

Criminal Law (Unlawful Consorting) Bill 2020

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Schedule 1 — Child sex offences
Defined terms

Western Australia

LEGISLATIVE ASSEMBLY

Criminal Law (Unlawful Consorting) Bill 2020

A Bill for

An Act to —

- **provide for police powers and criminal offences for the purpose of preventing unlawful consorting between convicted offenders; and**
- **make consequential and other amendments to the *Community Protection (Offender Reporting) Act 2004* and *The Criminal Code*.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Criminal Law (Unlawful Consorting) Act 2020*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) section 38 — on the day after the period of 12 months beginning on the day fixed under paragraph (c);
- (c) the rest of the Act — on a day fixed by proclamation.

3. Terms used

In this Act —

child sex offence has the meaning given in section 4;

Commissioner of Police means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*;

consort, with another person —

- (a) means —
 - (i) to seek, or to accept, the company of the other person; or
 - (ii) to be in the company of the other person; or
 - (iii) to communicate directly or indirectly with the other person by any means (including by post, facsimile, telephone, email or any other form of electronic communication);

and

- (b) includes consorting with the other person, in any of the ways mentioned in paragraph (a), within or outside this State, including outside Australia;

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- 1 **convicted offender** means —
- 2 (a) a person who has been convicted of 1 or more of the
- 3 following —
- 4 (i) an indictable offence;
- 5 (ii) a child sex offence;
- 6 (iii) an indictable offence against a law of the
- 7 Commonwealth;
- 8 (iv) an offence against a law of the Commonwealth
- 9 that, if committed in this State, would constitute
- 10 a child sex offence;
- 11 (v) an offence against a law of another State, a
- 12 Territory or another country that, if committed in
- 13 this State, would constitute an indictable offence
- 14 or child sex offence;
- 15 or
- 16 (b) a person who is declared to be a drug trafficker under
- 17 the *Misuse of Drugs Act 1981* section 32A(1)(c);
- 18 **conviction** —
- 19 (a) means a finding of guilt, or the acceptance of a plea of
- 20 guilty, in respect of an offence, whether summarily or
- 21 on indictment; but
- 22 (b) does not include —
- 23 (i) a finding of guilt, or the acceptance of a plea of
- 24 guilty, in respect of an offence committed by a
- 25 person before the person had reached 18 years of
- 26 age; or
- 27 (ii) a spent conviction as defined in the *Spent*
- 28 *Convictions Act 1988* section 3;
- 29 **family member**, of a person, has the meaning given in section 5;
- 30 **health service** has the meaning given in the *Health Services*
- 31 *Act 2016* section 7;

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- 1 ***identifying reference***, of a prescribed officer, includes the
2 officer's registered number;
- 3 ***Parliamentary Commissioner*** means the Parliamentary
4 Commissioner for Administrative Investigations appointed
5 under the *Parliamentary Commissioner Act 1971*;
- 6 ***personal details***, in relation to a person, means all of the
7 following —
- 8 (a) the person's full name;
- 9 (b) the person's date of birth;
- 10 (c) the address where the person is residing;
- 11 (d) the address where the person usually resides, if that is
12 different from the address referred to in paragraph (c);
- 13 (e) the person's business address;
- 14 ***personal service***, of a document on a person, means serving the
15 document by —
- 16 (a) handing it to the person; or
- 17 (b) if the person refuses to accept it, leaving it near the
18 person and orally drawing the person's attention to it;
- 19 ***Police Force*** means the Police Force of Western Australia
20 provided for by the *Police Act 1892*;
- 21 ***prescribed officer*** means a police officer who is, or is acting as,
22 a Commander or an officer of a rank more senior than a
23 Commander;
- 24 ***prescribed service method***, in relation to service of a document
25 on a person under this Act, means any of the following —
- 26 (a) personal service of the document on the person;
- 27 (b) delivering the document to a physical address nominated
28 by the person;
- 29 (c) delivering the document to an electronic address
30 nominated by the person;

1 **Prisoners Review Board** means the Prisoners Review Board
2 established under the *Sentence Administration Act 2003*
3 section 102;

4 **record** means any record of information, irrespective of how the
5 information is recorded or stored or able to be recovered and
6 includes —

7 (a) any thing from which images, sounds or writings can be
8 reproduced, with or without the aid of anything else; and

9 (b) any thing on which information is recorded or stored,
10 whether electronically, magnetically, mechanically or by
11 some other means;

12 **social welfare service** includes services provided by
13 governments and charitable organisations for community
14 welfare, financial assistance, housing and temporary
15 accommodation;

16 **unlawful consorting notice** means a notice issued under
17 section 10(2);

18 **vehicle** has the meaning given in the *Criminal Investigation*
19 *Act 2006* section 3(1).

20 **4. Meaning of child sex offence**

21 (1) In this Act, a **child sex offence** means an offence listed in
22 Schedule 1.

23 (2) A reference in Schedule 1 item 1 or 2 to a provision of *The*
24 *Criminal Code* includes a reference to the provision as enacted
25 at any time.

26 (3) A reference in Schedule 1 item 4 to a provision of *The Criminal*
27 *Code* includes a reference to the provision as enacted at any
28 time before it was repealed.

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1 **5. Meaning of family member**

2 (1) In this Act, a person is a *family member* of another person if the
3 person is any of the following —

- 4 (a) a spouse or de facto partner of the person;
- 5 (b) a person with whom the person shares parental
6 responsibility for a child;
- 7 (c) a parent or step-parent of the person;
- 8 (d) a child or step-child of the person;
- 9 (e) a grandparent or step-grandparent of the person;
- 10 (f) a grandchild or step-grandchild of the person;
- 11 (g) a sibling or step-sibling of the person;
- 12 (h) a guardian or ward of the person.

13 (2) Without limiting subsection (1), a person is a *family member* of
14 another person who is an Aboriginal person or a Torres Strait
15 Islander (an *Indigenous person*) if, under the customary law
16 and culture of the Indigenous person's community, the person is
17 regarded as a member of the extended family or kinship group
18 of the Indigenous person.

19 **6. Objects of Act**

20 The objects of this Act are to disrupt and restrict the capacity of
21 convicted offenders to organise, plan, support or encourage the
22 carrying out of criminal activity.

23 **7. Act binds Crown**

24 This Act binds the Crown in right of Western Australia and, so
25 far as the legislative power of the Parliament permits, the Crown
26 in all its other capacities.

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Division 1 Offences

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- 1 (2) It is a defence to a charge of a crime under section 8(1) to prove
2 that the consorting —
- 3 (a) occurred in the course of 1 or more of the following —
- 4 (i) engaging in a lawful occupation, trade or
5 profession;
- 6 (ii) attendance at an educational institution to take
7 part in a higher education course registered under
8 the *Higher Education Act 2004* section 23 or an
9 approved VET course as defined in the
10 *Vocational Education and Training Act 1996*
11 section 5(1);
- 12 (iii) receiving a health service or social welfare
13 service;
- 14 (iv) obtaining a service mentioned in
15 subparagraph (iii) for a person who is dependent
16 upon the person charged for care and support;
- 17 (v) the provision of legal advice;
- 18 (vi) lawful custody;
- 19 (vii) complying with a written law, an order made by
20 a court or tribunal, or any other order, direction
21 or requirement made under a written law;
- 22 (viii) activities undertaken by members of an
23 organisation of employees registered under the
24 *Industrial Relations Act 1979* Part II Division 4,
25 or the *Fair Work (Registered Organisations)*
26 *Act 2009* (Commonwealth), for the purposes of
27 the business of the organisation;
- 28 (ix) if the person charged is an Indigenous person —
29 fulfilling a cultural practice or obligation of the
30 customary laws or traditions of the Indigenous
31 person's community;
- 32 and
- 33 (b) was necessary in the circumstances.

- 1 (3) Consorting referred to in subsection (1) or (2) is not reasonable
2 or necessary (as the case may be) if a purpose of the
3 consorting —
4 (a) is to avoid the operation of an unlawful consorting
5 notice; or
6 (b) relates to criminal activity.

7 **Division 2 — Unlawful consorting notices**

8 **10. Issue of unlawful consorting notice**

- 9 (1) In this section —
10 ***conduct constituting an indictable offence*** includes conduct
11 engaged in outside this State (including outside Australia) that,
12 if it occurred in this State, would constitute an indictable
13 offence.
14 (2) A prescribed officer may issue an unlawful consorting notice in
15 respect of a person if —
16 (a) the person has reached 18 years of age; and
17 (b) the person is a convicted offender who —
18 (i) has consorted, or is consorting, with another
19 convicted offender; or
20 (ii) the officer suspects on reasonable grounds is
21 likely to consort with another convicted offender;
22 and
23 (c) the officer considers that it is appropriate to issue the
24 notice in order to disrupt or restrict the capacity of
25 convicted offenders named in the consorting notice to
26 engage in conduct constituting an indictable offence.
27 (3) The unlawful consorting notice may be issued whether the
28 person consorted before, on or after the day on which this
29 section commenced.

1 **11. Content of unlawful consorting notice**

2 An unlawful consorting notice must specify the following —

- 3 (a) the name and address of the person (the *restricted*
4 *person*) on whom the unlawful consorting notice will be
5 served;
- 6 (b) the name of each convicted offender with whom the
7 restricted person must not consort;
- 8 (c) that consorting on 2 further occasions with any
9 convicted offenders referred to in paragraph (b)
10 (irrespective of whether the consorting occurred with the
11 same convicted offender on each occasion or with a
12 different convicted offender on each occasion) may lead
13 to the commission of the crime of unlawful consorting;
- 14 (d) the date of issue of the notice;
- 15 (e) the name, rank and identifying reference of the
16 prescribed officer who issued the notice;
- 17 (f) that the notice remains in effect for a period of 3 years
18 beginning on the day on which the notice is served
19 unless revoked sooner;
- 20 (g) any other matters prescribed in the regulations.

21 **12. Service of unlawful consorting notice**

- 22 (1) A prescribed officer must, as soon as practicable after issuing an
23 unlawful consorting notice, ensure that a police officer serves
24 the notice on the person to whom the notice relates —
- 25 (a) orally; or
26 (b) in writing, by personal service.
- 27 (2) The police officer must explain to the person, in language likely
28 to be understood by the person —
- 29 (a) the person's obligations under the notice; and
30 (b) the consequences that may follow if the person fails to
31 comply with those obligations.

1 (3) Failure to comply with subsection (2) does not invalidate an
2 unlawful consorting notice.

3 (4) An unlawful consorting notice expires if it is not served within
4 2 months after it is issued.

5 **13. Further service of unlawful consorting notice when served**
6 **orally**

7 (1) If an unlawful consorting notice is served orally, a police officer
8 must, within 72 hours after the notice is served —

9 (a) confirm the notice in accordance with subsection (2);
10 and

11 (b) make a record of the particulars of the confirmation of
12 the notice.

13 (2) For the purposes of subsection (1), the officer must serve a
14 written record of the notice that contains the particulars referred
15 to in section 11 by a prescribed service method.

16 (3) An unlawful consorting notice that is not confirmed in
17 accordance with subsections (1)(a) and (2) expires 72 hours
18 after it is served.

19 **14. Duration of unlawful consorting notice**

20 (1) An unlawful consorting notice takes effect when the notice is
21 served on the person to whom it relates.

22 (2) The unlawful consorting notice remains in force for a period of
23 3 years beginning on the day on which it takes effect, unless the
24 notice —

25 (a) expires in accordance with section 13(3); or

26 (b) is revoked sooner under section 16(4).

1 **15. Correcting minor errors in unlawful consorting notice**

- 2 (1) A prescribed officer may correct an unlawful consorting notice
3 if the notice contains —
- 4 (a) a clerical mistake; or
5 (b) an error arising from an accidental slip or omission; or
6 (c) a material mistake in the description of any person, thing
7 or matter referred to in the notice.
- 8 (2) The prescribed officer must, as soon as practicable after an
9 unlawful consorting notice is corrected under this section —
- 10 (a) ensure that the person on whom the notice was served is
11 notified of the correction by a prescribed service
12 method; and
13 (b) make a record of the particulars of the correction of the
14 notice.
- 15 (3) An unlawful consorting notice corrected under this section has
16 the same validity and effect as if the mistake or error had not
17 been made.

18 **16. Revocation of unlawful consorting notice**

- 19 (1) A person (the *restricted person*) on whom an unlawful
20 consorting notice is served may apply to the Commissioner of
21 Police to revoke the notice.
- 22 (2) The application must be made —
- 23 (a) in writing; and
24 (b) during the period that the notice is in force.
- 25 (3) The Commissioner of Police must determine the application
26 within 60 days after the application is made.

- 1 (4) The Commissioner of Police must, by written notice (the
2 *revocation notice*), revoke an unlawful consorting notice if the
3 Commissioner is, on an application under subsection (1) or on
4 the Commissioner's own initiative, satisfied that —
- 5 (a) the unlawful consorting notice was invalidly issued
6 under section 10 because the requirements for issuing
7 the notice under that section were not met; or
- 8 (b) the unlawful consorting notice was validly issued under
9 section 10 but the requirements for issuing the notice
10 under that section are no longer met due to a change in
11 the circumstances.
- 12 (5) The revocation notice takes effect when it is made.
- 13 (6) The revocation notice must specify all of the following —
- 14 (a) the name and address of the restricted person;
- 15 (b) details that identify the unlawful consorting notice;
- 16 (c) the date on which the revocation notice is made;
- 17 (d) that the revocation notice takes effect when it is made;
- 18 (e) any other matters prescribed in the regulations.
- 19 (7) The Commissioner of Police must, as soon as practicable after
20 making a revocation notice —
- 21 (a) serve or cause to be served, by a prescribed service
22 method, the revocation notice on the restricted person;
23 and
- 24 (b) make a record of, or cause to be recorded, the particulars
25 referred to in subsection (6) relating to the revocation
26 notice.

27 **Division 3 — Police powers relevant to unlawful consorting**

28 **17. Police powers for things relevant to unlawful consorting**

- 29 (1) A police officer who suspects on reasonable grounds that
30 someone is a person on whom an unlawful consorting notice

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- 1 must be served under section 12 may do all or any of the
2 following —
- 3 (a) require the person to stop;
4 (b) require the person to disclose their personal details;
5 (c) require the person to accompany the officer to a police
6 station or some other particular place to serve on the
7 person an unlawful consorting notice;
8 (d) require the person to remain at a police station or some
9 other particular place for as long as is reasonably
10 necessary (but no longer than 2 hours) to serve on the
11 person an unlawful consorting notice;
12 (e) serve on the person an unlawful consorting notice;
13 (f) if the unlawful consorting notice is served orally —
14 confirm the notice under section 13.
- 15 (2) For the purposes of exercising the powers in subsections (1), (4)
16 and (6), the police officer may —
- 17 (a) in respect of a vehicle in which the officer suspects on
18 reasonable grounds the person is located —
- 19 (i) enter the vehicle; and
20 (ii) keep the vehicle at a particular place for as long
21 as is reasonably necessary (but no longer than
22 2 hours) in order to serve on the person an
23 unlawful consorting notice;
- 24 and
- 25 (b) use reasonable force.
- 26 (3) If the police officer suspects on reasonable grounds that a
27 personal detail given by the person in response to a requirement
28 under subsection (1)(b) is false, the officer may require the
29 person to produce evidence of the correctness of the detail.
- 30 (4) If the person refuses or fails to comply with a requirement under
31 this section, the police officer may convey the person to, and
32 detain the person at, a place for as long as is reasonably

1 necessary (but no longer than 2 hours) to serve on the person an
2 unlawful consorting notice.

3 (5) The person is taken to be in lawful custody while the person is
4 being conveyed to, and detained at, a place.

5 (6) If a police officer suspects on reasonable grounds that a person
6 (the *restricted person*) on whom an unlawful consorting notice
7 has been served is consorting with a convicted offender
8 specified in the notice, the officer may —

9 (a) require the restricted person to leave a place, or a part of
10 the place, specified by the officer; or

11 (b) require the restricted person to go beyond a reasonable
12 distance from the place, or a part of the place, specified
13 by the officer; or

14 (c) require the restricted person to obey a requirement of the
15 officer under paragraph (a) or (b) for a reasonable period
16 specified by the officer that does not exceed 24 hours.

17 (7) Subsection (6) does not apply if the police officer is satisfied
18 that circumstances referred to in section 9 would give the
19 restricted person a defence to a charge of a crime under
20 section 8(1) in relation to the consorting.

21 **18. Failure to comply with directions of police officer**

22 (1) A person who, without reasonable excuse, fails to comply with
23 the requirement of a police officer under section 17(1)(a), (c),
24 (d) or (6) commits an offence.

25 Penalty for this subsection: imprisonment for 12 months and a
26 fine of \$12 000.

27 (2) A person who is required by a police officer in accordance with
28 section 17(1)(b) to disclose their personal details commits an
29 offence if the person, without reasonable excuse —

30 (a) fails or refuses to comply with the requirement; or

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- 1 (b) gives any personal detail that is false in a material
2 particular.
- 3 Penalty for this subsection: imprisonment for 12 months and a
4 fine of \$12 000.
- 5 (3) A person who is required by a police officer in accordance with
6 section 17(3) to produce evidence of the correctness of a
7 personal detail commits an offence if the person, without
8 reasonable excuse —
- 9 (a) fails or refuses to comply with the requirement; or
10 (b) produces evidence that is false in a material particular.
- 11 Penalty for this subsection: imprisonment for 12 months and a
12 fine of \$12 000.
- 13 (4) It is not a defence to a charge of an offence under subsection (2)
14 or (3) that information required to be given would or might
15 incriminate the person.

Part 3 — Monitoring

19. Terms used

In this Part —

disclose, in relation to information, includes divulge or communicate to any person or publish;

investigative purposes means the scrutiny of the exercise of powers conferred under this Act;

personal information has the meaning given in the *Freedom of Information Act 1992* in the Glossary clause 1.

20. Parliamentary Commissioner to monitor exercise of powers

(1) The Parliamentary Commissioner must keep the exercise of powers conferred under this Act under scrutiny.

(2) Without limiting subsection (1), the Parliamentary Commissioner —

- (a) must inspect the Police Force of Western Australia's records in order to ascertain the extent of the Police Force's compliance with Part 2; and
- (b) must report to the Minister about the results of those inspections under section 26; and
- (c) may do anything necessary or incidental to the performance of the functions mentioned in paragraphs (a) and (b).

21. Powers for entry and inspection of records

(1) The Parliamentary Commissioner may, for investigative purposes —

- (a) after notifying the Commissioner of Police, enter at any reasonable time premises occupied by the Police Force; and
- (b) access all records of the Police Force at any reasonable time; and

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- 1 (c) make copies of, and take extracts from, records of the
2 Police Force; and
- 3 (d) take into or onto premises any person, equipment and
4 materials the Parliamentary Commissioner reasonably
5 requires;
- 6 (e) direct a member of the Police Force to give the
7 Parliamentary Commissioner such assistance as the
8 Parliamentary Commissioner reasonably requires.
- 9 (2) The Commissioner of Police must ensure that an officer of the
10 Police Force provides the Parliamentary Commissioner with any
11 assistance that the Parliamentary Commissioner reasonably
12 requires in connection with an activity under subsection (1).

13 **22. Powers to obtain information relevant to inspections**

- 14 (1) The Parliamentary Commissioner may, for investigative
15 purposes, do all or any of the following —
- 16 (a) direct a member of the Police Force to produce a
17 document or other thing that is in the person's
18 possession or under the person's control;
- 19 (b) direct a member of the Police Force to give such
20 information or answer as is requested in relation to an
21 investigative purpose.
- 22 (2) The Parliamentary Commissioner may —
- 23 (a) inspect a document or other thing produced in response
24 to a direction under subsection (1)(a) and retain it for
25 any reasonable period that the inspector considers
26 appropriate; and
- 27 (b) make a copy of a document produced in response to a
28 direction under subsection (1)(a).
- 29 (3) A direction under subsection (1)(a) —
- 30 (a) must specify the time at or within which the document
31 or other thing must be produced; and

- 1 (b) may require that the document or other thing be
2 produced —
- 3 (i) at a place specified in the direction; and
4 (ii) by any means specified in the direction.
- 5 (4) A direction under subsection (1)(b) —
- 6 (a) must specify the time at or within which the information
7 or answer must be given; and
- 8 (b) may direct that the information or answer —
- 9 (i) be given orally or in writing; or
10 (ii) be given at, or sent or delivered to, a place
11 specified in the direction; or
12 (iii) in the case of written information or a written
13 answer, be sent or delivered by the means
14 specified in the direction; or
15 (iv) in the case of written information or a written
16 answer, be verified by statutory declaration.
- 17 (5) A place, or a period or the time of day, specified in a direction
18 under subsection (1) must be reasonable with regard to the
19 circumstances in which the direction is made.

20 **23. Authorised recording, disclosure or use of information**

- 21 (1) For the purposes of this Act, the recording, disclosure or use of
22 information is authorised if the information is recorded,
23 disclosed or used in good faith in any of the following
24 circumstances —
- 25 (a) for the purposes of, or in connection with the
26 performance of, the Parliamentary Commissioner's
27 scrutiny of the exercise of powers conferred under this
28 Act;
- 29 (b) under this Act or another written law;

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- 1 (c) to a court or other person or body acting judicially in the
2 course of proceedings before the court or other person or
3 body;
- 4 (d) under an order of a court or other person or body acting
5 judicially;
- 6 (e) if the information recorded, disclosed or used is personal
7 information — with the consent of the individual, or
8 each individual, to whom the information relates;
- 9 (f) in any other circumstances prescribed for the purposes
10 of this subsection.

11 (2) If the recording, disclosure or use of information is authorised
12 under subsection (1) —

- 13 (a) no civil or criminal liability is incurred in respect of the
14 recording, disclosure or use; and
- 15 (b) the recording, disclosure or use is not to be regarded
16 as —
- 17 (i) a breach of any duty of confidentiality or secrecy
18 imposed by law; or
- 19 (ii) a breach of professional ethics or standards or
20 any principles of conduct applicable to a
21 person's employment.

22 **24. Parliamentary Commissioner may notify Commissioner of**
23 **Police of suspected non-compliance with section 10(2)**

24 (1) If, as a result of an inspection under this Part, the Parliamentary
25 Commissioner is of the opinion that the requirements for the
26 issue of an unlawful consorting notice under section 10(2) were
27 not met, the Parliamentary Commissioner may recommend to
28 the Commissioner of Police that the notice be revoked under
29 section 16(4).

- 1 (2) A recommendation must —
2 (a) be made in writing; and
3 (b) be made during the period that the notice is in force; and
4 (c) give the reasons for the Parliamentary Commissioner’s
5 opinion under subsection (1).
- 6 (3) The Commissioner of Police must, as soon as practicable —
7 (a) notify the Minister of a recommendation; and
8 (b) notify the Minister and Parliamentary Commissioner of
9 any action taken by the Commissioner of Police in
10 respect of a recommendation.
- 11 (4) A notification must be made in writing.
- 12 **25. Commissioner of Police to report on use of police powers to**
13 **Parliamentary Commissioner**
- 14 (1) The Commissioner of Police must keep a register of the
15 following —
16 (a) any unlawful consorting notice issued or served under
17 Part 2;
18 (b) any revocation of an unlawful consorting notice under
19 section 16;
20 (c) the use of police powers under section 17;
21 (d) any prosecution for an offence under any provision of
22 Part 2;
23 (e) any certificate of service given under section 28.
- 24 (2) The Commissioner of Police must ensure that the information in
25 the register is provided to the Parliamentary Commissioner for
26 inclusion in the annual report referred to in section 26.

- 1 **26. Parliamentary Commissioner to report on monitoring**
2 **activities**
- 3 (1) The Parliamentary Commissioner must, as soon as practicable
4 after each anniversary of the day on which this Part comes into
5 operation —
- 6 (a) prepare a report (the *annual report*) on the
7 Parliamentary Commissioner’s monitoring activities
8 under this Part; and
- 9 (b) provide a copy of the annual report to the Minister and
10 the Commissioner of Police.
- 11 (2) The annual report —
- 12 (a) may include any observations that the Parliamentary
13 Commissioner considers appropriate to make about the
14 operation of this Act; and
- 15 (b) must include —
- 16 (i) any recommendations made by the Parliamentary
17 Commissioner under section 24(1); and
- 18 (ii) details of any action taken by the Commissioner
19 of Police in respect of the recommendations, as
20 notified under section 24(3)(b); and
- 21 (iii) any information referred to in section 25(2).
- 22 (3) The annual report must include a review of the impact of the
23 operation of the Act on a particular group in the community if
24 such an impact came to the attention of the Parliamentary
25 Commissioner by virtue of section 20(1).
- 26 (4) The annual report prepared after an anniversary of the
27 monitoring period must relate to the Parliamentary
28 Commissioner’s monitoring activities during the reporting
29 period.
- 30 (5) The Minister must cause the annual report to be laid before each
31 House of Parliament within 12 sitting days of that House after
32 the Minister receives a copy of it.

- 1 (6) Nothing in this section prohibits the Parliamentary
2 Commissioner from reporting to the Minister on the
3 Parliamentary Commissioner’s monitoring activities under this
4 Part at any time —
5 (a) on the Parliamentary Commissioner’s own initiative; or
6 (b) at the request of the Minister.

7 **27. Jurisdiction under *Parliamentary Commissioner Act 1971* not**
8 **limited**

9 Nothing in this Part limits or affects the jurisdiction or functions
10 of the Parliamentary Commissioner under the *Parliamentary*
11 *Commissioner Act 1971*.

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Part 4 — Miscellaneous

28. Proof of service

- (1) If service of any document is required under this Act, proof of service must be given by certificate in writing.
- (2) The certificate must state that, on the day and at the time and place stated in the certificate, the person giving the certificate served the document in accordance with this Act.
- (3) The certificate must state full particulars of the name and address of the person served.
- (4) A certificate under this section is, in the absence of evidence to the contrary, sufficient proof of service of the document on the person stated to have been served.

29. Delegation by Commissioner of Police

- (1) Except as provided in subsections (5) and (6), the Commissioner of Police may delegate the Commissioner’s powers or duties under section 16 (*revocation functions*) to a police officer (the *delegated officer*) who is, or is acting as, an officer of a rank more senior than a Commander.
- (2) The delegation must be in writing signed by the Commissioner of Police.
- (3) The delegated officer cannot delegate revocation functions.
- (4) When the delegated officer is performing revocation functions, the officer is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) A prescribed officer who issues an unlawful consorting notice is not eligible to be the delegated officer in relation to the unlawful consorting notice.

- 1 (6) Despite section 16(4), the delegated officer —
2 (a) cannot revoke an unlawful consorting notice on the
3 delegated officer's own initiative; but
4 (b) may instead revoke an unlawful consorting notice on the
5 recommendation of the Parliamentary Commissioner.

6 **30. Delegation by Parliamentary Commissioner**

- 7 (1) In this section —
8 *inspecting officer* means —
9 (a) the Deputy Parliamentary Commissioner for
10 Administrative Investigations appointed under the
11 *Parliamentary Commissioner Act 1971* section 6A(2);
12 (b) an officer of the Commissioner appointed under the
13 *Parliamentary Commissioner Act 1971* section 9(1).
- 14 (2) Subject to subsection (4), the Parliamentary Commissioner may
15 delegate their powers or duties under Part 3 of this Act to a
16 specified inspecting officer or inspecting officers of a specified
17 class.
- 18 (3) The delegation must be in writing signed by the Parliamentary
19 Commissioner.
- 20 (4) The Parliamentary Commissioner cannot delegate a power to
21 report to the Minister under this Act.
- 22 (5) An inspecting officer to whom a power or duty is delegated
23 under this section cannot delegate that power or duty.
- 24 (6) An inspecting officer exercising or performing a power or duty
25 that has been delegated to that inspecting officer under this
26 section is taken to do so in accordance with the terms of the
27 delegation unless the contrary is shown.
- 28 (7) Nothing in this section limits the ability of the Parliamentary
29 Commissioner to perform a function through an officer or agent.

s. 31

- 1 **31. Laying documents before House of Parliament not sitting**
- 2 (1) This section applies if a provision of this Act requires the
3 Minister to cause a document to be laid before a House of
4 Parliament within a particular period.
- 5 (2) The Minister must give a copy of the document to the Clerk of
6 that House if —
- 7 (a) when the Minister is ready to act, the House of
8 Parliament is not sitting; and
- 9 (b) the Minister is of the opinion that the House will not sit
10 during that period.
- 11 (3) A document given to the Clerk of a House under subsection (2)
12 is taken to have been laid before the House.
- 13 (4) The laying of a document before a House that is taken to have
14 occurred under subsection (3) must be recorded in the Minutes,
15 or Votes and Proceedings, of the House on the first sitting day
16 of the House after the Clerk receives the document.
- 17 **32. Regulations**
- 18 The Governor may make regulations prescribing matters —
- 19 (a) required or permitted by this Act to be prescribed; or
- 20 (b) necessary or convenient to be prescribed for giving
21 effect to the purposes of this Act.
- 22 **33. Act to be reviewed after 3 years**
- 23 (1) The Minister must review the operation and effectiveness of this
24 Act, and prepare a report based on the review, as soon as
25 practicable after the 3rd anniversary of the day on which this
26 section comes into operation.
- 27 (2) The review must address the following —
- 28 (a) whether the policy objectives of the Act remain valid;
- 29 (b) whether the terms of the Act remain appropriate for
30 securing the policy objectives of the Act;

- 1 (c) whether the powers exercised under the Act have been
2 exercised in accordance with section 6;
- 3 (d) any other matters that appear to the Minister to be
4 relevant to the operation and effectiveness of this Act.
- 5 (3) The Minister must cause the report to be laid before each House
6 of Parliament as soon as practicable after it is prepared, but not
7 later than 12 months after the 3rd anniversary.

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Part 5 — Amendments to other Acts

Division 1 — *Community Protection (Offender Reporting) Act 2004* amended

34. Act amended

This Division amends the *Community Protection (Offender Reporting) Act 2004*.

35. Schedule 2 amended

In Schedule 2 —

- (a) delete the item related to s. 557K(4);
- (b) before the item relating to the *Prostitution Act 2000* insert:

Criminal Law (Unlawful Consorting) Act 2020

s. 8(1) Unlawful consorting (if the offender has a conviction for a child sex offence (as defined in the *Criminal Law (Unlawful Consorting) Act 2020* section 4(1)) and has consorted with another person who has a conviction for a child sex offence in the course of committing the offence)

13

1 **Division 2 — *The Criminal Code* amended**

2 **36. Act amended**

3 This Division amends *The Criminal Code*.

4 **37. Section 557J deleted**

5 Delete section 557J.

6 **38. Section 557K amended**

7 (1) In section 557K(1) delete the definition of *consort*.

8 (2) In section 557K(1) in the definition of *child sex offender*
9 paragraph (k) delete “paragraphs (a) to (j);” and insert:

10
11 paragraphs (a) to (j).
12

13 (3) Delete section 557K(4) and (5).

14 Note: The heading to amended section 557K is to read:

15 **Child sex offenders not to be in or near places where children are**
16 **regularly present**

17 **39. Schedule 1 clause 4 inserted**

18 After Schedule 1 clause 3 insert:
19

20 **4. Transitional provisions for *Criminal Law (Unlawful***
21 ***Consorting) Act 2020***

22 (1) In this clause —

23 ***transitional period*** means the period —

24 (a) beginning on the day on which the *Criminal Law*
25 *(Unlawful Consorting) Act 2020* section 10 comes
26 into operation; and

Criminal Law (Unlawful Consorting) Bill 2020

Part 5 Amendments to other Acts

Division 2 The Criminal Code amended

s. 39

- 1 (b) ending on the day on which the *Criminal Law*
2 (*Unlawful Consorting*) Act 2020 section 38 comes
3 into operation.
- 4 (2) A police officer cannot give a warning under
5 section 557K(4) of this Code during the transitional period.
- 6 (3) If an unlawful consorting notice as defined in the *Criminal*
7 *Law (Unlawful Consorting) Act 2020* section 3 is issued
8 during the transitional period in respect of a person to whom
9 a warning has been given under section 557K(4) of this
10 Code, the warning ceases to have effect for the purposes of
11 section 557K(4).
12

Schedule 1 — Child sex offences

[s. 4(1)]

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3 1. An offence against any of the following Chapters of *The Criminal*
4 *Code* that was committed against, in respect of, or in the sight of, a
5 child —
 - 6 (a) Chapter XXII — Offences against morality;
 - 7 (b) Chapter XXV — Child exploitation material;
 - 8 (c) Chapter XXXI — Sexual offences;
 - 9 (d) Chapter XXXIII — Offences against liberty.
- 10 2. An offence against *The Criminal Code* Chapter XXXIIIB that was
11 committed against, or in respect of, a child.
- 12 3. An offence against *The Criminal Code* section 557K(6) (child sex
13 offenders not to be in or near places where children are regularly
14 present).
- 15 4. An offence against any of the following deleted provisions of *The*
16 *Criminal Code* that was committed against a child —
 - 17 (a) section 315 (Indecent assaults on males);
 - 18 (b) Chapter XXXIA — Sexual assaults;
 - 19 (c) Chapter XXXII — Abduction.
- 20 5. An offence against any of the following provisions of the *Criminal*
21 *Code* set out in the Schedule to the *Criminal Code Act 1995*
22 (Commonwealth) —
 - 23 (a) Division 272 — Child sex offences outside Australia;
 - 24 (b) Division 273 — Offences involving child abuse material
25 outside Australia;
 - 26 (c) Division 474 Subdivision D — Offences relating to use of
27 carriage service for child abuse material;
 - 28 (d) Division 474 Subdivision F — Offences relating to use of
29 carriage service involving sexual activity with, or causing
30 harm to, person under 16.
- 31 6. An offence under the repealed Part IIIA Division 2 of the *Crimes*
32 *Act 1914* (Commonwealth).

- 1 7. An offence under the *Classification (Publications, Films and*
2 *Computer Games) Enforcement Act 1996* section 59 that was
3 committed in circumstances in which an indecent or obscene article
4 was sold, supplied or offered to a child.
- 5 8. An offence under the deleted section 60 of the *Classification*
6 *(Publications, Films and Computer Games) Enforcement Act 1996*.
- 7 9. An offence under the *Classification (Publications, Films and*
8 *Computer Games) Enforcement Act 1996* section 101 that was
9 committed in circumstances in which —
- 10 (a) objectionable material was transmitted or demonstrated to a
11 child; or
- 12 (b) the objectionable material was child exploitation material as
13 defined in *The Criminal Code* section 217A.
- 14 10. An offence under the *Classification (Publications, Films and*
15 *Computer Games) Enforcement Act 1996* section 102.
- 16 11. An offence under the *Prostitution Act 2000* section 5(1), 6(1), 15, 16,
17 17 or 18 that was committed against, or in respect of, a child.
- 18 12. An offence under the deleted section 66(11) of the *Police Act 1892*
19 that was committed in the sight of a child.

20

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
annual report	26(1)
child sex offence	3, 4(1)
Commissioner of Police	3
conduct constituting an indictable offence	10(1)
consort.....	3
convicted offender	3
conviction	3
delegated officer	29(1)
disclose	19
family member	3, 5(1) and (2)
health service	3
identifying reference	3
Indigenous person	5(2)
inspecting officer	30(1)
investigative purposes	19
Parliamentary Commissioner	3
personal details	3
personal information	19
personal service.....	3
Police Force	3
prescribed officer	3
prescribed service method.....	3
Prisoners Review Board.....	3
record	3
restricted person.....	11, 16(1), 17(6)
revocation functions.....	29(1)
revocation notice	16(4)
social welfare service	3
unlawful consorting notice.....	3
vehicle.....	3