

# House of Representatives

# Supplementary Order Paper

Wednesday, 10 November 2021

## Harmful Digital Communications (Unauthorised Posting of Intimate Visual Recording) Amendment Bill

### *Proposed amendments*

Louisa Wall, in Committee, to move the following amendments:

#### *Clause 3A*

In *clause 3A(1)*, new definition of **post**, *paragraph (a)(ii)*, replace “a victim” (page 2, line 11) with “an individual”.

In *clause 3A(1)*, replace the new definition of **victim** (page 2, lines 13 to 17) with:

**victim** means,—

- (a) in relation to section 22, an individual who is the target of a posted digital communication; and
- (b) in relation to **section 22A**, an individual who is the subject of an intimate visual recording.

#### *Clause 3D*

In *clause 3D*, *new section 22(4)*, after “recording” (page 2, lines 26), insert “to which the offence in section 22A applies”.

### Explanatory note

This Supplementary Order Paper amends the Harmful Digital Communications (Unauthorised Posting of Intimate Visual Recording) Amendment Bill. It makes amendments to that Bill to make it clear that the offence of causing harm by posting a digital communication can apply to situations where an intimate visual recording of one person is sent by that person to another person with the intent to cause harm.

*Clause 3A(1)* is amended to replace the definition of victim being inserted into the Harmful Digital Communications Act 2015 (the **Act**). The new definition relates the

2 meanings of victim, as set out in *paragraphs (a) and (b)*, to the section of the Act to which each relates, rather than to the type of digital communication. The effect of this amendment is to clarify who may be a victim of the 2 offences in the Act relating to the posting of a digital communication (the offence in section 22 and the offence in *new section 22A*). In particular, this amendment avoids excluding an individual who receives an intimate visual recording of another person from being a victim of the offence in section 22. The amendment reverses the order of the 2 paragraphs to accord with the order in which the offences will appear in the Act.

*Clause 3A(1)* is also amended to alter wording in the definition of post being inserted into the Act. This amendment is a consequence of the amendment to the definition of victim.

*Clause 3D* is amended to insert additional wording in *new section 22(4)* in order to provide clarity about the circumstances in which section 22 does not apply (which are when section 22A applies). The effect of this amendment is that section 22 can continue to apply where an individual receives a digital communication that is an intimate visual recording of another person, in which case *new section 22A* does not apply because the individual featured in the recording is not the victim for the purpose of that section. Without this amendment, the situation where an individual receives an intimate visual recording of another person that is sent to them as a form of image-based sexual abuse may be inadvertently excluded from the application of section 22, leaving a victim without recourse to an offence in the Act.