current serious offences)

8

Schedule 2, item 4, entry for the Criminal Code—

9

insert—

10

229BB Failure to protect child from child sexual offence

Part 15	Amendment of Youth Justice Act 1992	1 2
Clause 68	Act amended	3
	This part amends the <i>Youth Justice Act 1992</i> .	4
Clause 69	Insertion of new s 153B	5
	After section 153A—	6
	<i>insert—</i>	7
	153B Court may require copies of report to be given to department	8 9
	(1) A court that sentences a child for an offence may order that a copy of a medical or other report tendered during the sentencing proceeding must be given to the department.	10 11 12 13
	(2) The order may include—	14
	(a) the time within which the copy must be given to the department; and	15 16
	(b) any other requirement to facilitate the giving of the copy to the department.	17 18
Clause 70	Amendment of s 160 (Copy of court order or decision to be given to child, parent etc.)	19 20
	Section 160(1)—	21
	<i>insert—</i>	22
	(ab) an order made under section 153B;	23
Clause 71	Amendment of s 284 (Definitions for pt 9)	24
	Section 284, definition <i>confidential information</i> , paragraph (b), after ‘purposes of’—	25 26

[s 71]

insert—

1

, or tendered in,

2

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