



Queensland

Criminal Code and Other Legislation (Hyper Realistic Material) Amendment Youth Act 2024

Youth Act No. 1 of 2024

**A Youth Bill for a Youth Act to amend the Criminal Code and Electoral Act
1992 for particular purposes**

[Assented to 4 November 2024]



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Criminal Code and Other Legislation (Hyper Realistic Material) Amendment Youth Act 2024

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The Youth Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Youth Act may be cited as the *Criminal Code and Other Legislation (Hyper Realistic Material) Amendment Youth Act 2024*.

2 Commencement

This Youth Act commences on a day to be fixed by proclamation.

3 Main purpose of Youth Act

- (1) The main purpose of this Youth Act is to regulate the misuse of hyper realistic imagery in relation to intimate images and election misuse, with a focus on—
 - (a) responsibly managing hyper realistic imagery; and
 - (b) safeguarding individual privacy and dignity; and
 - (c) preventing manipulative use in shaping public opinions, particularly regarding protected notable persons and elections; and
 - (d) enhancing transparency, whilst maintaining a delicate balance between regulation and upholding principles of free speech, artistic expression, and academic inquiry, respecting individual rights, public safety, and societal values.
- (2) The main purpose will be achieved primarily by—
 - (a) establishing comprehensive regulations for the management of hyper realistic materials; and

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- (b) prohibiting unauthorised creation, distribution, and possession especially considering minors, domestic, family and sexual violence, and individuals with intellectual disabilities.

Part 2 Amendment of Criminal Code

4 Code amended

This part amends the Criminal Code.

5 Amendment of s 98 (Definitions)

Section 98—

insert—

chief executive, of a public sector entity, see the *Public Sector Act 2022*, section 17.

consent means consent freely and voluntarily given by a person with the cognitive capacity to give the consent.

public sector entity see the *Public Sector Act 2022*, section 8.

hyper realistic material means material that an ordinary person would, due to the characteristics of the material, believe was a photograph, vocal or visual.

lobbying activity see *Integrity Act 2009*, schedule 1.

material includes anything that contains data from which text, images or sound can be generated.

material about a protected notable person includes material that depicts—

- (a) the protected notable person; or

-
- (b) another person speaking about the protected notable person.

protected notable person means—

- (a) a person who is currently elected; or
- (b) a candidate; or
- (c) any person who is part of the executive government, whether by appointment, employment or otherwise, whose character or conduct, because of the member's position, is likely to influence the perception of a person who is entitled to vote in an election about—
 - (a) a person who has publicly indicated they intend to be a candidate, or is a candidate, in the election; or
 - (b) a registered political party that has publicly indicated it will nominate a candidate, or has nominated a candidate, in the election; or
 - (c) the election itself.

Examples for paragraph (c)—

a Minister, the member of the Legislative Assembly, the head of a public sector entity

- (d) any person whose character or conduct, because of their social or cultural status, is likely to influence the perception of a person who is entitled to vote in an election about—
 - (i) a person who has publicly indicated they intend to be a candidate, or is a candidate, in the election; or
 - (ii) a registered political party that has publicly indicated it will nominate a candidate, or has nominated a candidate, in the election; or

[s 5B]

(iii) the election itself.

publish includes publish on the internet, even if the internet site on which the publication is made is located outside Queensland.

reasonably obvious—

- (a) A thing is *reasonably obvious* if it can be easily perceived and understood by a reasonable person.
- (b) A thing is not *reasonably obvious* if it is—
 - (i) not visible; or
 - (ii) unreasonably faint; or
 - (iii) unreasonably small; or
 - (iv) obscured by other material; or
 - (v) unclear; or
 - (vi) only indirectly achieves or fulfil its purpose or function.

registered political party see *Electoral Act 1992*, schedule 1.

registered lobbyist see *Integrity Act 2009*, schedule 2.

related bodies corporate means bodies corporate that are related under the Corporations Act, section 50.

5B Insertion of new chapter division 1A

After chapter division 1—

insert—

Chapter division 1A Special cases

98AASpecial cases

- (1) This section applies for an offence against this chapter committed by the following (each a *special case offender*)—
 - (a) a registered political party;
 - (b) a corporation or unincorporated association that is a registered lobbyist;
 - (c) a corporation or unincorporated association that has engaged in lobbying activity within the past year;
 - (d) a corporation or unincorporated association that, together with its related bodies corporate, employs greater than 200 employees.
- (2) The maximum penalty for the offence is the greater of the following—
 - (a) \$50,000,000;
 - (b) 3 times the total value of the benefits that have been obtained by 1 or more persons that are reasonably attributable to the commission of the offence;
 - (c) 30% of the special case offender's turnover during the financial year that the offence was committed in.

5B Insertion of new ss 98BA and 98BB

A person commits a misdemeanour if—

insert—

98BAPublishing hyper realistic material about a protected notable person

A person commits a misdemeanour if—

[s 5B]

- (a) the person knowingly publishes hyper realistic material about a protected notable person; and
- (b) the material may influence the perception of a person who is entitled to vote in a current or future election about—
 - (i) a person who has publicly indicated they intend to be a candidate, or is a candidate, in the election; or
 - (ii) a registered political party that has publicly indicated it will nominate a candidate, or has nominated a candidate, in the election; or
 - (iii) the election itself; and
- (c) the person does not include a watermark denoting, in a way that it is reasonably obvious to persons who are likely to view the material, that the material is not a real photograph or recording; and
- (d) the person publishes the materials without the consent of the protected notable person that the material is about.

Maximum penalty—32 penalty units.

98BB Publishing hyper realistic material about a protected notable person within 180 days prior to an election

A person commits a misdemeanour if—

- (a) the person knowingly publishes hyper realistic material about a protected notable person; and
- (b) the person publishes the material within 180 days prior to a current or future election; and

-
- (c) the material may influence the perception of a person who is entitled to vote in the election about—
 - (i) a person who has publicly indicated they intend to be a candidate, or is a candidate, in the election; or
 - (ii) a registered political party that has publicly indicated it will nominate, or has nominated, persons as candidates in the election; or
 - (iii) the election itself; and
 - (d) the person publishes the material without the consent of the protected notable person that the material is about.

Maximum penalty—40 penalty units.

6 Amendment of s 100 (Hindering or interfering with voting conduct)

- (1) Section 100(1)(c), ‘person;’—

omit, insert—

person; or

- (2) Section 100(1)—

insert—

- (d) uses hyper realistic material to influence public perspectives about a protected public official.

102A Publishing hyper realistic material about a protected notable person

A person commits a misdemeanour if—

- (a) the person knowingly publishes hyper realistic material about a protected notable person; and

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- (b) the material may influence the perception of a person who is entitled to vote in a current or future election about—
 - (i) a person who has publicly indicated they intend to be a candidate, or is a candidate, in the election; or
 - (ii) a registered political party that has publicly indicated it will nominate a candidate, or has nominated a candidate, in the election; or
 - (iii) the election itself; and
- (c) the person does not include a watermark denoting, in a way that it is reasonably obvious to persons who are likely to view the material, that the material is not a real photograph or recording; and
- (d) the person publishes the material without the consent of the protected notable person that the material is about.

Maximum penalty—32 penalty units.

102B Publishing hyper realistic material about a protected notable person within 180 days prior to an election

A person commits a misdemeanour if—

- (a) the person knowingly publishes hyper realistic material about a protected notable person within 180 days prior to a current or future election; and

-
- (b) the materials may influence the perception of a person who is entitled to vote in the election about—
 - (i) a person who has publicly indicated they intend to be a candidate, or is a candidate, in the election; or
 - (ii) a registered political party that has publicly indicated it will nominate a candidate or has nominated a candidate in the election; or
 - (iii) the election itself; and
 - (c) the person publishes the material without the consent of the protected notable person that the material is about.

Maximum penalty—40 penalty units.

8 Amendment of s 207A (Definitions for this chapter)

- (1) Section 207A, definition *intimate image*, paragraph (b), after ‘altered’—

omit, insert—

, created, generated, processed or otherwise modified or bought into existence to

- (2) Section 207A—

insert—

realistic intimate material means realistic material that is an intimate image.

realistic material means material that an ordinary person would, due to the characteristics of the material, believe was a photo or visual recording or any other similar thing of the person.

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9 Amendment of s 223 (Distributing intimate images)

Section 223(1), penalty—

omit, insert—

Maximum penalty—

- (a) if the material depicts a child—12 years imprisonment; or
- (ba) if the materials depicts a former spouse—12 years imprisonment; or
- (bb) if the material depicts an individual with whom the person had a previous domestic relationship with—12 years imprisonment; or
- (bc) if the material depicts an individual with whom the person is in a domestic relationship with—12 years imprisonment; or
- (bd) if the material depicts an individual who the person interacts with on a regular basis—12 years imprisonment; or
- (be) if the material depicts a person with an intellectual disability—12 years imprisonment; or
- (b) if the offender uses a hidden network or an anonymising service in committing the offence—8 years imprisonment; or
- (c) if the offender did a thing for the purpose of concealing, disguising, or hiding the material—8 years imprisonment; or
- (d) otherwise—6 years imprisonment.

10 Insertion of new ss 223B–223C

After section 223—

insert—

223B Creation of realistic intimate material

- (1) A person commits a crime if the person creates realistic intimate material about another person—
 - (a) without the other person’s consent; and
 - (b) in a way that would cause the other person distress reasonably arising in all the circumstances.

Maximum penalty—

- (a) if the material depicts a child—15 years imprisonment; or
 - (ba) if the materials depicts a former spouse—15 years imprisonment; or
 - (bc) if the material depicts an individual with whom the person is in a domestic relationship with—15 years imprisonment; or
 - (bd) if the material depicts an individual who the person interacts with on a regular basis—15 years imprisonment; or
 - (be) if the material depicts a person with an intellectual disability—15 years imprisonment; or
 - (b) otherwise—5 years imprisonment.
- (2) For subsection (1)(a), a child under the age of 16 years is incapable of giving consent.
 - (3) For subsection (1)(b), it is immaterial whether the person who distributes the realistic intimate material intends to cause, or actually causes, the other person distress.
 - (4) It is a defence to a charge of an offence against subsection (1) to prove that—
 - (a) the person engaged in the conduct that is alleged to constitute the offence for a

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genuine artistic, educational, legal, medical, scientific or public benefit purpose; and

(b) the person's conduct was, in the circumstances, reasonable for that purpose.

(5) In this section—

consent means consent freely and voluntarily given by a person with the cognitive capacity to give the consent.

create, in relation to realistic intimate material, includes—

(a) to manufacture, build, construct, assemble, process or produce realistic intimate material; or

(b) to edit, modify, alter, customise, or change existing content into realistic intimate material.

223C Possession of realistic intimate material

(1) A person commits a crime if the person knowingly possesses realistic intimate material—

(a) without the person's consent; and

(b) in a way that would cause the other person distress reasonably arising in all the circumstances.

Maximum penalty—

(a) if the material depicts a child—12 years imprisonment; or

(ba) if the materials depicts a former spouse—12 years imprisonment; or

(bb) if the material depicts an individual with whom the person had a previous domestic relationship with—12 years imprisonment; or

-
- (bc) if the material depicts an individual with whom the person is in a domestic relationship with—12 years imprisonment; or
 - (bd) if the material depicts an individual who the person interacts with on a regular basis—12 years imprisonment; or
 - (be) if the material depicts a person with an intellectual disability—12 years imprisonment; or
 - (b) if the offender uses a hidden network or an anonymising service in committing the offence—3 years imprisonment; or
 - (c) if the offender did a thing for the purpose of concealing, disguising, or hiding the material—3 years imprisonment; or
 - (d) otherwise—2 years imprisonment.
- (2) For subsection (1)(a), a child under the age of 16 years is incapable of giving consent.
 - (3) For subsection (1)(b), it is immaterial whether the person who distributes the realistic intimate material intends to cause, or actually causes, the other person distress.
 - (4) It is a defence to a charge of an offence against subsection (1) to prove that—
 - (a) the person engaged in the conduct that is alleged to constitute the offence for a genuine artistic, educational, legal, medical, scientific or public benefit purpose; and
 - (b) the person's conduct was, in the circumstances, reasonable for that purpose.
 - (5) In this section—
consent means consent freely and voluntarily given by a person with the cognitive capacity to

[s 10]

give the consent.

223D Trafficking of realistic intimate material

- (1) A person commits a crime if the person carries on the business of unlawfully selling realistic intimate material—
 - (a) for a commercial purpose; and
 - (b) without the consent of the persons depicted in the material.

Maximum penalty—

- (a) if the realistic intimate material depicts a child, a former spouse, an individual with whom the person had a previous close domestic relationship or a person with an intellectual disability—15 years imprisonment; or
 - (b) if the offender uses a hidden network or an anonymising service in committing the offence—9 years imprisonment; or
 - (c) if the offender makes any other efforts to conceal, disguise, or hide the material in committing the offence—9 years imprisonment; or
 - (d) otherwise—5 years imprisonment.
- (2) For subsection (1)(a), a child under the age of 16 years is incapable of giving consent.
 - (3) It is a defence to a charge of an offence against subsection (1) to prove that—
 - (a) the person engaged in the conduct that is alleged to constitute the offence for a genuine artistic, educational, legal, medical, scientific or public benefit purpose; and
 - (b) the person's conduct was, in the circumstances, reasonable for that purpose.

-
- (4) In determining what constitutes a commercial purpose, a court must have regard to—
- (a) the quantity of realistic intimate material, which is not reasonably intended for one person, where there is no genuine legal reason for the possession; or
 - (b) whether the realistic intimate material depicts a substantial amount of nonconsenting individuals; or
 - (c) if the realistic intimate material is collected and prepared in a way to be distributed; or
 - (d) where realistic material is being used with a commercial nature; or
 - (e) the purpose of the collection of realistic intimate material.
- (5) In this section—
- consent* means, consent freely and voluntarily given by a person with the cognitive capacity to give the consent.

Part 3 Amendment of Electoral Act 1992

11 Act amended

This part amends the *Electoral Act 1992*.

12 Amendment of s 185 (Misleading voters)

(1) Section 185—

insert—

(3A) A person commits an offence if—

[s 12]

- (a) the person knowingly publishes hyper realistic material about a protected notable person; and
- (b) the material may influence the perception of a person who is entitled to vote in a current or future election about—
 - (i) a person who has publicly indicated they intend to be a candidate, or is a candidate, in the election; or
 - (ii) a registered political party that has publicly indicated it will nominate a candidate, or has nominated a candidate, in the election; or
 - (iii) the election itself; and
- (c) the person does not include a watermark denoting, in a way that it is reasonably obvious to persons who are likely to view the material, that the material is not a real photograph or recording; and
- (d) the person publishes the material without the consent of the protected notable person that the material is about.

Maximum penalty—32 penalty units.

- (3B) A person commits an offence if—
- (a) the person knowingly publishes hyper realistic material about a protected notable person within 180 days prior to a current or future election; and
 - (b) the materials may influence the perception of a person who is entitled to vote in the election about—
 - (i) a person who has publicly indicated they intend to be a candidate, or is a candidate, in the election; or

- (ii) a registered political party that has publicly indicated it will nominate a candidate or has nominated a candidate in the election; or
- (iii) the election itself; and
- (c) the person publishes the material without the consent of the protected notable person that the material is about.

Maximum penalty—40 penalty units.

(2) Section 185(4)

insert—

hyper realistic material see Criminal Code, section 98.

material see Criminal Code, section 98.

material about a protected notable person see Criminal Code, section 98.

protected notable person see Criminal Code, section 98.

publish see Criminal Code, section 98.

reasonably obvious see Criminal Code, section 98.