

# FACT SHEET

## Cyberbullying and the Law in Australia

For more information you can visit:  
[www.preventcyberbullyinghe.com](http://www.preventcyberbullyinghe.com)



This Law Fact Sheet provides an up-to-date overview on the law about cyberbullying in Australia. By reading this fact sheet you will learn more about:

1. Enhancing online safety through the eSafety Commissioner
2. Criminal offences
3. Civil offences
4. The workplace

## WHAT DO YOU KNOW ABOUT HOW THE LAW **PROTECTS** PEOPLE FROM ONLINE MISCONDUCT?

Knowing what the law is regarding cyberbullying can help protect you and others against cyberbullies. This Law Fact Sheet provides an overview of some of the important laws in Australia that are designed to protect individuals against those who seek to cause harm to others online.



This document is interactive. When you see **orange text** or information near this icon, click where indicated to visit the relevant link.

1.

# Enhancing Online Safety through **THE ESAFETY COMMISSIONER**

In Australia the eSafety Commissioner is responsible for enhancing the online safety of children. The Commissioner's powers are contained in the **Enhancing Online Safety Act 2015 (Cth) (EOS Act)**.

The job of the eSafety Commissioner is to promote online safety and administer a complaints system for cyberbullying targeted against children. The Commissioner's role also extends to administering a complaints system for non-consensual sharing of intimate images.

The Commissioner can order cyberbullying material to be removed from social media services and/or the individual who posts the offensive material. Similarly, for non-consensual sharing of intimate images, the Commissioner may force the immediate removal of certain images and/or impose a civil penalty (such as a fine) against individuals or social media services.

The EOS Act contains important definitions regarding cyberbullying, particularly as it relates to determining whether certain material and conduct constitutes cyberbullying and/or non-consensual sharing of intimate images.

If you or someone you know wishes to make a complaint about cyberbullying and/or non-consensual sharing of intimate images, then the eSafety website provides information and a step-by-step process for **making the complaint**.



Click to view the Enhancing Online Safety Act 2015 (Cth) (EOS Act)  
Click to make a complaint using the eSafety Commissioner website

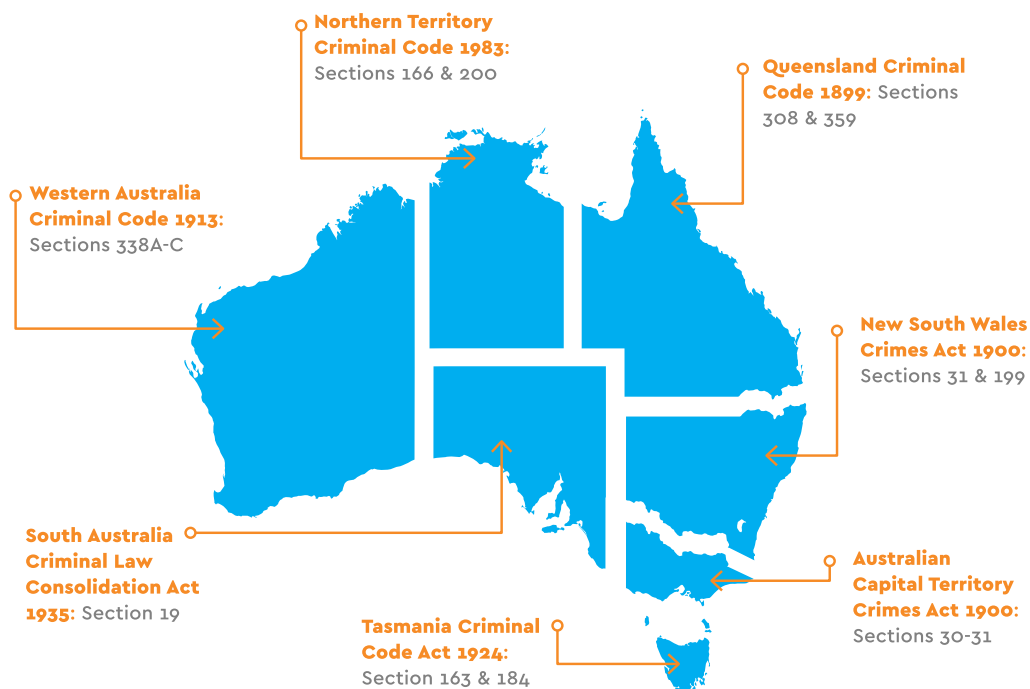
## 2.

# CRIMINAL OFFENCES

In all states and territories throughout Australia, there are a number of criminal offences associated with cyberbullying and other online activities, especially where children are concerned. These laws include the **Criminal Code Act 1995 (Commonwealth)**.

There are several provisions that capture the sorts of conduct that would be associated with cyberbullying. Criminal behaviour that may constitute cyberbullying could include threats, making menacing comments, harassment, stalking or sending suicide related material.

Breaches of these offences could render a person liable for up to three-years imprisonment. See the state or territory laws below:



Click on the map or orange text to view each state or territory law.

### 3.

## CIVIL OFFENCES

In addition to criminal offences, there are numerous civil penalties associated with acts that could constitute cyberbullying. These include conduct that might be defamatory and acts that are likely to violate human rights and anti-discrimination. For example:



**Disability Discrimination Act 1992.** This act provides protection for everyone in Australia against discrimination based on disability.



**Racial Discrimination Act 1975 (RDA).** This act makes it unlawful to discriminate against a person because of his or her race, colour, descent, national origin or ethnic origin, or immigrant status.



**Human Rights and Equal Opportunity Commission (HREOC) Act 1986.** This act articulates the Australian Human Rights Commission role and responsibilities.



**Racial Hatred Act 1995.** The Racial Hatred Act amends the Racial Discrimination Act, and allows people to complain about publicly offensive or abusive behaviour based on racial hatred.



**Sex Discrimination Act 1984.** This act prohibits discrimination on the basis of sex, relationship status, pregnancy, sexual orientation, gender identity, intersex status or breastfeeding.



Click on the images or orange text above to view each law.

# 4. THE WORKPLACE

Employers also have a special obligation to provide healthy and safe work environments and this extends to both the physical and mental wellbeing for employees. These obligations extend to ensuring that harassment, bullying discrimination is not occurring in the workplace.

Employers who fail with their obligations to provide safe environments for employees could also face additional sanction through the **Fair Work Act 2009 (Cth)**.



Click on the orange text above to view the law.



**PREVENT  
CYBERBULLYING**

For more information about preventing cyberbullying in your university, you can visit: [www.preventcyberbullying.com](http://www.preventcyberbullying.com)