

**LEGISLATIVE ASSEMBLY**

**Crimes Legislation Amendment Bill 2021**

**First print**

**Proposed amendment of Council amendments to Assembly Bill**

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NOTE: It is proposed that the Assembly resolve to disagree to the amendment proposed (for reasons to be stated) and that the Assembly propose instead the following amendments:

No. 1      **Commencement**

Page 2, line 5. Omit all words on the line. Insert instead—

- (1) This Act commences on the date of assent to this Act except as provided by subsection (2).
- (2) Schedule 1.1[2] commences on the day that is 6 months after the date of assent or an earlier day or days to be fixed by proclamation.

No. 2      **Bestiality or animal crush material**

Page 3, Schedule 1.1. Insert after line 6—

**[2] Section 547E**

Insert after section 547D—

**547E Bestiality or animal crush material**

- (1) A person who produces or disseminates bestiality or animal crush material is guilty of an offence.  
Maximum penalty—The greater of the following—
  - (a) the maximum penalty for an offence against section 530(1), or
  - (b) imprisonment for 5 years.
- (2) A person who possesses bestiality or animal crush material is guilty of an offence.  
Maximum penalty—Imprisonment for 3 years.
- (3) Each of the following are defences in proceedings for an offence against this section—
  - (a) the defendant did not know, and could not reasonably be expected to have known, that the material the defendant produced, disseminated or possessed was bestiality or animal crush material,
  - (b) the conduct engaged in by the defendant—

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- (i) was of public benefit, and
    - (ii) did not extend beyond what was of public benefit,
  - (c) the defendant was, at the time of the offence, a law enforcement officer acting in the course of the defendant's duties and the conduct of the defendant was reasonable in the circumstances for the purpose of performing the duty,
  - (d) the material concerned was classified, whether before or after the commission of the alleged offence, under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth, other than as refused classification (RC),
  - (e) the conduct engaged in by the defendant was necessary for or of assistance in conducting scientific, medical or educational research approved, authorised or otherwise permitted under a law of the State or of another State, a Territory or the Commonwealth,
  - (f) for an offence involving possession of bestiality or animal crush material, but without limiting the defences above—the material came into the defendant's possession unsolicited and the defendant, as soon as the defendant became aware of its nature, took reasonable steps to get rid of it.
- (4) Conduct is of public benefit for subsection (3)(b) only if the conduct is necessary for or of assistance in—
- (a) enforcing or administering a law of the State or of another State, a Territory or the Commonwealth, or
  - (b) monitoring compliance with, or investigating a contravention of, a law of the State, or of another State, a Territory or the Commonwealth, or
  - (c) the administration of justice.
- (5) The question of whether a person's conduct is of public benefit is a question of fact and the person's motives for engaging in the conduct are irrelevant.
- (6) In this section—
- bestiality or animal crush material** means material that—
- (a) depicts or describes—
    - (i) bestiality, or
    - (ii) an animal being crushed, burned, drowned, suffocated, impaled or otherwise killed or subjected to serious injury, and
  - (b) is material that a reasonable person would regard in all the circumstances as being intended or apparently intended to—
    - (i) excite or gratify a sexual interest, or
    - (ii) excite or gratify a sadistic or other perverted interest in violence or cruelty.
- data** includes—
- (a) information in any form, or
  - (b) a program or part of a program.
- disseminate** bestiality or animal crush material, includes—
- (a) send, supply, exhibit, transmit or communicate the material to another person, or
  - (b) make the material available for access by another person, or
  - (c) enter into an agreement or arrangement to do so.

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**material** includes a film, printed matter, data or other thing of any kind, including a computer image or another depiction.

**possess** bestiality or animal crush material includes, in relation to material in the form of data, being in possession or control of data, within the meaning of section 308F(2).

**produce** bestiality or animal crush material includes—

- (a) film, photograph, print or otherwise make bestiality or animal crush material, or
- (b) alter or manipulate an image for the purpose of making bestiality or animal crush material, or
- (c) enter into an agreement or arrangement to do so.