

# 1. Commonwealth

## CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 34:</b> States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:</p> <p>(a) the inducement or coercion of a child to engage in any unlawful sexual activity;</p> <p>(b) the exploitative use of children in prostitution or other unlawful sexual practices;</p> <p>(c) the exploitative use of children in pornographic performances and materials.</p>	<p><b>Australian Crime Commission Act 2002</b></p>	<p>Cth</p>	<p>Sections 4, 7A</p> <p>The Commission is relevant for the prevention of serious offences relating to the sexual exploitation and sexual abuse of children on an organised or large scale.</p>	<p>The Australian Crime Commission (ACC) is established under the Australian Crime Commission Act 2002 (<b>ACC Act</b>) as a statutory authority to combat 'serious and organised crime' and it has a role in combating Indigenous violence and child abuse. Its scope can include serious child sexual offences and its work determinations in 2012 include Special Intelligence Operations into Child Sex Offences and Indigenous Violence or Child Abuse (see <a href="http://www.crimecommission.gov.au/our-work">http://www.crimecommission.gov.au/our-work</a>).</p> <p>Its functions are set out in section 7A of the ACC Act are:</p> <p>(a) to collect, correlate, analyse and disseminate criminal information and intelligence and to maintain a national database of that information and intelligence;</p> <p>(b) to undertake, when authorised by the Board, intelligence operations;</p> <p>(c) to investigate, when authorised by the Board, matters relating to federally relevant criminal activity;</p> <p>(d) to provide reports to the Board on the outcomes of those operations or investigations;</p> <p>(e) to provide strategic criminal intelligence assessments, and any other criminal information and intelligence, to the</p>

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				<p>Board;</p> <p>(f) to provide advice to the Board on national criminal intelligence priorities;</p> <p>(g) such other functions as are conferred on the ACC by other provisions of this Act or by any other Act.</p> <p>The definitions are set out in section 4 and the definition of a <b>'relevant criminal activity'</b> means any circumstances implying, or any allegations, that a <b>relevant crime</b> may have been, may be being, or may in future be, committed against a law of the Commonwealth, of a State or of a Territory.</p> <p>A <b>'relevant crime'</b> means:</p> <p>(a) serious and organised crime; or</p> <p>(b) Indigenous violence or child abuse.</p> <p>Child abuse means an offence relating to the abuse or neglect of a child (including a sexual offence) that is punishable by imprisonment for a period of 3 years or more.</p> <p>A serious and organise crime is defined as one:</p> <p>(a) that involves 2 or more offenders and substantial planning and organisation; and</p> <p>(b) that involves, or is of a kind that ordinarily involves, the use of sophisticated methods and techniques; and</p>

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				<p>(c) that is committed, or is of a kind that is ordinarily committed, in conjunction with other offences of a like kind; and</p> <p>(d) that is a serious offence, an offence against Subdivision B or C of Division 471, or D or F of Division 474, of the Criminal Code, an offence of a kind prescribed by the regulations or an offence that involves:</p> <p>(i) any of a broadly defined list (not repeated here) of crimes including violence (which includes violence against a child) and cybercrime that are punishable by 3 years or more in prison or a serious offence within the meaning of the Proceeds of Crime Act 2002.</p>
	<p><b>Australian Security Intelligence Organisation Act 1979</b></p>	Cth	34ZC	<p>Rules for conduct of strip search</p> <p>(1) A strip search under section 34ZB:</p> <p>(a) must be conducted in a private area; and</p> <p>(b) must be conducted by a police officer who is of the same sex as the person being searched; and</p> <p>(c) subject to subsections (3) and (4), must not be conducted in the presence or view of a person who is of the opposite sex to the person being searched; and</p> <p>(d) must not be conducted in the presence or view of a person whose presence is not necessary for the purposes of the search; and</p>

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				<p>(e) must not be conducted on a person who is under 16; and</p> <p>(f) if, in a prescribed authority's opinion, the person being searched is at least 16 but under 18, or is incapable of managing his or her affairs:</p> <p>(i) may only be conducted if a prescribed authority orders that it be conducted; and</p> <p>(ii) must be conducted in the presence of a parent or guardian of the person or, if that is not acceptable to the person, in the presence of someone else who can represent the person's interests and who, as far as is practicable in the circumstances, is acceptable to the person; and</p> <p>(f) must not involve a search of a person's body cavities; and</p> <p>(g) must not involve the removal of more garments than the police officer conducting the search believes on reasonable grounds to be necessary to determine whether the person has a seizable item on his or her person; and</p> <p>(h) must not involve more visual inspection than the police officer believes on reasonable grounds to be necessary to determine whether the person has a seizable item on his or her person.</p>
	<b>Australian Security Intelligence Organisation Act 1979</b>	Cth	34ZE	<p>Special rules for young people</p> <p>Rules for persons under 16</p> <p>(1) A warrant issued under this Division has no effect if the</p>

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				<p>person specified in it is under 16.</p> <p>(2) If a person appears before a prescribed authority for questioning as a result of the issue of a warrant under this Division and the prescribed authority is satisfied on reasonable grounds that the person is under 16, the prescribed authority must, as soon as practicable:</p> <p>(a) give a direction that the person is not to be questioned; and</p> <p>(b) if the person is in detention: give a direction under paragraph 34K(1)(g) that the person be released from detention.</p> <p>(3) Subsection 34K(2) does not prevent the prescribed authority from giving a direction in accordance with paragraph (2)(b) of this section.</p> <p>Rules for persons who are at least 16 but under 18</p> <p>(4) If the Director-General seeks the Minister's consent to request the issue of a warrant under this Division in relation to a person and the Minister is satisfied on reasonable grounds that the person is at least 16 but under 18, the Minister may consent only if he or she is satisfied on reasonable grounds that:</p> <p>(a) it is likely that the person will commit, is committing or has committed a terrorism offence; and</p> <p>the draft warrant to be included in the request will meet the</p>

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				<p>requirements in subsection (6).</p> <p>(5) An issuing authority may issue a warrant under this Division relating to a person whom the authority is satisfied on reasonable grounds is at least 16 but under 18 only if the draft warrant included in the request for the warrant meets the requirements in subsection (6).</p> <p>Note: Section 34E or 34G requires that a warrant issued under that section be in the same form as the draft warrant included in the request.</p> <p>(6) If subsection (4) or (5) applies, the draft warrant must:</p> <p>(a) if the warrant authorises the person to be taken into custody and detained: permit the person to contact, at any time when the person is in custody or detention authorised by the warrant:</p> <p>(i) a parent or guardian of the person; and</p> <p>(ii) if it is not acceptable to the person to be questioned in the presence of one of his or her parents or guardians: another person who meets the requirements in subsection (7); and</p> <p>(b) authorise the Organisation to question the person before a prescribed authority:</p> <p>(i) only in the presence of a parent or guardian of the person or, if that is not acceptable to the person, of another person who meets the requirements in subsection (7); and</p>

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				<p>(ii) only for continuous periods of 2 hours or less, separated by breaks directed by the prescribed authority.</p> <p>Note: The prescribed authority may set the breaks between periods of questioning by giving appropriate directions under paragraph 34K(1)(f) for the person's further appearance before the prescribed authority for questioning.</p> <p>(7) The other person must:</p> <p>(a) be able to represent the person's interests; and</p> <p>(b) as far as practicable in the circumstances, be acceptable to the person and to the prescribed authority; and</p> <p>(c) not be one of the following:</p> <p>(i) a police officer;</p> <p>(ii) the Director-General;</p> <p>(iii) an officer or employee of the Organisation;</p> <p>(iv) a person approved under subsection 24(1).</p> <p>(8) If a person appears before a prescribed authority for questioning under a warrant issued under this Division and the prescribed authority is satisfied on reasonable grounds that the person is at least 16 but under 18, the prescribed authority must, as soon as practicable:</p> <p>(a) inform the person that the person:</p>

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				<p>(i) may request that one of the person's parents or guardians or one other person who meets the requirements in subsection (7) be present during the questioning; and</p> <p>(ii) may contact the person's parents or guardians and another person who meets the requirements in subsection (7), at any time when the person is in custody or detention in connection with the warrant; and</p> <p>(iii) may contact a single lawyer of the person's choice when the person is in detention in connection with the warrant; and</p> <p>(b) if the person requests that one of the person's parents or guardians be present during the questioning: direct everyone proposing to question the person under the warrant not to do so in the absence of the parent or guardian; and</p> <p>(c) if the person does not request that one of the person's parents or guardians be present during the questioning: direct everyone proposing to question the person under the warrant not to do so in the absence of another person (other than the prescribed authority) who meets the requirements in subsection (7); and</p> <p>(d) direct under paragraph 34K(1)(d) that the person may contact someone described in subparagraph (a)(ii) of this subsection at any time described in that subparagraph; and</p> <p>(e) direct everyone proposing to question the person under the warrant that questioning is to occur only for continuous periods of 2 hours or less, separated by breaks directed by the</p>

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				<p>prescribed authority.</p> <p>Note: The prescribed authority may set the breaks between periods of questioning by giving appropriate directions under paragraph 34K(1)(f) for the person's further appearance before the prescribed authority for questioning.</p> <p>(9) Subsection 34K(2) does not prevent the prescribed authority from giving a direction in accordance with paragraph (8)(d) of this section.</p> <p>(10) To avoid doubt, paragraphs (6)(b) and (8)(e) do not affect the operation of section 34R.</p>
	<b>Child Support (Assessment) Act 1989</b>	Cth	Overview	This is an Act to ensure that children receive a proper level of financial support from their parents.
	<b>Child Support (Assessment) Act 1989</b>	Cth	7B	<p>Meaning of <b>eligible carer</b></p> <p>(1) In this Act, '<b>eligible carer</b>', in relation to a child, means a person who has at least shared care of the child.</p> <p>(2) Despite subsection (1), if:</p> <p>(a) a person cares for a child; and</p> <p>(b) the person is neither a parent nor a legal guardian of the child; and</p> <p>(c) a parent or legal guardian of the child has indicated that</p>

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				<p>he or she does not consent to the person caring for the child; then the person is not an eligible carer in relation to the child unless it would be unreasonable in the circumstances for a parent or legal guardian of the child to care for the child.</p> <p>(3) For the purposes of subsection (2), it is unreasonable for a parent or legal guardian to care for a child if:</p> <p>(a) the Registrar is satisfied that there has been extreme family breakdown; or</p> <p>(b) the Registrar is satisfied that there is a serious risk to the child's physical or mental wellbeing from violence or sexual abuse in the home of the parent or legal guardian concerned.</p>
	<b>Classification (Publications, Film and Computer Games) Act 1995</b>	Cth	Overview	
	<b>Classification (Publications, Film and Computer Games) Act 1995</b>	Cth	29	<p><b>Approval of advertisements</b></p> <p>(1) The Board may approve or refuse to approve an advertisement for a publication, a film or a computer game either on an application for approval or on its own initiative. An approval of an advertisement may be subject to conditions.</p> <p>(2) An application for approval of an advertisement must be:</p>

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				<p>(a) in writing; and</p> <p>(b) made in a form approved by the Director in writing; and</p> <p>(c) signed by or on behalf of the applicant; and</p> <p>(d) accompanied by the prescribed fee for that category of advertisement.</p> <p>(3) The matters to be taken into account in deciding whether to approve an advertisement include the matters set out in section 11 and the classification guidelines referred to in section 12.</p> <p>(4) The Board must refuse to approve an advertisement if, in the opinion of the Board, the advertisement:</p> <p>(a) describes, depicts or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that it offends against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that it should not be approved; or</p> <p>(b) depicts or describes, in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not); or</p> <p>(c) promotes crime or violence, or incites or instructs in matters of crime or violence; or</p>

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				<p>(d) is used, or is likely to be used, in a way that is offensive to a reasonable adult.</p> <p>(5) The Board must refuse to approve an advertisement for a publication if the publication:</p> <p>(a) has been classified RC; or</p> <p>(b) is an unclassified submittable publication.</p> <p>(6) The Board must refuse to approve an advertisement for:</p> <p>(a) a film or computer game that has been classified RC; or</p> <p>(b) an unclassified film or unclassified computer game that, if classified, would be likely to be classified RC.</p>
	<p><b>Classification (Publications, Film and Computer Games) Act 1995</b></p>	Cth	100A	<p>Prohibited material areas</p> <p>(1) The Indigenous Affairs Minister may, by legislative instrument, determine that an area in the Northern Territory is a prohibited material area.</p> <p>Criteria for making a determination</p> <p>(6) In making a determination under subsection (1) or (2) in relation to an area, the Indigenous Affairs Minister must have regard to the following matters:</p> <p>(a) the object of this Part (see section 98A);</p> <p>(b) the wellbeing of people living in the area;</p>

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				<p>(c) whether there is reason to believe that people living in the area have been the victims of violence or sexual abuse;</p> <p>(d) the extent to which people living in the area have expressed their concerns about being at risk of violence or sexual abuse;</p> <p>(e) whether there is reason to believe that children living in the area have been exposed to prohibited material;</p> <p>(f) the extent to which people living in the area have expressed the view that their wellbeing will be improved if this Part continues to apply in relation to the area;</p> <p>(g) any submissions of the kind referred to in paragraph (4)(b);</p> <p>(h) the views of relevant law enforcement authorities;</p> <p>(i) any other matter that the Indigenous Affairs Minister considers relevant.</p>
	<b>Classification (Publications, Film and Computer Games) Act 1995</b>	Cth	115	<p><b>Indigenous Affairs Minister may determine that provisions of this Part cease to have effect</b></p> <p>(1) The Indigenous Affairs Minister may, by legislative instrument, determine that some or all of the provisions of this Part cease to have effect.</p> <p>Note: Under section 116, all of the provisions of this Part cease to have effect 10 years after the day section 3 of the <i>Stronger Futures in the Northern Territory Act 2012</i></p>

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				<p>commences. This section allows the Indigenous Affairs Minister to determine that some or all of the provisions of this Part cease to have effect before then.</p> <p>(2) The Indigenous Affairs Minister may, by legislative instrument, revoke a determination under subsection (1).</p> <p>Community consultation</p> <p>(3) Before making a determination under subsection (1) or (2), the Indigenous Affairs Minister must ensure that:</p> <p>(a) information setting out:</p> <p>(i) the proposal to make the determination; and</p> <p>(ii) an explanation, in summary form, of the consequences of the making of the determination;</p> <p>has been made available to people living in prohibited material areas; and</p> <p>(a) people living in prohibited material areas have been given a reasonable opportunity to make submissions to the Indigenous Affairs Minister about:</p> <p>(i) the proposal to make the determination; and</p> <p>(ii) the consequences of making the determination; and</p> <p>(iii) their circumstances, concerns and views, so far as they relate to the proposal.</p>

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				<p>(4) A failure to comply with subsection (3) does not affect the validity of a determination under subsection (1) or (2).</p> <p>Criteria for making a determination</p> <p>(5) In making a determination under subsection (1) or (2) in relation to an area, the Indigenous Affairs Minister must have regard to the following matters:</p> <p>(a) the object of this Part (see section 98A);</p> <p>(b) the wellbeing of people living in prohibited material areas;</p> <p>(c) whether there is reason to believe that people living in prohibited material areas have been the victims of violence or sexual abuse;</p> <p>(d) the extent to which people living in prohibited material areas have expressed their concerns about being at risk of violence or sexual abuse;</p> <p>(e) whether there is reason to believe that children living in prohibited material areas have been exposed to prohibited material;</p> <p>(f) the extent to which people living in prohibited material areas have expressed the view that their wellbeing will be improved if this Part applies;</p> <p>(g) any submissions of the kind referred to in</p>

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				<p>paragraph (3)(b);</p> <p>(h) the views of relevant law enforcement authorities;</p> <p>(i) any other matter that the Indigenous Affairs Minister considers relevant.</p>
	<b>Crimes Act 1914</b>	Cth	Purpose	<p>The relevant provisions is the Crimes Act relate to:</p> <p>(a) the protection of children in proceedings for sexual offences (Part IAD); and</p> <p>(b) the forfeiture of child pornography material and child abuse material.</p>
	<b>Crimes Act 1914</b>	Cth	Part IAD	<p><b>The protection of children in proceedings for sexual offences</b></p> <p>Section 15Y lists the offences for which the section applies. It applies to Commonwealth offences which involve child sexual abuse or exploitation specifically:</p> <p>(a) an offence set out in the Criminal Code in section 71.8, (Sexual assault of United Nations and associated personnel), Division 270 (Slavery, sexual servitude and deceptive recruiting), Division 271 (trafficking in persons, trafficking in children, debt bondage) or Division 272 child sex offences outside Australia), Division 273 (offences involving child pornography material or child abuse material outside Australia), Subdivision B or C of Division 471 (offences relating to use of postal or similar service involving sexual activity with person under 16); or Subdivision D or F of</p>

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				<p>Division 474 (offences relating to use of carriage service involving sexual activity with person under 16); or</p> <p>(b) an aggravated offence against Subdivision C of Division 12 of Part 2 of the Migration Act 1958; or</p> <p>(c) a sexual offence specified in the regulations; or</p> <p>(d) an offence that includes the commission of, or the intention to commit, an offence of a kind referred to in one of the preceding paragraphs of this subsection; or</p> <p>(e) an offence of:</p> <p>(i) attempting to commit; or</p> <p>(ii) conspiring to commit; or</p> <p>(iii) inciting the commission of;</p> <p>an offence of a kind referred to in one of the preceding paragraphs of this subsection.</p>
	<b>Crimes Act 1914</b>	Cth	Section 15Y	<p>This provisions lists the Commonwealth offences which Part IAD applies.</p> <p>Section 15Y lists the offences for which the section applies. It applies to Commonwealth offences which involve child sexual abuse or exploitation specifically:</p> <p>(a) an offence set out in the <i>Criminal Code</i> in section 71.8, (Sexual assault of United Nations and associated personnel),</p>

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				<p>Division 270 (Slavery, sexual servitude and deceptive recruiting), Division 271 (trafficking in persons, trafficking in children, debt bondage) or Division 272 child sex offences outside Australia), Division 273 (offences involving child pornography material or child abuse material outside Australia), Subdivision B or C of Division 471 (offences relating to use of postal or similar service involving sexual activity with person under 16); or Subdivision D or F of Division 474 (offences relating to use of carriage service involving sexual activity with person under 16); or</p> <p>(b) an aggravated offence against Subdivision C of Division 12 of Part 2 of the Migration Act 1958; or</p> <p>(c) a sexual offence specified in the regulations; or</p> <p>(d) an offence that includes the commission of, or the intention to commit, an offence of a kind referred to in one of the preceding paragraphs of this subsection; or</p> <p>(i) an offence of:</p> <p>(ii) attempting to commit; or</p> <p>(iii) conspiring to commit; or</p> <p>(iv) inciting the commission of;</p> <p>(v) an offence of a kind referred to in one of the preceding paragraphs of this subsection.</p>

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	<b>Crimes Act 1914</b>	Cth	15AY - Definitions	Provides that a child is a person under the age of 18. A ' <b>child complainant</b> ', in relation to a proceeding, means a child who is, or is alleged to be, a victim of an offence, of a kind referred to in subsection 15Y(1), to which the proceeding relates. The child need not be involved in the proceeding or the initiation of the proceeding. A ' <b>child witness</b> ', in relation to a proceeding, means a child (including a child complainant) who is a witness in the proceeding.
	<b>Crimes Act 1914</b>	Cth	15YB - Evidence of sexual reputation	<p>Provides that:</p> <p>(a) Evidence of a child witness' or child complainant's reputation with respect to sexual activities is inadmissible in a proceeding, unless the court gives leave.</p> <p>(b) The court must not give leave unless satisfied that the evidence is substantially relevant to facts in issue in the proceeding.</p> <p>(c) The evidence is not to be treated as substantially relevant to facts in issue merely because of inferences it may raise as to the child witness' or child complainant's general disposition.</p> <p>(d) If the evidence is admitted, it must not be treated as relevant to the child witness' or child complainant's credibility.</p> <p>(e) This section does not apply if the child is a defendant in the proceeding.</p>

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	<b>Crimes Act 1914</b>	Cth	15YC Evidence of sexual experience	<p>Provides that:</p> <p>(a) Evidence of a child witness' or child complainant's experience with respect to sexual activities is inadmissible in a proceeding, unless:</p> <p>(i) the court gives leave; or</p> <p>(ii) the evidence is of sexual activities with a defendant in the proceeding.</p> <p>(b) The court must not give leave unless satisfied that:</p> <p>(i) the evidence is substantially relevant to facts in issue in the proceeding; or</p> <p>(ii) if the evidence relates to the credibility of a child witness and is to be adduced in cross-examination of the child: the evidence has substantial probative value.</p> <p>(c) The evidence is not to be treated as being substantially relevant to facts in issue merely because of inferences it may raise as to the child witness' or child complainant's general disposition.</p> <p>(d) Without limiting the matters to which the court may have regard in deciding whether the evidence has substantial probative value, it is to have regard to:</p> <p>(i) whether the evidence tends to prove that the witness knowingly or recklessly made a false representation when the</p>

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				<p>witness was under an obligation to tell the truth; and</p> <p>(ii) the period that has elapsed since the acts or events to which the evidence relates were done or occurred.</p> <p>(e) This section does not apply if the child is a defendant in the proceeding.</p>
	<b>Crimes Act 1914</b>	Cth	Part IAD Division 3 - Cross examination	<p>Sections 15YE - 15 YH set out the provisions associated with the cross examination of children these include:</p> <p>(a) giving the Court the ability to disallow inappropriate or aggressive cross examinations (section 15YE);</p> <p>(b) preventing a unrepresented defendant conducting the cross examination of either a child witness or a child complaint and providing for the Court to appoint an appropriate person to question the child witness or the child complaint (section 15YF and 15 YG)</p> <p>(c) preventing a represented defendant from conducting a cross examination of a child witness or a child complaint other than through counsel (15YH)</p>
	<b>Crimes Act 1914</b>	Cth	Part IAD Division 4 Special facilities for child witnesses to give evidence	<p>These provisions provide that a child witness must give evidence via a closed television circuit unless they are 16 or more and choose not to use the facilities, there are no facilities or the Court makes an order not to use a closed television circuit in the interests of justice.</p> <p>Section 15YJ sets out process and procedures for a child</p>

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				<p>giving evidence via a closed television circuit.</p> <p>Section 15YK sets out alternative arrangements for giving evidence other than via closed television circuit these are:</p> <p>(a) must make arrangements in order to restrict contact (including visual contact) that the child may have with any defendant while giving evidence; and</p> <p>(b) may make arrangements in order to restrict contact (including visual contact) that the child may have with members of the public while giving evidence.</p> <p>The arrangements may include either of the following using screens, planning seating arrangements for people who have an interest in the proceeding, including:</p> <p>(i) the level at which they are seated; and</p> <p>(ii) the people in the child's line of vision.</p> <p>The section does not apply if the child is at least 16 and chooses not to give evidence under the arrangements</p>
	<b>Crimes Act 1914</b>	Cth	Part IAD - Use of Video Recordings	This provision sets out when it is a Video recording a child witness interview can be used as evidence.
	<b>Crimes Act 1914</b>	Cth	Division 6 - ss 15YO, 15YP, 15YQ	This Division sets out a number of miscellaneous provisions related to children giving evidence and include:

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				<p>(a) adults who may accompany child witnesses (s.15YO);</p> <p>(b) powers of the Court to exclude people from the Court proceedings (s.15YP); and</p> <p>(c) warnings not to be given in relation to children's evidence (s.15YQ).</p>
	<b>Crimes Act 1914</b>	Cth	15YR	<p>This section makes it an offence to publish (without the leave of the Court) any matter which identifies a child witness or a child complainant.</p> <p>If the Court grants leave to publish then it must in deciding whether to give leave, the court is to have regard to:</p> <p>(a) any trauma to the child witness or child complainant that the publication could cause; and</p> <p>(b) any damage to the reputation of the child witness or child complainant that the publication could cause; and</p> <p>(c) whether the publication is:</p> <p>(i) for the purpose of supplying transcripts of the proceedings to persons with a genuine interest in the proceedings; or</p> <p>(ii) for genuine research purposes.</p>
	<b>Crimes Act 1914</b>	Cth	15YT	Provides that the division does not affect the video link provisions in Division 272 and 273 of the Criminal Code

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				relating to offences outside Australia.
	<b>Crimes Act 1914</b>	Cth	Part IE	<p>This Part sets out a process for the forfeiture of a thing (the <b>forfeitable thing</b>) where there is a reasonable belief that the thing contains:</p> <ul style="list-style-type: none"> <li>(a) child abuse material; or</li> <li>(b) child pornography material; or</li> <li>(c) any of the following that contains child abuse material or child pornography material: <ul style="list-style-type: none"> <li>(i) a computer;</li> <li>(ii) a data storage device;</li> <li>(iii) another piece of electronic equipment.</li> </ul> </li> </ul>
	<b>Crimes Act 1914</b>	Cth	Part VIIC - Division 6, Subdivision A	<p>Part VIIC deals with pardons, quashed convictions and spent convictions and specifically the privacy issues associated with a person having a pardon, quashed conviction or spent conviction.</p> <p>The object of this Subdivision is to help protect children from sexual, physical and emotional harm by permitting criminal history information to be disclosed and taken into account in assessing the suitability of persons for work with children.</p>
	<b>Crimes Act 1914</b>	Cth	85ZZGB	Provides that the provisions which prevent disclosure in Part VIIC Div 2 and 3 do not apply if the person or body is required or permitted by a Cth law or a prescribed State or

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				<p>Territory law to obtain and deal with information about persons who work, or seek to work with children.</p> <p>Note that <b>work</b> is defined in section 85ZZGF to includes:</p> <p>under a contract of employment, contract of apprenticeship or contract for services; or</p> <p>(a) in a leadership role in a religious institution, as part of the duties of a religious vocation or in any other capacity for the purposes of a religious institution; or</p> <p>(b) as an officer of a body corporate, member of the committee of management of an unincorporated body or association or member of a partnership; or</p> <p>(c) as a volunteer, other than unpaid work engaged in for a private or domestic purpose; or</p> <p>(d) as a self-employed person;</p> <p>(e) practical training as part of a course of education or vocational training;</p> <p>(f) acting in a prescribed capacity or engaging in a prescribed activity.</p>
	<b>Crimes Act 1914</b>	Cth	85ZZGC	<p>Divisions 2 and 3 do not apply in relation to the taking into account of information by a prescribed person or body if:</p> <p>(a) the person or body is required or permitted by or under a prescribed Commonwealth law, a prescribed State law or a</p>

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				<p>prescribed Territory law, to deal with information about persons who work, or seek to work, with children; and</p> <p>(b) the taking into account is:</p> <p>(i) for the purpose of dealing with such information in accordance with the prescribed law; or</p> <p>(ii) required by or under a Commonwealth law, a State law or a Territory law.</p>
	<b>Crimes Act 1914</b>	Cth	85ZZGD	<p>Exclusion: person or body disclosing information</p> <p>Divisions 2 and 3 do not apply in relation to the disclosure of information by a prescribed person or body if:</p> <p>(a) the person or body is required or permitted by or under a prescribed Commonwealth law, a prescribed State law or a prescribed Territory law, to deal with information about persons who work, or seek to work, with children; and</p> <p>(b) the disclosure is required by or under a Commonwealth law, a State law or a Territory law.</p>
	<b>Crimes Act 1914</b>	Cth	85ZZGE	<p>Prescribed persons and bodies</p> <p>Before the Governor-General makes a regulation prescribing, for the purposes of section 85ZZGB, 85ZZGC or 85ZZGD, a person or body:</p> <p>(a) to which information may be disclosed; or</p>

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				<p>(b) by which information may be taken into account or disclosed;</p> <p>(c) the Minister must be satisfied that the person or body;</p> <p>(d) is required or permitted by or under a Commonwealth law, a State law or a Territory law to obtain and deal with information about persons who work, or seek to work, with children; and</p> <p>(e) complies with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management; and</p> <p>(f) complies with the principles of natural justice; and</p> <p>(g) has risk assessment frameworks and appropriately skilled staff to assess risks to children’s safety.</p>
	<b>Criminal Code Act 1995</b>	Cth	Overview	<p>The Commonwealth Criminal Code sets out all the general principles of criminal responsibility under the laws of the Commonwealth. The offence provisions which are relevant to Article 34 are set out in Chapter 8 and are:</p> <p>(a) Division 268: Genocide, crimes against humanity, war crimes and crimes against the administration of the justice of the International Criminal Court - specifically those war crimes or crimes against humanity which contain a sexual component (eg s268.19 crime against humanity - sexual violence);</p> <p>(b) Division 270: Slavery, sexual servitude and deceptive</p>

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				<p>recruiting;</p> <p>(c) Division 272: Child sex offences outside Australia;</p> <p>(d) Division 273: Offences involving child pornography material or child abuse outside Australia.</p> <p>Offences under Division 268 and 270 do not differentiate between offences against adults and children. However, due to the extended jurisdiction (discussed below at each Div.) can allow prosecution even where the offence was not in Australia and the offender did not have a connection to Australia at the time of the offence.</p>
	<b>Criminal Code Act 1995</b>	Cth	Dictionary	
	<b>Criminal Code Act 1995</b>	Cth	Part 2.7 - Geographical jurisdiction	<p>In relation to crimes in the Criminal Code the different offences can have an extended jurisdiction. There is:</p> <p>(a) standard geographical jurisdiction (section 14.1); and</p> <p>(b) 4 categories of extended geographical jurisdiction being:</p> <p>(i) category A (section 15.1);</p> <p>(ii) category B (section 15.2);</p> <p>(iii) category C (section 15.3);</p> <p>(iv) category D (section 15.4).</p>

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	<b>Criminal Code Act 1995</b>	Cth	Chapter 8, Division 268	<b>Genocide, crimes against humanity, war crimes and crimes against the administration of the justice of the International Criminal Court</b>
	<b>Criminal Code Act 1995</b>	Cth	Jurisdiction: 268.117 and 15.4	<p>Section 15.4 (extended geographical jurisdiction: Category D) applies to genocide, crimes against humanity and war crimes.</p> <p>Category D provides that if a law of the Commonwealth provides that this section applies to a particular offence, the offence applies:</p> <p>(a) whether or not the conduct constituting the alleged offence occurs in Australia; and</p> <p>(b) whether or not a result of the conduct constituting the alleged offence occurs in Australia.</p>
	<b>Criminal Code Act 1995</b>	Cth	268.14	<p><b>Crime against humanity: rape</b></p> <p>This provision creates offences where:</p> <p>(a) the perpetrator sexually penetrates another person or causes a person to sexually penetrate another person without the consent of that person; and</p> <p>(b) the perpetrator knows of, or is reckless as to, the lack of consent; and</p> <p>(c) the perpetrator's conduct is committed intentionally or knowingly as part of a widespread or systematic attack</p>

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				directed against a civilian population.
	<b>Criminal Code Act 1995</b>	Cth	Section 268.15	<p><b>Crime against humanity - sexual slavery</b></p> <p>This provision creates offences by a person (the '<b>perpetrator</b>') if:</p> <p>(a) the perpetrator causes another person to enter into or remain in sexual slavery; and</p> <p>(b) the perpetrator intends to cause, or is reckless as to causing, that sexual slavery; and</p> <p>(c) the perpetrator's conduct is committed intentionally or knowingly as part of a widespread or systematic attack directed against a civilian population.</p> <p>Penalty: Imprisonment for 25 years.</p> <p>For the purposes of this section, <b>sexual slavery</b> is the condition of a person who provides sexual services and who, because of the use of force or threats:</p> <p>(a) is not free to cease providing sexual services; or</p> <p>(b) is not free to leave the place or area where the person provides sexual services.</p>
	<b>Criminal Code Act 1995</b>	Cth	Section 268.16	<p><b>Crime against humanity - enforced prostitution</b></p> <p>A person (the perpetrator) commits an offence if:</p>

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				<p>(a) the perpetrator causes one or more persons to engage in one or more acts of a sexual nature without the consent of the person or persons, including by being reckless as to whether there is consent; and</p> <p>(b) the perpetrator intends that he or she, or another person, will obtain pecuniary or other advantage in exchange for, or in connection with, the acts of a sexual nature; and</p> <p>(c) the perpetrator's conduct is committed intentionally or knowingly as part of a widespread or systematic attack directed against a civilian population.</p> <p>Penalty: Imprisonment for 25 years.</p>
	<b>Criminal Code Act 1995</b>	Cth	Section 268.17	<p><b>Crime against humanity: forced pregnancy</b></p> <p>A person (the <b>perpetrator</b>) commits an offence if:</p> <p>(a) the perpetrator unlawfully confines one or more women forcibly made pregnant; and</p> <p>(b) the perpetrator intends to affect the ethnic composition of any population or to destroy, wholly or partly, a national, ethnical, racial or religious group, as such; and</p> <p>(c) the perpetrator's conduct is committed intentionally or knowingly as part of a widespread or systematic attack directed against a civilian population.</p> <p>Penalty: Imprisonment for 25 years.</p>

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				<b>forcibly made pregnant</b> includes made pregnant by a consent that was affected by deception or by natural, induced or age-related incapacity.
	<b>Criminal Code Act 1995</b>	Cth	Section 268.18	<p><b>Crime against humanity: enforced sterilisation</b></p> <p>A person (the '<b>perpetrator</b>') commits an offence if:</p> <p>(a) the perpetrator deprives one or more persons of biological reproductive capacity; and</p> <p>(b) the deprivation is not effected by a birth-control measure that has a non-permanent effect in practice; and</p> <p>(c) the perpetrator's conduct is neither justified by the medical or hospital treatment of the person or persons nor carried out with the consent of the person or persons; and</p> <p>(d) the perpetrator's conduct is committed intentionally or knowingly as part of a widespread or systematic attack directed against a civilian population.</p> <p>Penalty: Imprisonment for 25 years.</p> <p><b>consent</b> does not include consent effected by deception or by natural, induced or age-related incapacity.</p>
	<b>Criminal Code Act 1995</b>	Cth	Section 268.19	<p><b>Crime against humanity: sexual violence</b></p> <p>A person (the <b>perpetrator</b>) commits an offence if:</p>

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				<p>(a) the perpetrator does either of the following:</p> <p>(i) commits an act or acts of a sexual nature against one or more persons;</p> <p>(ii) causes one or more persons to engage in an act or acts of a sexual nature;</p> <p>(iii) without the consent of the person or persons, including by being reckless as to whether there is consent; and</p> <p>(iv) the perpetrator's conduct is of a gravity comparable to the offences referred to in sections 268.14 to 268.18; and</p> <p>(v) the perpetrator's conduct is committed intentionally or knowingly as part of a widespread or systematic attack directed against a civilian population.</p> <p>Penalty: Imprisonment for 25 years.</p>
	<b>Criminal Code Act 1995</b>	Cth	268.59	<p><b>War Crime - Rape</b></p> <p>(1) A person (the <b>perpetrator</b>) commits an offence if:</p> <p>(a) the perpetrator sexually penetrates or causes another person to sexually penetrate another person without the consent of that person; and</p> <p>(b) the perpetrator knows about, or is reckless as to, the lack of consent; and</p> <p>(c) the perpetrator's conduct takes place in the context of,</p>

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				<p>and is associated with, an international armed conflict.</p> <p>Penalty: Imprisonment for 25 years.</p>
	<b>Criminal Code Act 1995</b>	Cth	268.60	<p><b>War Crime -sexual slavery</b></p> <p>A person (the <b>perpetrator</b>) commits an offence if:</p> <p>(a) the perpetrator causes another person to enter into or remain in sexual slavery; and</p> <p>(b) the perpetrator intends to cause, or is reckless as to causing, that sexual slavery; and</p> <p>(c) the perpetrator’s conduct takes place in the context of, and is associated with, an international armed conflict.</p> <p>Penalty: Imprisonment for 25 years.</p> <p>For the purposes of this section, <b>sexual slavery</b> is the condition of a person who provides sexual services and who, because of the use of force or threats:</p> <p>(a) is not free to cease providing sexual services; or</p> <p>(b) is not free to leave the place or area where the person provides sexual services.</p>
	<b>Criminal Code Act 1995</b>	Cth	268.61	<p><b>War Crime - enforced prostitution</b></p> <p>A person (the <b>perpetrator</b>) commits an offence if:</p> <p>(a) the perpetrator causes one or more persons to engage in</p>

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				<p>one or more acts of a sexual nature without the consent of the person or persons, including by being reckless as to whether there is consent; and</p> <p>(b) the perpetrator intends that he or she, or another person, will obtain pecuniary or other advantage in exchange for, or in connection with, the acts of a sexual nature; and</p> <p>(c) the perpetrator's conduct takes place in the context of, and is associated with, an international armed conflict.</p> <p>Penalty: Imprisonment for 25 years.</p>
	<p><b>Criminal Code Act 1995</b></p>	<p>Cth</p>	<p>268.62</p>	<p><b>War crime - forced pregnancy</b></p> <p>A person (the <b>perpetrator</b>) commits an offence if:</p> <p>(a) the perpetrator unlawfully confines one or more women forcibly made pregnant; and</p> <p>(b) the perpetrator intends to affect the ethnic composition of any population or to destroy, wholly or partly, a national, ethnical, racial or religious group, as such; and</p> <p>(c) the perpetrator's conduct takes place in the context of, and is associated with, an international armed conflict.</p> <p>Penalty: Imprisonment for 25 years.</p> <p><b>forcibly made pregnant</b> includes made pregnant by a consent that was effected by deception or by natural, induced</p>

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				or age-related incapacity.
	<b>Criminal Code Act 1995</b>	Cth	268.63	<p><b>War crime - enforced sterilisation</b></p> <p>A person (the <b>perpetrator</b>) commits an offence if:</p> <p>(a) the perpetrator deprives one or more persons of biological reproductive capacity; and</p> <p>(b) the deprivation is not effected by a birth-control measure that has a non-permanent effect in practice; and</p> <p>(c) the perpetrator's conduct is neither justified by the medical or hospital treatment of the person or persons nor carried out with the consent of the person or persons; and</p> <p>(d) the perpetrator's conduct takes place in the context of, and is associated with, an international armed conflict.</p> <p>Penalty: Imprisonment for 25 years.</p>
	<b>Criminal Code Act 1995</b>	Cth	268.64	<p><b>War crime - sexual violence</b></p> <p>A person (the <b>perpetrator</b>) commits an offence if:</p> <p>(a) the perpetrator does either of the following:</p> <p>(i) commits an act or acts of a sexual nature against one or more persons;</p> <p>(ii) causes one or more persons to engage in an act or acts of a sexual nature;</p>

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				<p>(iii) without the consent of the person or persons, including by being reckless as to whether there is consent; and</p> <p>(b) the perpetrator's conduct is of a gravity comparable to the offences referred to in sections 268.59 to 268.63; and</p> <p>(c) the conduct takes place in the context of, and is associated with, an international armed conflict.</p> <p>Penalty: Imprisonment for 25 years.</p>
	<b>Criminal Code Act 1995</b>	Cth	268.82	<p><b>War Crime - Rape</b></p> <p>This is similar to the rape offences discussed above but apply in an armed conflict that is not an international armed conflict.</p>
	<b>Criminal Code Act 1995</b>	Cth	268.83	<p><b>War Crime - Sexual Slavery</b></p> <p>This is similar to the sexual slavery offences discussed above but apply in an armed conflict that is not an international armed conflict.</p>
	<b>Criminal Code Act 1995</b>	Cth	268.84	<p><b>War Crime - enforced prostitution</b></p> <p>This is similar to the enforced prostitution offences discussed above but apply in an armed conflict that is not an international armed conflict.</p>
	<b>Criminal Code Act 1995</b>	Cth	268.85	<p><b>War Crime - forced pregnancy</b></p> <p>This is similar to the forced pregnancy offences discussed</p>

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				above but apply in an armed conflict that is not an international armed conflict.
	<b>Criminal Code Act 1995</b>	Cth	268.86	<p><b>War Crime - enforced sterilisation</b></p> <p>This is similar to the enforced sterilisation offences discussed above but apply in an armed conflict that is not an international armed conflict.</p>
	<b>Criminal Code Act 1995</b>	Cth	268.87	<p><b>War Crime - sexual violence</b></p> <p>This is similar to the sexual violence offences discussed above but apply in an armed conflict that is not an international armed conflict.</p>
	<b>Criminal Code Act 1995</b>	Cth	Division 270	<b>Slavery, sexual servitude and deceptive recruiting</b>
	<b>Criminal Code Act 1995</b>	Cth	Jurisdiction: 270.5	<p>Section 15.2 (extended geographical jurisdiction: category B) applies to an offence against section 270.6 or 270.7.</p> <p>Category B provides:</p> <p>(1) If a law of the Commonwealth provides that this section applies to a particular offence, a person does not commit the offence unless:</p> <p>(a) the conduct constituting the alleged offence occurs:</p> <p>(i) wholly or partly in Australia; or</p> <p>(ii) wholly or partly on board an Australian aircraft or an</p>

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				<p>Australian ship; or</p> <p>(b) the conduct constituting the alleged offence occurs wholly outside Australia and a result of the conduct occurs:</p> <p>(i) wholly or partly in Australia; or</p> <p>(ii) wholly or partly on board an Australian aircraft or an Australian ship; or</p> <p>(c) the conduct constituting the alleged offence occurs wholly outside Australia and:</p> <p>(i) at the time of the alleged offence, the person is an Australian citizen; or</p> <p>(ii) at the time of the alleged offence, the person is a resident of Australia; or</p> <p>(iii) at the time of the alleged offence, the person is a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; or</p> <p>(d) all of the following conditions are satisfied:</p> <p>(i) the alleged offence is an ancillary offence;</p> <p>(ii) the conduct constituting the alleged offence occurs wholly outside Australia;</p> <p>(iii) the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct,</p>

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				occurs, or is intended by the person to occur, wholly or partly in Australia or wholly or partly on board an Australian aircraft or an Australian ship.
	<b>Criminal Code Act 1995</b>	Cth	270.4	<p><b>270.4 Definition of sexual servitude</b></p> <p>For the purposes of this Division, <b>sexual servitude</b> is the condition of a person who provides sexual services and who, because of the use of force or threats:</p> <p>(a) is not free to cease providing sexual services; or</p> <p>(b) is not free to leave the place or area where the person provides sexual services.</p> <p>In this section:</p> <p><b>'threat'</b> means:</p> <p>(a) a threat of force; or</p> <p>(b) a threat to cause a person's deportation; or</p> <p>(c) a threat of any other detrimental action unless there are reasonable grounds for the threat of that action in connection with the provision of sexual services by a person.</p>
	<b>Criminal Code Act 1995</b>	Cth	270.6	<p><b>Sexual servitude offences</b></p> <p>(1) A person whose conduct causes another person to enter into or remain in sexual servitude and who intends to cause, or is reckless as to causing, that sexual servitude is guilty of</p>

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				<p>an offence.</p> <p>Penalty: in the case of an aggravated offence (see section 270.8):imprisonment for 20 years; or in any other case - imprisonment for 15 years.</p> <p>(2) A person who conducts any business that involves the sexual servitude of other persons and who knows about, or is reckless as to, that sexual servitude is guilty of an offence.</p> <p>Penalty in the case of an aggravated offence (see section 270.8):imprisonment for 20 years; or in any other case - imprisonment for 15 years.</p>
	<b>Criminal Code Act 1995</b>	Cth	270.7	<p><b>Deceptive recruiting for sexual services</b></p> <p>A person who, with the intention of inducing another person to enter into an engagement to provide sexual services, deceives that other person about:</p> <p>(a) the fact that the engagement will involve the provision of sexual services; or</p> <p>(b) the nature of sexual services to be provided (for example, whether those services will require the person to have unprotected sex); or</p> <p>(c) the extent to which the person will be free to leave the place or area where the person provides sexual services; or</p> <p>(d) the extent to which the person will be free to cease</p>

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				<p>providing sexual services; or</p> <p>(e) the extent to which the person will be free to leave his or her place of residence; or</p> <p>(f) if there is or will be a debt owed or claimed to be owed by the person in connection with the engagement: the quantum, or the existence, of the debt owed or claimed to be owed; or</p> <p>(g) the fact that the engagement will involve exploitation, debt bondage or the confiscation of the person's travel or identity documents;</p> <p>(h) is guilty of an offence.</p>
	<b>Criminal Code Act 1995</b>	Cth	270.8	<p><b>Aggravated offences</b></p> <p>(1) For the purposes of this Division, an offence against section 270.6 or 270.7 is an <b>aggravated offence</b> if the offence was committed against <b>a person who is under 18.</b></p> <p>(2) If the prosecution intends to prove an aggravated offence, the charge must allege that the offence was committed against a person under that age.</p> <p>(3) In order to prove an aggravated offence, the prosecution must prove that the defendant intended to commit, or was reckless as to committing, the offence against a person under that age.</p>

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	<b>Criminal Code Act 1995</b>	Cth	Division 271	<b>Trafficking in persons and debt bondage</b>
	<b>Criminal Code Act 1995</b>	Cth	271.4	<p><b>Offence of trafficking in children</b></p> <p>(1) A person (the <b>first person</b>) commits an offence of trafficking in children if:</p> <p>(a) the first person organises or facilitates the entry or proposed entry into Australia, or the receipt in Australia, of another person; and</p> <p>(b) the other person is under the age of 18; and</p> <p>(c) in organising or facilitating that entry or proposed entry, or that receipt, the first person:</p> <p>(i) intends that the other person will be used to provide sexual services or will be otherwise exploited, either by the first person or another, after that entry or receipt; or</p> <p>(ii) is reckless as to whether the other person will be used to provide sexual services or will be otherwise exploited, either by the first person or another, after that entry or receipt.</p> <p>Penalty: Imprisonment for 25 years.</p> <p>(2) A person (the <b>first person</b>) commits an offence of trafficking in children if:</p> <p>(a) the first person organises or facilitates the exit or</p>

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				<p>proposed exit from Australia of another person; and</p> <p>(b) the other person is under the age of 18; and</p> <p>(c) in organising or facilitating that exit or proposed exit, the first person:</p> <p>(i) intends that the other person will be used to provide sexual services or will be otherwise exploited, either by the first person or another, after that exit; or</p> <p>(ii) is reckless as to whether the other person will be used to provide sexual services or will be otherwise exploited, either by the first person or another, after that exit.</p> <p>Penalty: Imprisonment for 25 years.</p> <p>In this section '<b>sexual service</b>' means the use or display of the body of the person providing the service for the sexual gratification of others.</p>
	<b>Criminal Code Act 1995</b>	Cth	271.7	<p><b>Offence of domestic trafficking in children</b></p> <p>(1) A person commits an offence of domestic trafficking in children if:</p> <p>(a) the first-mentioned person organises or facilitates the transportation of another person from one place in Australia to another place in Australia; and</p> <p>(b) the other person is under the age of 18; and</p>

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				<p>(c) in organising or facilitating that transportation, the first-mentioned person:</p> <p>(i) intends that the other person will be used to provide sexual services or will be otherwise exploited, either by the first-mentioned person or another, during or following the transportation to that other place; or</p> <p>(ii) is reckless as to whether the other person will be used to provide sexual services or will be otherwise exploited, either by the first-mentioned person or another, during or following the transportation to that other place.</p> <p>Penalty: Imprisonment for 25 years.</p>
	<b>Criminal Code Act 1995</b>	Cth	Jurisdiction - 271.10	<p><b>Jurisdictional requirement for offences other than offences related to domestic trafficking in persons</b></p> <p>Section 15.2 (extended geographical jurisdiction: category B) applies to an offence against section 271.2, 271.3, 271.4, 271.8 or 271.9.</p>
	<b>Criminal Code Act 1995</b>	Cth	Jurisdiction 271.11	<p><b>Jurisdictional requirement for offences related to domestic trafficking in persons</b></p> <p>A person commits an offence against section 271.5, 271.6 or 271.7 only if one or more of the following paragraphs applies:</p> <p>(a) the conduct constituting the offence occurs to any extent outside Australia;</p>

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				<p>(b) the conduct constituting the offence involves transportation across State borders, either for reward or in connection with a commercial arrangement;</p> <p>(c) the conduct constituting the offence occurs within a Territory or involves transportation to or from a Territory;</p> <p>(d) the conduct constituting the offence is engaged in by, or on behalf of, a constitutional corporation, or in circumstances where the victims of the trafficking conduct were intended to be employed by a constitutional corporation;</p> <p>(e) some of the conduct constituting the offence is engaged in by communication using a postal, telegraphic or telephonic service within the meaning of paragraph 51(v) of the Constitution;</p> <p>(f) the victim of the conduct constituting the offence is an alien for the purposes of paragraph 51(xix) of the Constitution.</p>
	<b>Criminal Code Act 1995</b>	Cth	Division 272	<b>Child sex offences outside Australia</b>
	<b>Criminal Code Act 1995</b>	Cth	272.6	<p><b>Who can be prosecuted for an offence committed outside Australia</b></p> <p>A person must not be charged with an offence against this Division that the person allegedly committed wholly outside Australia unless, at the time of the offence, the person was:</p>

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				<p>(a) an Australian citizen; or</p> <p>(b) a resident of Australia; or</p> <p>(c) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; or</p> <p>any other body corporate that carries on its activities principally in Australia.</p>
	<b>Criminal Code Act 1995</b>	Cth	272.8	<p><b>Sexual intercourse with child outside Australia</b></p> <p>This section creates the following offences:</p> <p>Engaging in sexual intercourse with child under 16 outside Australia - Penalty: Imprisonment for 20 years.</p> <p>Causing child under 16 to engage in sexual intercourse in presence of defendant outside Australia. - Penalty: Imprisonment for 20 years.</p> <p>(3) The fault element for paragraph (2)(b) is intention.</p> <p>(4) Absolute liability applies.</p> <p>Note 1: For absolute liability, see section 6.2. Note 2: For a defence based on belief about age, see section 272.16.</p>
	<b>Criminal Code Act 1995</b>	Cth	272.9	<p><b>Sexual activity (other than sexual intercourse) with child outside Australia</b></p> <p><i>Engaging in sexual activity with child</i></p>

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				<p>(1) A person commits an offence if:</p> <ul style="list-style-type: none"> <li>(a) the person engages in sexual activity (other than sexual intercourse) with another person (the child); and</li> <li>(b) the child is under 16; and</li> <li>(c) the sexual activity is engaged in outside Australia.</li> </ul> <p>Penalty: Imprisonment for 15 years.</p> <p><i>Causing child to engage in sexual activity in presence of defendant</i></p> <p>(2) A person commits an offence if:</p> <ul style="list-style-type: none"> <li>(a) the person engages in conduct in relation to another person (the child); and</li> <li>(b) that conduct causes the child to engage in sexual activity (other than sexual intercourse) in the presence of the person; and</li> <li>(c) the child is under 16 when the sexual activity is engaged in; and</li> <li>(d) the sexual activity is engaged in outside Australia.</li> </ul> <p>Penalty: Imprisonment for 15 years.</p> <p>(3) The fault element for paragraph (2)(b) is intention.</p> <p>(4) Absolute liability applies to paragraphs (1)(b) and (c) and</p>

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				<p>(2)(c) and (d).</p> <p>Note: For absolute liability, see section 6.2.</p> <p>Defence: child present but defendant does not intend to derive gratification</p> <p>(5) It is a defence to a prosecution for an offence against subsection (1) or (2) if:</p> <p>(a) the conduct constituting the offence consists only of the child being in the presence of the defendant while sexual activity is engaged in; and</p> <p>(b) the defendant proves that he or she did not intend to derive gratification from the presence of the child during that activity.</p> <p>Note 1: A defendant bears a legal burden in relation to the matter in this subsection, see section 13.4.</p> <p>Note 2: For a defence based on belief about age, see section 272.16.</p>
	<b>Criminal Code Act 1995</b>	Cth	272.10	<p><b>Aggravated offence: child with mental impairment or under care, supervision or authority of defendant</b></p> <p>(1) A person commits an offence against this section (the <b>aggravated offence</b>) if the person commits an offence (the <b>underlying offence</b>) against one of the following provisions in relation to another person (the <b>child</b>) subsection 272.8(1) (engaging in sexual intercourse with child outside Australia),</p>

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				<p>subsection 272.8(2) (causing child to engage in sexual intercourse in presence of defendant outside Australia), subsection 272.9(1) (engaging in sexual activity (other than sexual intercourse) with child outside Australia), subsection 272.9(2) (causing child to engage in sexual activity (other than sexual intercourse) in presence of defendant outside Australia) and either or both of the following apply at the time the person commits the underlying offence:</p> <p>(a) the child has a mental impairment;</p> <p>(b) the person is in a position of trust or authority in relation to the child, or the child is otherwise under the care, supervision or authority of the person.</p> <p>Penalty: Imprisonment for 25 years.</p> <p>There is no fault element for the physical element described in paragraph (1)(a) other than the fault elements (however described), if any, for the underlying offence.</p> <p>To avoid doubt, a person does not commit the underlying offence for the purposes of paragraph (1)(a) if the person has a defence to the underlying offence.</p> <p><i>Defence - belief that child did not have mental impairment</i></p> <p>Subparagraph (1)(b)(i) does not apply if the defendant proves that, at the time he or she committed the underlying offence, he or she believed that the child did not have a mental impairment.</p>

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				Note: A defendant bears a legal burden in relation to the matter in this subsection, see section 13.4.
	<b>Criminal Code Act 1995</b>	Cth	272.11	<p><b>Persistent sexual abuse of child outside Australia</b></p> <p>(1) A person commits an offence against this section if the person commits an offence (the <b>underlying offence</b>) against one or more of the following provisions in relation to the same person (the <b>child</b>) on 3 or more separate occasions during any period. The underlying offences are subsection 272.8(1), 272.8(2), 272.9(1), 272.9(2).</p> <p>Penalty: Imprisonment for 25 years.</p> <p>(2) There is no fault element for any of the physical elements described in subsection (1) other than the fault elements (however described), if any, for the underlying offence.</p> <p>(3) To avoid doubt, a person does not commit the underlying offence for the purposes of subsection (1) if the person has a defence to the underlying offence.</p> <p>Offence or conduct need not be the same</p> <p>(4) For the purposes of subsection (1), it is immaterial whether the underlying offence, or the conduct constituting the underlying offence, is the same on each occasion.</p> <p>Certain matters need not be proved</p> <p>(5) In proceedings for an offence against this section, it is not necessary to specify or to prove the dates or exact</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>circumstances of the occasions on which the conduct constituting the offence against this section occurred.</p> <p>Content of charge</p> <p>(6) A charge of an offence against this section:</p> <p>(a) must specify with reasonable particularity the period during which the offence against this section occurred; and</p> <p>(b) must describe the nature of the separate offences alleged to have been committed by the person during that period.</p> <p>Trier of fact to be satisfied of certain matters</p> <p>(7) In order for the person to be found guilty of an offence against this section:</p> <p>(a) the trier of fact must be satisfied beyond reasonable doubt that the evidence establishes at least 3 separate occasions during the period concerned on which the person engaged in conduct constituting an offence against subsection 272.8(1) or (2) or 272.9(1) or (2), of a nature described in the charge, in relation to the child; and</p> <p>(b) the trier of fact must be so satisfied about the material facts of the 3 such occasions, although the trier of fact need not be so satisfied about the dates or the order of those occasions; and</p> <p>(c) if the trier of fact is a jury and more than 3 such occasions are relied on as evidence of the commission of an</p>

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				<p>offence against this section: all the members of the jury must be so satisfied about the same 3 incidents.</p> <p>(8) In proceedings for an offence against this section, the judge must warn the jury (if any) of the requirements of subsection (7).</p> <p>Double jeopardy etc.</p> <p>(9) A person who has been convicted or acquitted of an offence against this section may not be convicted of another offence against section 272.8, 272.9 or 272.10 that is alleged to have been committed in relation to the child in the period during which the person was alleged to have committed the offence against this section.</p> <p>(10) However, subsection (9) does not prevent an alternative verdict under section 272.28.</p> <p>(11) A person who has been convicted or acquitted of an offence against section 272.8, 272.9 or 272.10 in relation to a person (the <b>child</b>) may not be convicted of an offence against this section in relation to the child if any of the occasions relied on as evidence of the commission of the offence against this section includes the conduct that constituted the offence of which the person was convicted or acquitted.</p>
	<b>Criminal Code Act 1995</b>	Cth	272.13	<b>Sexual activity (other than sexual intercourse) with young person outside Australia - defendant in position of trust or authority</b>

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				<p><i>Engaging in sexual activity with young person</i></p> <p>(1) A person commits an offence if:</p> <p>(a) the person engages in sexual activity (other than sexual intercourse) with another person (the <b>young person</b>); and</p> <p>(b) the young person is at least 16 but under 18; and</p> <p>(c) the person is in a position of trust or authority in relation to the young person; and</p> <p>(d) the sexual activity is engaged in outside Australia.</p> <p>Penalty: Imprisonment for 7 years.</p> <p><i>Causing young person to engage in sexual activity in presence of defendant</i></p> <p>(2) A person commits an offence if:</p> <p>(a) the person engages in conduct in relation to another person (the <b>young person</b>); and</p> <p>(b) that conduct causes the young person to engage in sexual activity (other than sexual intercourse) in the presence of the person; and</p> <p>(c) the young person is at least 16 but under 18 when the sexual activity is engaged in; and</p> <p>(d) the person is in a position of trust or authority in relation</p>

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				<p>to the young person; and</p> <p>(e) the sexual activity is engaged in outside Australia.</p> <p>Penalty: Imprisonment for 7 years.</p>
	<b>Criminal Code Act 1995</b>	Cth	272.14	<p><b>Procuring child to engage in sexual activity outside Australia</b></p> <p>(1) A person commits an offence if:</p> <p>(a) the person engages in conduct in relation to another person (the <b>child</b>); and</p> <p>(b) the person does so with the intention of procuring the child to engage in sexual activity (whether or not with the person) outside Australia; and</p> <p>(c) the child is someone:</p> <p>(i) who is under 16; or</p> <p>(ii) who the person believes to be under 16; and</p> <p>(d) one or more of the following apply:</p> <p>(i) the conduct referred to in paragraph (a) occurs wholly or partly outside Australia;</p> <p>(ii) the child is outside Australia when the conduct referred to in paragraph (a) occurs;</p> <p>(iii) the conduct referred to in paragraph (a) occurs wholly in</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>Australia and the child is in Australia when that conduct occurs.</p> <p>Penalty: Imprisonment for 15 years.</p>
	<b>Criminal Code Act 1995</b>	Cth	272.15	<p><b>'Grooming' child to engage in sexual activity outside Australia</b></p> <p>A person commits an offence if:</p> <p>(a) the person engages in conduct in relation to another person (the <b>child</b>); and</p> <p>(b) the person does so with the intention of making it easier to procure the child to engage in sexual activity (whether or not with the person) outside Australia; and</p> <p>(c) the child is someone:</p> <p>(i) who is under 16; or</p> <p>(ii) who the person believes to be under 16; and</p> <p>(d) one or more of the following apply:</p> <p>(i) the conduct referred to in paragraph (a) occurs wholly or partly outside Australia;</p> <p>(ii) the child is outside Australia when the conduct referred to in paragraph (a) occurs;</p> <p>(iii) the conduct referred to in paragraph (a) occurs wholly in</p>

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				<p>Australia and the child is in Australia when that conduct occurs.</p> <p>Penalty: Imprisonment for 12 years.</p>
	<p><b>Criminal Code Act 1995</b></p>	<p>Cth</p>	<p>272.16</p>	<p><b>Defence based on belief about age</b></p> <p><i>Offences involving sexual intercourse or other sexual activity with a child - belief that child at least 16</i></p> <p>(1) It is a defence to a prosecution for an offence against section 272.8 or 272.9 if the defendant proves that, at the time of the sexual intercourse or sexual activity, he or she believed that the child was at least 16.</p> <p>Note: A defendant bears a legal burden in relation to the matter in this subsection, see section 13.4.</p> <p><i>Offences involving sexual intercourse or other sexual activity with young person - belief that young person at least 18</i></p> <p>(2) It is a defence to a prosecution for an offence against section 272.12 or 272.13 if the defendant proves that, at the time of the sexual intercourse or sexual activity, he or she believed that the young person was at least 18.</p> <p>Note: A defendant bears a legal burden in relation to the matter in this subsection, see section 13.4.</p> <p><i>Offences involving procuring or 'grooming' child for sexual activity - belief that child at least 16</i></p>

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				<p>(3) It is a defence to a prosecution for an offence against section 272.14 or 272.15 if the defendant proves that, at the time the defendant engaged in the conduct constituting the offence, he or she believed that the child was at least 16.</p> <p>Note: A defendant bears a legal burden in relation to the matter in this subsection, see section 13.4.</p> <p><i>Trier of fact may take into account whether belief reasonable</i></p> <p>(4) In determining whether the defendant had the belief mentioned in subsection (1), (2) or (3), the trier of fact may take into account whether the alleged belief was reasonable in the circumstances.</p>
	<b>Criminal Code Act 1995</b>	Cth	272.17	<p><b>Defence based on valid and genuine marriage</b></p> <p><i>Offences involving engaging in sexual intercourse or other sexual activity with child or young person</i></p> <p>(1) It is a defence to a prosecution for an offence against subsection 272.8(1), 272.9(1), 272.12(1) or 272.13(1) if the defendant proves that:</p> <p>(a) at the time of the sexual intercourse or sexual activity, there existed between the defendant and the child or the young person a marriage that was valid, or recognised as valid, under the law of:</p> <p>(b) the place where the marriage was solemnised; or</p>

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				<p>(c) the place where the offence was committed; or</p> <p>(d) the place of the defendant's residence or domicile; and</p> <p>when it was solemnised, the marriage was genuine.</p> <p>Note: A defendant bears a legal burden in relation to the matter in this subsection, see section 13.4.</p> <p><i>Offences involving procuring or 'grooming' child for sexual activity</i></p> <p>(2) It is a defence to a prosecution for an offence against subsection 272.14(1) or 272.15(1) if the defendant proves that:</p> <p>(a) at the time he or she committed the offence, there existed between the defendant and the child a marriage that was valid, or recognised as valid, under the law of:</p> <p>(b) the place where the marriage was solemnised; or</p> <p>(c) the place where the offence was committed; or</p> <p>(d) the place of the defendant's residence or domicile; and</p> <p>when it was solemnised, the marriage was genuine.</p> <p>Note: A defendant bears a legal burden in relation to the matter in this subsection, see section 13.4.</p>
	<b>Criminal Code Act</b>	Cth	272.18	<b>Benefiting from offence against this Division</b>

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	1995			<p>(1) A person commits an offence if:</p> <p>(a) the person engages in conduct; and</p> <p>(b) the person does so with the intention of benefiting from an offence against this Division; and</p> <p>(c) the conduct is reasonably capable of resulting in the person benefiting from such an offence.</p> <p>Penalty: Imprisonment for 20 years.</p> <p>(2) Subsection (1) applies:</p> <p>(a) whether the conduct is engaged in within or outside Australia; and</p> <p>(b) whether or not the person intends to benefit financially from an offence against this Division; and</p> <p>(c) whether or not an offence against this Division is in fact committed.</p> <p>(3) Absolute liability applies to paragraph (1)(c).</p> <p>Note: For absolute liability, see section 6.2.</p>
	<b>Criminal Code Act 1995</b>	Cth	272.19	<p><b>Encouraging offence against this Division</b></p> <p>(1) A person commits an offence if:</p> <p>(a) the person engages in conduct; and</p>

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				<p>(b) the person does so with the intention of encouraging an offence against this Division (other than this section or section 272.20); and</p> <p>(c) the conduct is reasonably capable of encouraging such an offence.</p> <p>Penalty: Imprisonment for 20 years.</p> <p>(2) Subsection (1) applies:</p> <p>(a) whether the conduct is engaged in within or outside Australia; and</p> <p>(b) whether or not an offence against this Division is in fact committed.</p> <p>(3) Absolute liability applies to paragraph (1)(c).</p> <p>Note: For absolute liability, see section 6.2.</p> <p>(4) In this section, '<b>encourage</b>' means:</p> <p>(a) encourage, incite to, or urge, by any means whatever, (including by a written, electronic or other form of communication); or</p> <p>(b) aid, facilitate, or contribute to, in any way whatever.</p>
	<b>Criminal Code Act 1995</b>	Cth	272.20	<p><b>Preparing for or planning offence against this Division</b></p> <p><i>Offences involving sexual intercourse or other sexual activity</i></p>

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				<p><i>with child, and benefiting offence</i></p> <p>(1) A person commits an offence if:</p> <p>(a) the person does an act; and</p> <p>(b) the person does so with the intention of preparing for, or planning, an offence against section 272.8, 272.9, 272.10, 272.11 or 272.18.</p> <p>Penalty: Imprisonment for 10 years.</p> <p><i>Offences involving sexual intercourse or other sexual activity with young person</i></p> <p>(2) A person commits an offence if:</p> <p>(a) the person does an act; and</p> <p>(b) the person does so with the intention of preparing for, or planning, an offence against section 272.12 or 272.13.</p> <p>Penalty: Imprisonment for 5 years.</p> <p>(3) Subsections (1) and (2) apply:</p> <p>(a) whether the act is done within or outside Australia; and</p> <p>(b) whether or not an offence against a provision referred to in paragraph (1)(b) or (2)(b) is in fact committed; and</p> <p>(c) whether or not the act is done in preparation for, or planning, a specific offence against a provision referred to in</p>

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				<p>paragraph (1)(b) or (2)(b); and</p> <p>(d) whether or not the act is done in preparation for, or planning, more than one offence against a provision referred to in paragraph (1)(b) or (2)(b).</p>
	<b>Criminal Code Act 1995</b>	Cth	Subdivision D	<p><b>Video Link Evidence</b></p> <p>Sections 272.21 - 272.26 deal with circumstances associated with giving video link evidence in proceedings involving an offence under Div. 272.</p>
	<b>Criminal Code Act 1995</b>	Cth	Subdivision E	<p><b>Other rules about conduct of trials</b></p>
	<b>Criminal Code Act 1995</b>	Cth	272.27	<p><b>Evidence relating to a person's age</b></p> <p>(1) For the purposes of this Division, evidence that a person was represented to the defendant as being under or of a particular age is, in the absence of evidence to the contrary, proof that the defendant believed that person to be under or of that age.</p> <p>(2) In determining for the purposes of this Division how old a person is or was at a particular time, a jury or court may treat any of the following as admissible evidence:</p> <p>(a) the person's appearance;</p> <p>(b) medical or other scientific opinion;</p> <p>(c) a document that is or appears to be an official or medical</p>

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				<p>record from a country outside Australia;</p> <p>(d) a document that is or appears to be a copy of such a record.</p> <p>(3) Subsection (2) does not make any other kind of evidence inadmissible, and does not affect a prosecutor's duty to do all he or she can to adduce the best possible evidence for determining the question.</p> <p>(4) If, on a trial for an offence against this Division, evidence may be treated as admissible because of subsection (2), the court must warn the jury that it must be satisfied beyond reasonable doubt in determining the question.</p>
	<b>Criminal Code Act 1995</b>	Cth	272.31	<p><b>Consent to commencement of proceedings where defendant under 18</b></p> <p>(1) Proceedings for an offence against this Division must not be commenced without the consent of the Attorney-General if the defendant was under 18 at the time he or she allegedly engaged in the conduct constituting the offence.</p> <p>(2) However, a person may be arrested for, charged with, or remanded in custody or on bail in connection with, such an offence before the necessary consent has been given.</p>
	<b>Criminal Code Act 1995</b>	Cth	Division 273	<b>Offences involving child pornography material or child abuse material outside Australia</b>
	<b>Criminal Code Act</b>	Cth	273.2	<b>Who can be prosecuted for an offence committed outside</b>

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	1995			<p><b>Australia</b></p> <p>A person must not be charged with an offence against this Division that the person allegedly committed outside Australia unless, at the time of the offence, the person was:</p> <ul style="list-style-type: none"> <li>(a) an Australian citizen; or</li> <li>(b) a resident of Australia; or</li> <li>(c) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; or</li> <li>(d) any other body corporate that carries on its activities principally in Australia.</li> </ul>
	<b>Criminal Code Act 1995</b>	Cth	273.2A	<p><b>Consent to commencement of proceedings where defendant under 18</b></p> <p>Proceedings for an offence against this Division must not be commenced without the consent of the Attorney-General if the defendant was under 18 at the time he or she allegedly engaged in the conduct constituting the offence.</p> <p>However, a person may be arrested for, charged with, or remanded in custody or on bail in connection with, such an offence before the necessary consent has been given.</p>
	<b>Criminal Code Act 1995</b>	Cth	Subdivision B	<p><b>Offences committed overseas involving child pornography material or child abuse material</b></p>

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	<b>Criminal Code Act 1995</b>	Cth	273.5	<p><b>Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia</b></p> <p>A person commits an offence if:</p> <p>(a) the person:</p> <p>(i) has possession or control of material; or</p> <p>(ii) produces, distributes or obtains material; or</p> <p>(iii) facilitates the production or distribution of material; and</p> <p>(b) the material is child pornography material; and</p> <p>(c) the conduct referred to in paragraph (a) occurs outside Australia.</p> <p>Penalty: Imprisonment for 15 years.</p>
	<b>Criminal Code Act 1995</b>	Cth	273.6	<p><b>Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia</b></p> <p>A person commits an offence if:</p> <p>(a) the person:</p> <p>(i) has possession or control of material; or</p> <p>(ii) produces, distributes or obtains material; or</p> <p>(iii) facilitates the production or distribution of material; and</p>

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				<p>(iv) the material is child abuse material; and</p> <p>(b) the conduct referred to in paragraph (a) occurs outside Australia.</p> <p>Penalty: Imprisonment for 15 years.</p>
	<b>Criminal Code Act 1995</b>	Cth	273.7	<p><b>Aggravated offence: offence involving conduct on 3 or more occasions and 2 or more people</b></p> <p>Where a person commits an offence under sections 273.5 or 273.3 on 3 or more separate occasions and the commission of each such offence involves 2 or more people. Then the offence is an aggravated offence. Penalty: Imprisonment for 25 years.</p> <p>Offence or conduct need not be the same.</p>
	<b>Criminal Code Act 1995</b>	Cth	273.8	<p><b>Alternative verdict if aggravated offence not proven</b></p> <p>If, on a trial for an <b>aggravated offence</b>) against subsection 273.7(1), the trier of fact:</p> <p>(a) is not satisfied that the defendant is guilty of the aggravated offence; but</p> <p>(b) is satisfied beyond reasonable doubt that he or she is guilty of an offence against section 273.5 or 273.6;</p> <p>(c) it may find the defendant not guilty of the aggravated offence but guilty of the offence against section 273.5 or 273.6, so long as the defendant has been accorded procedural</p>

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				fairness in relation to that finding of guilt.
	<b>Criminal Code Act 1995</b>	Cth	273.9	<p><b>Defences to offences against this Division</b></p> <p>(1) A person is not criminally responsible for an offence against section 273.5 or 273.6 because of engaging in particular conduct if the conduct:</p> <ul style="list-style-type: none"> <li>(a) is of public benefit; and</li> <li>(b) does not extend beyond what is of public benefit.</li> </ul> <p>In determining whether the person is, under this subsection, not criminally responsible for the offence, the question whether the conduct is of public benefit is a question of fact and the person's motives in engaging in the conduct are irrelevant.</p> <p>Note: A defendant bears an evidential burden in relation to the matter in this subsection, see subsection 13.3(3).</p> <p>(2) the purposes of subsection (1), conduct is of public benefit if, and only if, the conduct is necessary for or of assistance in:</p> <ul style="list-style-type: none"> <li>(a) enforcing a law of the Commonwealth, a State or Territory, or a foreign country; or</li> <li>(b) monitoring compliance with, or investigating a contravention of, a law of the Commonwealth, a State or Territory or a foreign country; or</li> </ul>

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				<p>(c) the administration of justice (whether within or outside Australia); or</p> <p>(d) conducting scientific, medical or educational research.</p> <p>(3) Paragraph (2)(d) only applies if the person's conduct was, in all the circumstances, reasonable having regard to the purpose mentioned in that paragraph.</p> <p>(4) A person is not criminally responsible for an offence against section 273.5 or 273.6 if:</p> <p>(a) the person is, at the time of the offence:</p> <p>(i) a law enforcement officer; or</p> <p>(ii) an intelligence or security officer; or</p> <p>(iii) an officer or employee of the government of a foreign country performing similar duties to an intelligence or security officer; and</p> <p>(b) the person is acting in the course of his or her duties; and</p> <p>(c) the conduct of the person is reasonable in the circumstances for the purpose of performing that duty.</p> <p>Note: A defendant bears an evidential burden in relation to the matter in this subsection, see subsection 13.3(3).</p> <p>(5) A person is not criminally responsible for an offence against section 273.5 or 273.6 if the person engages in the</p>

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				<p>conduct in good faith for the sole purpose of:</p> <p>(a) assisting the Australian Communications and Media Authority to detect:</p> <p>(i) prohibited content (within the meaning of Schedule 7 to the Broadcasting Services Act 1992); or</p> <p>(ii) potential prohibited content (within the meaning of that Schedule);</p> <p>in the performance of the Authority's functions under Schedule 5 or Schedule 7 to that Act; or</p> <p>(b) manufacturing or developing, or updating, content filtering technology (including software) in accordance with:</p> <p>(i) a recognised alternative access-prevention arrangement (within the meaning of clause 40 of Schedule 5 to the Broadcasting Services Act 1992); or</p> <p>(ii) a designated alternative access-prevention arrangement (within the meaning of clause 60 of that Schedule).</p> <p>Note: A defendant bears an evidential burden in relation to the matter in this subsection, see subsection 13.3(3)</p>
	<b>Criminal Code Act 1995</b>	Cth		<b>Relevant definitions</b>
	<b>Criminal Code Act</b>	Cth	473.1	<b>'child abuse material'</b> means:

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	1995			<p>(a) material that depicts a person, or a representation of a person, who:</p> <p>(i) is, or appears to be, under 18 years of age; and</p> <p>(ii) is, or appears to be, a victim of torture, cruelty or physical abuse;</p> <p>and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or</p> <p>(b) material that describes a person who:</p> <p>(i) is, or is implied to be, under 18 years of age; and</p> <p>(ii) is, or is implied to be, a victim of torture, cruelty or physical abuse;</p> <p>and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive.</p> <p><b>'child pornography material'</b> means:</p> <p>(a) material that depicts a person, or a representation of a person, who is, or appears to be, under 18 years of age and who:</p> <p>(i) is engaged in, or appears to be engaged in, a sexual pose or sexual activity (whether or not in the presence of other persons); or</p> <p>(ii) is in the presence of a person who is engaged in, or</p>

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				<p>appears to be engaged in, a sexual pose or sexual activity;</p> <p>(iii) and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or</p> <p>(b) material the dominant characteristic of which is the depiction, for a sexual purpose, of:</p> <p>(i) a sexual organ or the anal region of a person who is, or appears to be, under 18 years of age; or</p> <p>(ii) a representation of such a sexual organ or anal region; or</p> <p>(iii) the breasts, or a representation of the breasts, of a female person who is, or appears to be, under 18 years of age;</p> <p>in a way that reasonable persons would regard as being, in all the circumstances, offensive; or</p> <p>(c) material that describes a person who is, or is implied to be, under 18 years of age and who:</p> <p>(i) is engaged in, or is implied to be engaged in, a sexual pose or sexual activity (whether or not in the presence of other persons); or</p> <p>(ii) is in the presence of a person who is engaged in, or is implied to be engaged in, a sexual pose or sexual activity;</p> <p>(iii) and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or</p>

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				<p>(d) material that describes:</p> <p>(i) a sexual organ or the anal region of a person who is, or is implied to be, under 18 years of age; or</p> <p>(ii) the breasts of a female person who is, or is implied to be, under 18 years of age;</p> <p>(iii) and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive.</p>
	<b>Evidence Act 1995</b>	Cth	79 and 76	<p>Section 76 provides that Evidence of an opinion is not admissible to prove the existence of a fact about the existence of which the opinion was expressed.</p> <p>However, section 79 sets out the following exception:</p> <p><b>79 Exception: opinions based on specialised knowledge</b></p> <p>(1) If a person has specialised knowledge based on the person's training, study or experience, the opinion rule does not apply to evidence of an opinion of that person that is wholly or substantially based on that knowledge.</p> <p>(2) To avoid doubt, and without limiting subsection (1):</p> <p>(a) a reference in that subsection to specialised knowledge includes a reference to specialised knowledge of child development and child behaviour (including specialised knowledge of the impact of sexual abuse on children and their development and behaviour during and following the</p>

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				<p>abuse); and</p> <p>(b) a reference in that subsection to an opinion of a person includes, if the person has specialised knowledge of the kind referred to in paragraph (a), a reference to an opinion relating to either or both of the following:</p> <p>(i) the development and behaviour of children generally;</p> <p>(ii) the development and behaviour of children who have been victims of sexual offences, or offences similar to sexual offences.</p>
	<b>Family Law Act 1975</b>	Cth	Definitions 4	<p><b>'abuse'</b>, in relation to a child, means:</p> <p>(a) an assault, including a sexual assault, of the child; or</p> <p>(b) a person (the first person) involving the child in a sexual activity with the first person or another person in which the child is used, directly or indirectly, as a sexual object by the first person or the other person, and where there is unequal power in the relationship between the child and the first person; or</p> <p>(c) causing the child to suffer serious psychological harm, including (but not limited to) when that harm is caused by the child being subjected to, or exposed to, family violence; or</p> <p>(d) serious neglect of the child.</p>
	<b>Family Law Act</b>	Cth	10E	<b>Admissibility of communications in family counselling</b>

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	1975			<p><b>and in referrals from family counselling</b></p> <p>(1) Evidence of anything said, or any admission made, by or in the company of:</p> <p>(a) a family counsellor conducting family counselling; or</p> <p>(b) a person (the professional) to whom a family counsellor refers a person for medical or other professional consultation, while the professional is carrying out professional services for the person;</p> <p>is not admissible:</p> <p>(c) in any court (whether or not exercising federal jurisdiction); or</p> <p>(d) in any proceedings before a person authorised to hear evidence (whether the person is authorised by a law of the Commonwealth, a State or a Territory, or by the consent of the parties).</p> <p>(2) Subsection (1) does not apply to:</p> <p>(a) an admission by an adult that indicates that a child under 18 has been abused or is at risk of abuse; or</p> <p>(b) a disclosure by a child under 18 that indicates that the child has been abused or is at risk of abuse;</p> <p>unless, in the opinion of the court, there is sufficient evidence of the admission or disclosure available to the court from</p>

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				other sources.
	<b>Family Law Act 1975</b>	Cth	10J	<p><b>Admissibility of communications in family dispute resolution and in referrals from family dispute resolution</b></p> <p>(1) Evidence of anything said, or any admission made, by or in the company of:</p> <p>(a) a family dispute resolution practitioner conducting family dispute resolution; or</p> <p>(b) a person (the professional) to whom a family dispute resolution practitioner refers a person for medical or other professional consultation, while the professional is carrying out professional services for the person;</p> <p>is not admissible:</p> <p>(c) in any court (whether or not exercising federal jurisdiction); or</p> <p>(d) in any proceedings before a person authorised to hear evidence (whether the person is authorised by a law of the Commonwealth, a State or a Territory, or by the consent of the parties).</p> <p>(2) Subsection (1) does not apply to:</p> <p>(a) an admission by an adult that indicates that a child under 18 has been abused or is at risk of abuse; or</p> <p>(b) a disclosure by a child under 18 that indicates that the</p>

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				<p>child has been abused or is at risk of abuse;</p> <p>unless, in the opinion of the court, there is sufficient evidence of the admission or disclosure available to the court from other sources.</p>
	<p><b>Family Law Act 1975</b></p>	<p>Cth</p>	<p>11C</p>	<p><b>Admissibility of communications with family consultants and referrals from family consultants</b></p> <p>(1) Evidence of anything said, or any admission made, by or in the company of:</p> <p>(a) a family consultant performing the functions of a family consultant; or</p> <p>(b) a person (the professional) to whom a family consultant refers a person for medical or other professional consultation, while the professional is carrying out professional services for the person;</p> <p>is admissible in proceedings under this Act.</p> <p>(2) Subsection (1) does not apply to a thing said or an admission made by a person who, at the time of saying the thing or making the admission, had not been informed of the effect of subsection (1).</p> <p>(3) Despite subsection (2), a thing said or admission made is admissible even if the person who said the thing or made the admission had not been informed of the effect of subsection (1), if:</p>

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				<p>(a) it is an admission by an adult that indicates that a child under 18 has been abused or is at risk of abuse; or</p> <p>(b) it is a disclosure by a child under 18 that indicates that the child has been abused or is at risk of abuse;</p> <p>unless, in the opinion of the court, there is sufficient evidence of the admission or disclosure available to the court from other sources.</p>
	<p><b>Family Law Act 1975</b></p>	<p>Cth</p>	<p>60 B</p>	<p><b>Objects of Part and principles underlying it</b></p> <p>The object underlying the part of the FLA which deals with children provides:</p> <p>(1) The objects of this Part are to ensure that the best interests of children are met by:</p> <p>(a) ensuring that children have the benefit of both of their parents having a meaningful involvement in their lives, to the maximum extent consistent with the best interests of the child; and</p> <p>(b) protecting children from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence; and</p> <p>(c) ensuring that children receive adequate and proper parenting to help them achieve their full potential; and</p> <p>(d) ensuring that parents fulfil their duties, and meet their responsibilities, concerning the care, welfare and</p>

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				development of their children.
	<b>Family Law Act 1975</b>	Cth	60 CC	<p><b>How a court determines what is in a child’s best interests</b></p> <p><i>Determining child’s best interests</i></p> <p>(1) Subject to subsection (5), in determining what is in the child’s best interests, the court must consider the matters set out in subsections (2) and (3).</p> <p><i>Primary considerations</i></p> <p>(2) The primary considerations are:</p> <p>(a) the benefit to the child of having a meaningful relationship with both of the child’s parents; and</p> <p>(b) the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.</p> <p>Note: Making these considerations the primary ones is consistent with the objects of this Part set out in paragraphs 60B(1)(a) and (b).</p> <p>(2A) In applying the considerations set out in subsection (2), the court is to give greater weight to the consideration set out in paragraph (2)(b).</p>
	<b>Family Law Act 1975</b>	Cth	60 CI	<b>Informing court of notifications to, and investigations by, prescribed State or Territory agencies</b>

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				<p>(1) If:</p> <p>(a) a party to the proceedings is aware that the child, or another child who is a member of the child’s family, is or has been the subject of:</p> <p>(i) a notification or report (however described) to a prescribed State or Territory agency; or</p> <p>(ii) an investigation, inquiry or assessment (however described) by a prescribed State or Territory agency; and</p> <p>(b) the notification, report, investigation, inquiry or assessment relates to abuse, or an allegation, suspicion or risk of abuse;</p> <p>that party must inform the court of the matter.</p> <p>(2) If:</p> <p>(a) a person who is not a party to the proceedings is aware that the child, or another child who is a member of the child’s family, is or has been the subject of:</p> <p>(i) a notification or report (however described) to a prescribed State or Territory agency; or</p> <p>(ii) an investigation, inquiry or assessment (however described) by a prescribed State or Territory agency; and</p> <p>(b) the notification, report, investigation, inquiry or assessment relates to abuse, or an allegation, suspicion or risk</p>

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				<p>of abuse;</p> <p>that person may inform the court of the matter.</p> <p>(3) Failure to inform the court of the matter does not affect the validity of any order made by the court.</p>
	<p><b>Family Law Act 1975</b></p>	<p>Cth</p>	<p>60D</p>	<p><b>Adviser’s obligations in relation to best interests of the child</b></p> <p>(1) If an adviser gives advice or assistance to a person about matters concerning a child and this Part, the adviser must:</p> <p>(a) inform the person that the person should regard the best interests of the child as the paramount consideration; and</p> <p>(b) encourage the person to act on the basis that the child’s best interests are best met:</p> <p>(i) by the child having a meaningful relationship with both of the child’s parents; and</p> <p>(ii) by the child being protected from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence; and</p> <p>(iii) in applying the considerations set out in subparagraphs (i) and (ii); by giving greater weight to the consideration set out in subparagraph (ii).</p> <p>(2) In this section:</p>

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				<p><b>'adviser'</b> means a person who is:</p> <ul style="list-style-type: none"> <li>(a) a legal practitioner; or</li> <li>(b) a family counsellor; or</li> <li>(c) a family dispute resolution practitioner; or</li> <li>(d) a family consultant.</li> </ul>
	<p><b>Family Law Act 1975</b></p>	<p>Cth</p>	<p>60J</p>	<p><b>Family dispute resolution not attended because of child abuse or family violence</b></p> <p>(1) If:</p> <ul style="list-style-type: none"> <li>(a) subsections 60I(7) to (12) apply to an application for a Part VII order (see subsections 60I(5) and (6)); and</li> <li>(b) subsection 60I(7) does not apply to the application because the court is satisfied that there are reasonable grounds to believe that: <ul style="list-style-type: none"> <li>(i) there has been abuse of the child by one of the parties to the proceedings; or</li> <li>(ii) there has been family violence by one of the parties to the proceedings;</li> </ul> </li> </ul> <p>a court must not hear the application unless the applicant has indicated in writing that the applicant has received information from a family counsellor or family dispute resolution practitioner about the services and options</p>

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				<p>(including alternatives to court action) available in circumstances of abuse or violence.</p> <p>(2) Subsection (1) does not apply if the court is satisfied that there are reasonable grounds to believe that:</p> <p>(a) there would be a risk of abuse of the child if there were to be a delay in applying for the order; or</p> <p>(b) there is a risk of family violence by one of the parties to the proceedings.</p> <p>(3) The validity of:</p> <p>(a) proceedings on an application for a Part VII order; or</p> <p>(b) any order made in those proceedings;</p> <p>is not affected by a failure to comply with subsection (1) in relation to those proceedings.</p> <p>(4) If:</p> <p>(a) the applicant indicates in writing that the applicant has not received information about the services and options (including alternatives to court action) available in circumstances of abuse or violence; and</p> <p>(b) subsection (2) does not apply;</p> <p>the principal executive officer of the court concerned must ensure that the applicant is referred to a family counsellor or</p>

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				family dispute resolution practitioner in order to obtain information about those matters.
	<b>Family Law Act 1975</b>	Cth	61DA	<p><b>Presumption of equal shared parental responsibility when making parenting orders</b></p> <p>(1) When making a parenting order in relation to a child, the court must apply a presumption that it is in the best interests of the child for the child's parents to have equal shared parental responsibility for the child.</p> <p>(2) The presumption does not apply if there are reasonable grounds to believe that a parent of the child (or a person who lives with a parent of the child) has engaged in:</p> <p>(a) abuse of the child or another child who, at the time, was a member of the parent's family (or that other person's family); or</p> <p>(b) family violence.</p>
	<b>Family Law Act 1975</b>	Cth	67Z	<p><b>Where interested person makes allegation of child abuse</b></p> <p>(1) This section applies if an interested person in proceedings under this Act alleges that a child to whom the proceedings relate has been abused or is at risk of being abused.</p> <p>(2) The interested person must file a notice in the prescribed form in the court hearing the proceedings, and serve a true copy of the notice upon the person who is alleged to have abused the child or from whom the child is alleged to be at</p>

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				<p>risk of abuse.</p> <p>(3) If a notice under subsection (2) is filed in a court, the Registry Manager must, as soon as practicable, notify a prescribed child welfare authority.</p>
	<p><b>Family Law Act 1975</b></p>	<p>Cth</p>	<p>67Z</p>	<p><b>Where member of the Court personnel, family counsellor, family dispute resolution practitioner or arbitrator suspects child abuse etc.</b></p> <p>(1) This section applies to a person in the course of performing duties or functions, or exercising powers, as:</p> <p>(a) the Registrar or a Deputy Registrar of a Registry of the Family Court of Australia; or</p> <p>(b) the Registrar or a Deputy Registrar of the Family Court of Western Australia; or</p> <p>(c) a Registrar of the Federal Magistrates Court; or</p> <p>(d) a family consultant; or</p> <p>(e) a family counsellor; or</p> <p>(f) a family dispute resolution practitioner; or</p> <p>(g) an arbitrator; or</p> <p>(h) a lawyer independently representing a child's interests.</p> <p>(2) If the person has reasonable grounds for suspecting that a</p>

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				<p>child has been abused, or is at risk of being abused, the person must, as soon as practicable, notify a prescribed child welfare authority of his or her suspicion and the basis for the suspicion.</p> <p>(3) If the person has reasonable grounds for suspecting that a child:</p> <p>(a) has been ill-treated, or is at risk of being ill-treated; or</p> <p>(b) has been exposed or subjected, or is at risk of being exposed or subjected, to behaviour which psychologically harms the child;</p> <p>the person may notify a prescribed child welfare authority of his or her suspicion and the basis for the suspicion.</p> <p>(4) The person need not notify a prescribed child welfare authority of his or her suspicion that a child has been abused, or is at risk of being abused, if the person knows that the authority has previously been notified about the abuse or risk under subsection (2) or subsection 67Z(3), but the person may notify the authority of his or her suspicion.</p> <p>(5) If notice under this section is given orally, written notice confirming the oral notice is to be given to the prescribed child welfare authority as soon as practicable after the oral notice.</p> <p>(6) If the person notifies a prescribed child welfare authority under this section or subsection 67Z(3), the person may make such disclosures of other information as the person</p>

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				reasonably believes are necessary to enable the authority to properly manage the matter the subject of the notification.
	<b>Family Law Act 1975</b>	Cth	67ZBA	<p><b>Where interested person makes allegation of family violence</b></p> <p>(1) This section applies if an interested person in proceedings for an order under this Part in relation to a child alleges, as a consideration that is relevant to whether the court should make or refuse to make the order, that:</p> <p>(a) there has been family violence by one of the parties to the proceedings; or</p> <p>(b) there is a risk of family violence by one of the parties to the proceedings.</p> <p>(2) The interested person must file a notice in the prescribed form in the court hearing the proceedings, and serve a true copy of the notice upon the party referred to in paragraph (1)(a) or (b).</p> <p>(3) If the alleged family violence (or risk of family violence) is abuse of a child (or a risk of abuse of a child):</p> <p>(a) the interested person making the allegation must either file and serve a notice under subsection (2) of this section or under subsection 67Z(2) (but does not have to file and serve a notice under both those subsections); and</p> <p>(b) if the notice is filed under subsection (2) of this section, the Registry Manager must deal with the notice as if it had</p>

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				been filed under subsection 67Z(2).
	<b>Family Law Act 1975</b>	Cth	67ZBB	<p><b>Court to take prompt action in relation to allegations of child abuse or family violence</b></p> <p>(1) This section applies if:</p> <p>(a) a notice is filed under subsection 67Z(2) or 67ZBA(2) in proceedings for an order under this Part in relation to a child; and</p> <p>(b) the notice alleges, as a consideration that is relevant to whether the court should make or refuse to make the order, that:</p> <p>(i) there has been abuse of the child by one of the parties to the proceedings; or</p> <p>(ii) there would be a risk of abuse of the child if there were to be a delay in the proceedings; or</p> <p>(iii) there has been family violence by one of the parties to the proceedings; or</p> <p>(iv) there is a risk of family violence by one of the parties to the proceedings.</p> <p>(2) The court must:</p> <p>(a) consider what interim or procedural orders (if any) should be made:</p>

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				<p>(i) to enable appropriate evidence about the allegation to be obtained as expeditiously as possible; and</p> <p>(ii) to protect the child or any of the parties to the proceedings; and</p> <p>(b) make such orders of that kind as the court considers appropriate; and</p> <p>(c) deal with the issues raised by the allegation as expeditiously as possible.</p> <p>(3) The court must take the action required by paragraphs (2)(a) and (b):</p> <p>(a) as soon as practicable after the notice is filed; and</p> <p>(b) if it is appropriate having regard to the circumstances of the case: within 8 weeks after the notice is filed.</p> <p>(4) Without limiting subparagraph (2)(a)(i), the court must consider whether orders should be made under section 69ZW to obtain documents or information from State and Territory agencies in relation to the allegation.</p> <p>(5) Without limiting subparagraph (2)(a)(ii), the court must consider whether orders should be made, or an injunction granted, under section 68B.</p> <p>(6) A failure to comply with a provision of this section does not affect the validity of any order made in the proceedings</p>

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				for the order.
	<b>Family Law Act 1975</b>	Cth	69ZN	<p><b>Application of the principles</b></p> <p>(1) The court must give effect to the principles in this section:</p> <p>(a) in performing duties and exercising powers (whether under this Division or otherwise) in relation to child-related proceedings; and</p> <p>(b) in making other decisions about the conduct of child-related proceedings.</p> <p>Failure to do so does not invalidate the proceedings or any order made in them.</p> <p>(2) Regard is to be had to the principles in interpreting this Division.</p> <p><i>Principle 3</i></p> <p>(5) The third principle is that the proceedings are to be conducted in a way that will safeguard:</p> <p>(a) the child concerned from being subjected to, or exposed to, abuse, neglect or family violence; and</p> <p>(b) the parties to the proceedings against family violence.</p>
	<b>Family Law Act</b>	Cth	69ZQ	<b>General duties</b>

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	1975			<p>(1) In giving effect to the principles in section 69ZN, the court must:</p> <p>(a) ask each party to the proceedings:</p> <p>(i) whether the party considers that the child concerned has been, or is at risk of being, subjected to, or exposed to, abuse, neglect or family violence; and</p> <p>(ii) whether the party considers that he or she, or another party to the proceedings, has been, or is at risk of being, subjected to family violence; and</p>
	Family Law Act 1975	Cth	69ZW	<p><b>Evidence relating to child abuse or family violence</b></p> <p>(1) The court may make an order in child-related proceedings requiring a prescribed State or Territory agency to provide the court with the documents or information specified in the order.</p> <p>(2) The documents or information specified in the order must be documents recording, or information about, one or more of these:</p> <p>(a) any notifications to the agency of suspected abuse of a child to whom the proceedings relate or of suspected family violence affecting the child;</p> <p>(b) any assessments by the agency of investigations into a notification of that kind or the findings or outcomes of those investigations;</p>

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				<p>(c) any reports commissioned by the agency in the course of investigating a notification.</p> <p>(3) Nothing in the order is to be taken to require the agency to provide the court with:</p> <p>(a) documents or information not in the possession or control of the agency; or</p> <p>(b) documents or information that include the identity of the person who made a notification.</p> <p>(4) A law of a State or Territory has no effect to the extent that it would, apart from this subsection, hinder or prevent an agency complying with the order.</p> <p>(5) The court must admit into evidence any documents or information, provided in response to the order, on which the court intends to rely.</p> <p>(6) Despite subsection (5), the court must not disclose the identity of the person who made a notification, or information that could identify that person, unless:</p> <p>(a) the person consents to the disclosure; or</p> <p>(b) the court is satisfied that the identity or information is critically important to the proceedings and that failure to make the disclosure would prejudice the proper administration of justice.</p> <p>(7) Before making a disclosure for the reasons in paragraph</p>

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				<p>(6)(b), the court must ensure that the agency that provided the identity or information:</p> <p>(a) is notified about the intended disclosure; and</p> <p>(b) is given an opportunity to respond.</p>
	<p><b>Family Law Act 1975</b></p>	<p>Cth</p>	<p>70NEF</p>	<p><b>Evidence</b></p> <p>(1) Evidence of anything said, or of any admission made, by a person attending a post-separation parenting program is not admissible:</p> <p>(a) in any court (whether exercising federal jurisdiction or not); or</p> <p>(b) in any proceedings before a person authorised by a law of the Commonwealth, of a State or of a Territory, or by the consent of the parties, to hear evidence.</p> <p>(2) Subsection (1) does not apply to the following:</p> <p>(a) an admission by an adult that indicates that a child under 18 has been abused or is at risk of abuse;</p> <p>(b) a disclosure by a child under 18 that indicates that the child has been abused or is at risk of abuse;</p> <p>unless, in the opinion of the court, there is sufficient evidence of the admission or disclosure available to the court from other sources</p>

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	<p><b>Family Law Act 1975</b></p>	Cth	92A	<p>Intervention in child abuse cases</p> <p>(1) This section applies to proceedings under this Act in which it has been alleged that a child has been abused or is at risk of being abused.</p> <p>(2) Each of the following persons is entitled to intervene in the proceedings:</p> <ul style="list-style-type: none"> <li>(a) a guardian of the child;</li> <li>(b) a parent of the child with whom the child lives;</li> <li>(c) a person with whom the child is to live under a parenting order;</li> <li>(d) a person who has parental responsibility for the child under a parenting order;</li> <li>(e) any other person responsible for the care, welfare or development of the child;</li> <li>(f) a prescribed child welfare authority;</li> <li>(g) a person who is alleged to have abused the child or from whom the child is alleged to be at risk of abuse.</li> </ul> <p>(3) Where a person intervenes in proceedings pursuant to this section, the person is, unless the court otherwise orders, to be taken to be a party to the proceedings with all the rights, duties and liabilities of a party.</p>

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	Family Law Act 1975	Cth	102A	<p><b>Restrictions on examination of children</b></p> <p>(1) Subject to this section, where a child is examined without the leave of the court, the evidence resulting from the examination which relates to the abuse of, or the risk of abuse of, the child is not admissible in proceedings under this Act.</p> <p>(2) Where a person causes a child to be examined for the purpose of deciding:</p> <p>(a) to bring proceedings under this Act involving an allegation that the child has been abused or is at risk of being abused; or</p> <p>(b) to make an allegation in proceedings under this Act that the child has been abused or is at risk of being abused;</p> <p>subsection (1) does not apply in relation to evidence resulting from the first examination which the person caused the child to undergo.</p> <p>(3) In considering whether to give leave for a child to be examined, the court must have regard to the following matters:</p> <p>(a) whether the proposed examination is likely to provide relevant information that is unlikely to be obtained otherwise;</p> <p>(b) the qualifications of the person who proposes to conduct the examination to conduct that examination;</p> <p>(c) whether any distress likely to be caused to the child by</p>

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				<p>the examination will be outweighed by the value of the information that might be obtained from the examination;</p> <p>(d) any distress already caused to the child by any previous examination associated with the proceedings or with related proceedings;</p> <p>(e) any other matter that the court thinks is relevant.</p>
	<b>Family Law Act 1975</b>	Cth		
	<b>International War Crimes Tribunals Act 1995</b>	Cth	72	<p>72 Rules for conduct of strip search</p> <p>(1) A strip search:</p> <p>(a) must be conducted in a private area; and</p> <p>(b) must be conducted by a police officer who is of the same sex as the person being searched; and</p> <p>(c) subject to subsections (3) and (4), must not be conducted in the presence or view of a person who is of the opposite sex to the person being searched; and</p> <p>(d) must not be conducted in the presence or view of a person whose presence is not necessary for the purposes of the search; and</p> <p>(e) must not be conducted on a person who is under 10; and</p> <p>(f) if the person being searched is at least 10 but under 18, or</p>

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				<p>is incapable of managing his or her affairs:</p> <p>(i) may only be conducted if a court orders that it be conducted; and</p> <p>(ii) must be conducted in the presence of a parent or guardian of the person being searched or, if that is not acceptable to the person, in the presence of another person (other than a police officer) who is capable of representing the interests of the person and who, as far as is practicable in the circumstances, is acceptable to the person; and</p> <p>(g) must not involve a search of a person's body cavities; and</p> <p>(h) must not involve the removal of more garments than the police officer conducting the search believes on reasonable grounds to be necessary to determine whether the person has in his or her possession the item searched for or to establish the person's involvement in the Tribunal offence to which the person's custody relates; and</p> <p>(i) must not involve more visual inspection than the police officer believes on reasonable grounds to be necessary to establish the person's involvement in the Tribunal offence to which the person's custody relates.</p> <p>(2) In deciding whether to make an order referred to in paragraph (1)(f), the court must have regard to:</p> <p>(a) the seriousness of the Tribunal offence to which the</p>

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				<p>person's custody relates; and</p> <p>(b) the age or any disability of the person; and</p> <p>(c) such other matters as the court thinks fit.</p> <p>(3) A strip search may be conducted in the presence of a medical practitioner of the opposite sex to the person searched if a medical practitioner of the same sex as the person being searched is not available within a reasonable time.</p> <p>(4) Paragraph (1)(c) does not apply to a parent, guardian or personal representative of the person being searched if the person being searched has no objection to the person being present.</p> <p>(5) If any of a person's garments are seized as a result of a strip search, the person must be provided with adequate clothing.</p>
	<b>Marriage Act 1961</b>	Cth	11	<p><b>Marriageable age</b></p> <p>Subject to section 12, a person is of marriageable age if the person has attained the age of 18 years</p>
	<b>Marriage Act 1961</b>	Cth	12	<p><b>Authorisation of marriage of person under age of 18 years in exceptional circumstances</b></p> <p>(1) A person who has attained the age of 16 years but has not attained the age of 18 years may apply to a Judge or magistrate in a State or Territory for an order authorising him</p>

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				<p>or her to marry a particular person of marriageable age despite the fact that the applicant has not attained the age of 18 years.</p> <p>(2) The Judge or magistrate shall, subject to subsection (4), hold an inquiry into the relevant facts and circumstances and, if satisfied that:</p> <p>(a) the applicant has attained the age of 16 years; and</p> <p>(b) the circumstances of the case are so exceptional and unusual as to justify the making of the order;</p> <p>the Judge or magistrate may, in his or her discretion, make the order sought, but otherwise the Judge or magistrate shall refuse the application.</p> <p>(3) Subject to subsection (5), where a Judge or a magistrate has made such an order, the person on whose application the order was made is, in relation to his or her marriage to the other person specified in the order, but not otherwise, of marriageable age.</p> <p>(4) Where a Judge or a magistrate to whom an application is made under this section is satisfied that the matter could more properly be dealt with by a Judge or a magistrate sitting at a place nearer the place where the applicant ordinarily resides, the Judge or magistrate may, in his or her discretion, refuse to proceed with the hearing of the application, but such a refusal shall not, for the purposes of section 19, be deemed to be a refusal of the application.</p>

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				(5) Where an order is made under this section and the marriage to which the order relates does not take place within 3 months after the date of the order, the order ceases to have effect.
	<b>Marriage Act 1961</b>	Cth	13	<p><b>Marriage of minor not to be solemnised without consent of parents etc.</b></p> <p>(1) Subject to this Part, where a party to an intended marriage, not having previously been married, is a minor, the marriage shall not be solemnised unless there is produced to the person by whom or in whose presence the marriage is solemnised:</p> <p>(a) in respect of each person whose consent is required by this Act to the marriage of the minor, not being a person to whom paragraph (b) is applicable:</p> <p>(i) the consent in writing of that person, duly witnessed and dated not earlier than 3 months before the date on which the marriage is solemnised or, in such cases as are prescribed, such other evidence that the consent of that person to the intended marriage has been given not earlier than that time as the regulations declare to be sufficient for the purposes of this section; or</p> <p>(ii) an effective consent in writing of a magistrate or a Judge under this Part in place of the consent of that person; and</p> <p>(b) in respect of any person whose consent to the marriage of the minor has been dispensed with by a prescribed authority:</p>

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				<p>the dispensation in writing signed by the prescribed authority.</p> <p>(2) For the purposes of subsection (1), the consent of a person is only duly witnessed if the signature of that person was witnessed:</p> <p>(a) if the consent is signed in Australia: by one of the following persons:</p> <ul style="list-style-type: none"> <li>(i) an authorised celebrant;</li> <li>(ii) a Commissioner for Declarations under the Statutory Declarations Act 1959;</li> <li>(iii) a justice of the peace;</li> <li>(iv) a barrister or solicitor;</li> <li>(v) a legally qualified medical practitioner;</li> <li>(vi) a member of the Australian Federal Police or the police force of a State or Territory; or</li> </ul> <p>(b) if the consent is signed in any other place: by one of the following persons:</p> <ul style="list-style-type: none"> <li>(i) an Australian Diplomatic Officer;</li> <li>(ii) an Australian Consular Officer;</li> <li>(iii) a minister of religion of that place;</li> </ul>

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				<p>(iv) a judge of a court of that place;</p> <p>(v) a magistrate or justice of the peace of or for that place;</p> <p>(vi) a notary public;</p> <p>(vi) an employee of the Commonwealth authorised under paragraph 3(c) of the Consular Fees Act 1955;</p> <p>(vii) an employee of the Australian Trade Commission authorised under paragraph 3(d) of the Consular Fees Act 1955.</p> <p>(3) A person shall not subscribe his or her name as a witness to the signature of a person to a consent to a marriage unless:</p> <p>(a) the person is satisfied on reasonable grounds as to the identity of that person; and</p> <p>(b) the consent bears the date on which the person subscribes his or her name as a witness.</p> <p>(4) A person shall not solemnise a marriage if the person has reason to believe that:</p> <p>(a) a person whose consent in writing to the marriage of one of the parties is or has been produced for the purposes of this section has revoked his or her consent;</p> <p>(b) the signature of a person to a consent produced for the purposes of this section is forged or has been obtained by</p>

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				<p>fraud;</p> <p>(c) a consent produced for the purposes of this section has been altered in a material particular without authority; or</p> <p>(d) a dispensation with the consent of a person that has been produced in relation to the marriage has ceased to have effect.</p>
	<b>Marriage Act 1961</b>	Cth	16	Provides for a Magistrate to consent to a marriage of a minor if the parent refuses or cannot give consent
	<b>Marriage Act 1961</b>	Cth	21	Provides that the consent by magistrate or Judge and dispensation with consent will to be ineffective after 3 months if the marriage has not taken place.
	<b>Migration Act</b>	Cth	233B	<p><b>Aggravated offence of people smuggling (exploitation, or danger of death or serious harm etc.)</b></p> <p>(1) A person (the <b>first person</b>) commits an offence against this section if the first person commits the offence of people smuggling (the <b>underlying offence</b>) in relation to another person (the <b>victim</b>) and any of the following applies:</p> <p>(a) the first person commits the underlying offence intending that the victim will be exploited after entry into Australia (whether by the first person or another);</p> <p>(b) in committing the underlying offence, the first person subjects the victim to cruel, inhuman or degrading treatment (within the ordinary meaning of that expression);</p>

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				<p>(c) in committing the underlying offence:</p> <p>(i) the first person's conduct gives rise to a danger of death or serious harm to the victim; and</p> <p>(ii) the first person is reckless as to the danger of death or serious harm to the victim that arises from the conduct.</p> <p>Penalty: Imprisonment for 20 years or 2,000 penalty units, or both.</p> <p>Note: Sections 236A and 236B limit conviction and sentencing options for offences against this section.</p> <p>(2) There is no fault element for the physical element of conduct described in subsection (1), that the first person commits the underlying offence, other than the fault elements (however described), if any, for the underlying offence.</p> <p>(3) To avoid doubt, the first person may be convicted of an offence against this section even if the first person has not been convicted of the underlying offence.</p> <p>(4) In this section:</p> <p><b>exploit</b> has the same meaning as in the <i>Criminal Code</i>.</p> <p><b>forced labour</b> has the same meaning as in section 73.2 of the <i>Criminal Code</i>.</p> <p><b>serious harm</b> has the same meaning as in the <i>Criminal Code</i>.</p>

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				<p><b>sexual servitude</b> has the meaning given by section 270.4 of the <i>Criminal Code</i>.</p> <p><b>slavery</b> has the meaning given by section 270.1 of the <i>Criminal Code</i>.</p>
	<p><b>Mutual Assistance in Crime Matters Act 1987</b></p>	Cth	Overview	<p>This Act provides for assistance between jurisdictions in relation to serious offences.</p> <p>Serious offences are defined</p> <p><b>'serious offence'</b> means an offence the maximum penalty for which is death, or imprisonment for not less than 12 months.</p>

## 2. New South Wales

### CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 34:</b> States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:</p> <p>(a) The inducement or coercion of a child to engage in any unlawful sexual activity;</p> <p>(b) The exploitative use of children in prostitution or other unlawful sexual practices;</p> <p>(c) The exploitative use of children in pornographic performances and materials.</p>	<p><b>Child Protection (Offenders Prohibition Orders) Act 2000 No 46</b></p>	NSW	Long title	An Act with respect to orders prohibiting certain offenders who pose a risk to the lives or sexual safety of children from engaging in specified conduct; and for other purposes.
			Section 3	<p><b>Definitions</b></p> <p><b>'child'</b> means any person who is under the age of 18 years.</p> <p><b>'government agency'</b> includes any public or local authority.</p> <p><b>'interim prohibition order'</b> means an interim child protection prohibition order granted under section 7.</p> <p><b>'prohibition order'</b> means a child protection prohibition order granted under section 5, and includes an interim prohibition order.</p> <p><b>'registrable person'</b> has the same meaning as in the <i>Child Protection (Offenders Registration) Act 2000</i> .</p> <p><b>'young registrable person'</b> means a registrable person who is under the age of 18 years.</p>
			Section 5	<p><b>Local Court may make child protection prohibition order</b></p> <p>This section permits the Local Court to make a child protection prohibition order prohibiting a person from</p>

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				<p>engaging in conduct specified in the order if it is satisfied that the person is a registrable person and that, on the balance of probabilities:</p> <p>(a) there is reasonable cause to believe, having regard to the nature and pattern of conduct of the person, that the person poses a risk to the lives or sexual safety of one or more children, or children generally, and</p> <p>(b) the making of the order will reduce that risk.</p> <p>If the order is made against a young registrable person, in addition to the matters above, the Local Court must also be satisfied that all other reasonably appropriate means of managing the conduct of the person have been considered before the order was sought.</p> <p>In making an order, the Local Court is to consider the following:</p> <p>(a) the seriousness of each offence with respect to which the person is a registrable person,</p> <p>(b) the period of time since those offences were committed,</p> <p>(c) the age of the person when those offences were committed,</p> <p>(d) the age of each victim of the offences when they were committed,</p> <p>(e) the difference in age between the person and each such</p>

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				<p>victim,</p> <p>(f) the person's present age,</p> <p>(g) the seriousness of the person's total criminal record,</p> <p>(h) the effect of the order sought on the person in comparison with the level of the risk that a further registrable offence may be committed by the person,</p> <p>(i) to the extent that they relate to the conduct sought to be prohibited, the circumstances of the person, including the person's accommodation, employment needs and integration into the community,</p> <p>(j) in the case of a young registrable person, the educational needs of the person,</p> <p>(k) any other matters it thinks relevant.</p> <p>The Local Court is not required to be satisfied that the person is likely to pose a risk to a particular child or children or a particular class of children.</p>
			Section 7	<p><b>Interim prohibition orders</b></p> <p>The Local Court may make an interim child protection prohibition order prohibiting a registrable person from engaging in specified conduct if it appears to the Local Court that it is necessary to do so to prevent an immediate risk to the lives or sexual safety of one or more children, or children</p>

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				<p>generally.</p> <p>An interim prohibition order may be made by the Local Court whether or not the registrable person is present at the proceedings, or whether they have been given notice of the proceedings. Further, the Local Court is not required to be satisfied that the person is likely to pose a risk to a particular child or children or a particular class of children.</p> <p>If an interim prohibition order is made by the Local Court, the Court must issue a court attendance notice requiring the registrable person to attend the Court for a further hearing of the matter as soon as practicable after the interim order is made. At the further hearing, the Local Court may confirm the prohibition order (with or without variation) or revoke it.</p>
			Section 16	<p><b>Information relating to registrable persons</b></p> <p><b>Requirement for government agencies to disclose information to Police Commissioner</b></p> <p>For the purposes of determining whether to make an application under this Part, or making an application under this Part, the Commissioner of Police may, by notice in writing served on a government agency, direct the government agency to provide to the Commissioner, on or before a day specified in the notice, any information held by the agency that is relevant to the assessment of the risk posed by a registrable person to the lives or sexual safety of one or more children, or children generally.</p> <p>A government agency is authorised and required to provide</p>

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				information requested to the Commissioner of Police. However, the government agency is not required to give information that is subject to legal or other professional privilege.
	<b>Child Protection (Offenders Registration) Act 2000 No 42</b>	NSW	Long Title	An Act with respect to registration and reporting requirements for certain offenders who commit sexual and other serious offences against children.
			Section 3	<p><b>Definitions</b></p> <p><b>'Class 1 offence'</b> includes:</p> <p>(a) the offence of murder, where the person murdered is a child, or</p> <p>(b) an offence that involves sexual intercourse with a child (other than an offence that is a Class 2 offence), or</p> <p>(c) an offence against section 66EA of the <i>Crimes Act 1900</i>, or</p> <p>(d) an offence against section 272.8, 272.10 (if it relates to an underlying offence against section 272.8) or 272.11 of the <i>Criminal Code</i> of the Commonwealth, or an offence against section 272.18, 272.19 or 272.20 of the <i>Criminal Code</i> of the Commonwealth if it relates to another Class 1 offence as elsewhere defined in this section, or</p> <p>(d1) an offence against section 80A of the <i>Crimes Act 1900</i>, where the person against whom the offence is committed is a</p>

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				<p>child, or</p> <p>(e) any offence under a law of a foreign jurisdiction that, if it had been committed in New South Wales, would have constituted an offence of a kind listed in this definition, or</p> <p>(f) an offence under a law of a foreign jurisdiction that the regulations state is a Class 1 offence, or</p> <p>(g) an offence an element of which is an intention to commit an offence of a kind listed in this definition, or</p> <p>(h) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind listed in this definition, or</p> <p>(i) an offence that, at the time it was committed:</p> <p>(i) was a Class 1 offence for the purposes of this Act, or</p> <p>(ii) in the case of an offence occurring before the commencement of this definition, was an offence of a kind listed in this definition.</p> <p><b>'Class 2 offence'</b> means:</p> <p>(a) an offence that involves an act of indecency against or in respect of a child, being an offence that is punishable by imprisonment for 12 months or more, or</p> <p>(a1) an offence under section 66EB of the <i>Crimes Act 1900</i>, or</p>

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				<p>(b) an offence under section 86 of the <i>Crimes Act 1900</i>, where the person against whom the offence is committed is a child, except where the person found guilty of the offence was, when the offence was committed or at some earlier time, a parent or carer of the child, or</p> <p>(c) an offence under section 80D or 80E of the <i>Crimes Act 1900</i>, where the person against whom the offence is committed is a child, or</p> <p>(d) an offence under section 91D, 91E, 91F, 91G or 91H of the <i>Crimes Act 1900</i> (other than an offence committed by a child prostitute), or</p> <p>(e) an offence under section 578B of the <i>Crimes Act 1900</i>, or</p> <p>(f) an offence under section 91J, 91K or 91L of the <i>Crimes Act 1900</i> where the person who was being observed or filmed as referred to in those sections was then a child, or</p> <p>(g) an offence against section 272.9, 272.10 (if it relates to an underlying offence against section 272.9), 272.14 or 272.15 of the <i>Criminal Code</i> of the Commonwealth, or an offence against section 272.18, 272.19 or 272.20 of the <i>Criminal Code</i> of the Commonwealth if it relates to another Class 2 offence as elsewhere defined in this section, or</p> <p>(h) an offence against section 270.6 or 270.7 of the <i>Criminal Code</i> of the Commonwealth where the person against whom the offence is committed is a child, or</p> <p>(i) an offence against section 233BAB of the <i>Customs Act</i></p>

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				<p>1901 of the Commonwealth involving items of child pornography or of child abuse material, or</p> <p>(j) any offence under a law of a foreign jurisdiction that, if it had been committed in New South Wales, would have constituted an offence of a kind listed in this definition, or</p> <p>(k) an offence under a law of a foreign jurisdiction that the regulations state is a Class 2 offence, or</p> <p>(l) an offence an element of which is an intention to commit an offence of a kind listed in this definition, or</p> <p>(m) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind listed in this definition, or</p> <p>(n) an offence that, at the time it was committed:</p> <p>(i) was a Class 2 offence for the purposes of this Act, or</p> <p>(ii) in the case of an offence occurring before the commencement of this definition, was an offence of a kind listed in this definition.</p> <p><b>'risk to the lives or sexual safety of one or more children, or of children generally'</b> means if there is a risk that the person will engage in conduct that may constitute a Class 1 offence or a Class 2 offence against or in respect of a child or children.</p>
			Section 3D	<b>Child protection registration orders made during</b>

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				<p><b>criminal proceedings</b></p> <p>If a court finds a person guilty of an offence that is not a Class 1 or a Class 2 offence, it may order that the person comply with the reporting obligations of this Act.</p> <p>This can be done only if:</p> <p>(a) the court is satisfied that the person poses a risk to the lives or sexual safety of one or more children, or of children generally, and</p> <p>(b) the court imposes a sentence on the person in relation to the offence (other than an order under section 10 of the <i>Crimes (Sentencing Procedure) Act 1999</i> or section 33 (1) (a) of the <i>Children (Criminal Proceedings) Act 1987</i>), and</p> <p>(c) an application for the imposition of the order is made by the prosecution.</p>
			Section 3E	<p><b>Child protection registration orders made after conclusion of criminal proceedings</b></p> <p>The Local Court may, on application by the Commissioner of Police, order a person who has been sentenced by a court of New South Wales in respect of an offence that is not a Class 1 offence or a Class 2 offence to comply with the reporting obligations under this Act.</p> <p>This can only be done if:</p> <p>(a) the Court is satisfied that the person poses a risk to the</p>

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				<p>lives or sexual safety of one or more children, or of children generally, and</p> <p>(b) the sentence imposed on the person in respect of the offence was not an order under section 10 of the <i>Crimes (Sentencing Procedure) Act 1999</i> or under section 33 (1) (a) of the <i>Children (Criminal Proceedings) Act 1987</i>.</p> <p>An application for an order must be made within 21 days after the person is sentenced for the relevant offence.</p>
			Section 3F	<p><b>Child protection registration orders made in relation to foreign offences and offences committed before 15 October 2001</b></p> <p>The Local Court may, on application by the Commissioner of Police, order any of the following persons to comply with the reporting obligations of this Act:</p> <p>(a) a person who has been found guilty of an offence against the law of a foreign jurisdiction that, if the offence had been committed in New South Wales, would have been an offence under the law of New South Wales, and who is not otherwise a registrable person in respect of that offence,</p> <p>(b) a person who has (at any time) been sentenced by a court for a Class 1 offence of which the person was found guilty before 15 October 2001, unless the person was a child at the time that the offence was committed.</p> <p>The Local Court may make an order under this section only if it is satisfied that the person poses a risk to the lives or sexual</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				safety of one or more children, or of children generally.
			Section 3G	<p><b>Child protection registration orders made after grant of bail under Mental Health (Forensic Provisions) Act 1990</b></p> <p>A court that grants bail to a person in respect of a Class 1 offence or a Class 2 offence under section 10 (3) (b), 14 (b) (ii) or 17 (2) of the <i>Mental Health (Forensic Provisions) Act 1990</i> may order that the person comply with the reporting obligations of this Act.</p> <p>This can be done only if the court is satisfied that the person poses a risk to the lives or sexual safety of one or more children, or of children generally.</p> <p>A court may make an order under this section only if:</p> <p>(a) an application for the imposition of the order is made by the prosecution, and</p> <p>(b) the order is made concurrently with the granting of the person's bail.</p>
	<b>Children and Young Persons (Care and Protection) Act 1998</b>	NSW	Section 227	<p><b>Child and young person abuse</b></p> <p>A person who intentionally takes action that has resulted in or appears likely to result in:</p> <p>(a) the physical injury or sexual abuse of a child or young person, or</p> <p>(b) a child or young person suffering emotional or</p>

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				<p>psychological harm of such a kind that the emotional or intellectual development of the child or young person is, or is likely to be, significantly damaged, or</p> <p>(c) the physical development or health of a child or young person being significantly harmed,</p> <p>is guilty of an offence.</p>
	<p><b>Children (Protection and Parental Responsibility) Act 1997 No 78</b></p>	NSW	Long Title	<p>An Act with respect to the responsibility of parents for the behaviour of their children; to enable police to escort certain children from public places to their parents' residences and other places; to make provision for local crime prevention plans and safer community compacts; to repeal the <i>Children (Parental Responsibility) Act 1994</i>; and for other purposes.</p>
			Section 18	<p><b>Children to whom Division applies</b></p> <p>To a person:</p> <p>(a) who is in a public place in an operational area, and</p> <p>(b) who a police officer believes on reasonable grounds is a child under the age of 16 years.</p>
			Section 19	<p><b>When action may be taken</b></p> <p>A police officer may remove a person to whom this Division applies from any public place in an operational area if the police officer believes on reasonable grounds that the person:</p> <p>(a) is not subject to the supervision or control of a</p>

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				<p>responsible adult, and</p> <p>(b) is in the public place in circumstances that place the person at risk.</p> <p>A person is considered at risk if:</p> <p>(a) the person is in danger of being physically harmed or injured, or</p> <p>(b) the person is in danger of abuse (including assault and sexual assault, ill treatment and exposure to behaviour that may cause psychological harm to the person).</p>
	<b>Community Protection Act 1994 No 77</b>		Long Title	An Act to protect the community by providing for the preventive detention of persons who are, in the opinion of the Supreme Court, more likely than not to commit serious acts of violence.
			Section 4	<p><b>Definitions</b></p> <p>'<b>serious act of violence</b> means an act of violence, committed by one person against another, that has a real likelihood of causing death or serious injury to the other person or that involves sexual assault in the nature of an offence referred to in section 61I, 61J, 61K, 66A, 66B, 66C, 66D, 66F, 78H, 78I, 78K, 78L or 80A of the Crimes Act 1900.</p>
			Section 5	<p><b>Preventive detention orders</b></p> <p>On an application made in accordance with this Act, the Court may order that a specified person be detained in prison</p>

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				<p>for a specified period if it is satisfied, on reasonable grounds:</p> <p>(a) that the person is more likely than not to commit a serious act of violence, and</p> <p>(b) that it is appropriate, for the protection of a particular person or persons or the community generally, that the person be held in custody.</p> <p>The maximum period to be specified in an order under this section is 6 months.</p> <p>An order may be made against a person:</p> <p>(a) whether or not the person is in lawful custody, as a detainee or otherwise, and</p> <p>(b) whether or not there are grounds on which the person may be held in lawful custody otherwise than as a detainee.</p>
	<b>Crimes Act 1900 No 40</b>	NSW	Section 61J	<p><b>Aggravated sexual assault</b></p> <p>Any person who has sexual intercourse with another person without the consent of the other person and in circumstances of aggravation (which includes when the victim is under 16 years of age) and who knows that the other person does not consent to the sexual intercourse is liable to imprisonment for 20 years.</p>
			Section 61JA	<p><b>Aggravated sexual assault in company</b></p> <p>A person who has sexual intercourse with another person</p>

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				without the consent, knows that the other person does not consent, who is in the company of another person or persons, and who intentionally or recklessly inflicts actual bodily harm on the alleged victim or any other person who is present or nearby, or threatens to inflict actual bodily harm on the alleged victim or any other person who is present or nearby by means of an offensive weapon or instrument, or deprives the alleged victim of his or her liberty for a period before or after the commission of the offence, is liable to imprisonment for life.
			Section 61K	<p><b>Assault with intent to have sexual intercourse</b></p> <p>Any person who, with intent to have sexual intercourse with another person:</p> <p>(a) intentionally or recklessly inflicts actual bodily harm on the other person or a third person who is present or nearby, or</p> <p>(b) threatens to inflict actual bodily harm on the other person or a third person who is present or nearby by means of an offensive weapon or instrument,</p> <p>is liable to imprisonment for 20 years.</p>
			Section 66A	<p><b>Sexual intercourse--child under 10</b></p> <p>Any person who has sexual intercourse with another person who is under the age of 10 years is guilty of an offence. (Maximum penalty: imprisonment for 25 years).</p> <p>If the above occurs in circumstances of aggravation.</p>

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				<p>(Maximum penalty: imprisonment for life)</p> <p>In this section, '<b>circumstances of aggravation</b>' means circumstances in which:</p> <p>(a) at the time of, or immediately before or after, the commission of the offence, the alleged offender intentionally or recklessly inflicts actual bodily harm on the alleged victim or any other person who is present or nearby, or</p> <p>(b) at the time of, or immediately before or after, the commission of the offence, the alleged offender threatens to inflict actual bodily harm on the alleged victim or any other person who is present or nearby by means of an offensive weapon or instrument, or</p> <p>(c) the alleged offender is in the company of another person or persons, or</p> <p>(d) the alleged victim is (whether generally or at the time of the commission of the offence) under the authority of the alleged offender, or</p> <p>(e) the alleged victim has a serious physical disability, or</p> <p>(f) the alleged victim has a cognitive impairment, or</p> <p>(g) the alleged offender took advantage of the alleged victim being under the influence of alcohol or a drug in order to commit the offence, or</p> <p>(h) the alleged offender deprives the alleged victim of his or</p>

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				<p>her liberty for a period before or after the commission of the offence, or</p> <p>(i) the alleged offender breaks and enters into any dwelling-house or other building with the intention of committing the offence or any other serious indictable offence.</p>
			Section 66B	<p><b>Attempting, or assaulting with intent, to have sexual intercourse with child under 10</b></p> <p>Any person who attempts to have sexual intercourse with another person who is under the age of 10 years, or assaults any such person with intent to have sexual intercourse, shall be liable to imprisonment for 25 years.</p>
			Section 66EA	<p><b>Persistent sexual abuse of a child</b></p> <p>A person who, on 3 or more separate occasions occurring on separate days during any period, engages in conduct in relation to a particular child that constitutes a sexual offence is liable to imprisonment for 25 years.</p>
			Section 66C	<p><b>Sexual intercourse--child between 10 and 16</b></p> <p>(1) Child between 10 and 14 -- Any person who has sexual intercourse with another person who is of or above the age of 10 years and under the age of 14 years is liable to imprisonment for 16 years.</p> <p>(2) Child between 10 and 14--aggravated offence Any person who has sexual intercourse with another person who is of or above the age of 10 years and under the age of 14 years in</p>

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				<p>circumstances of aggravation is liable to imprisonment for 20 years.</p> <p>(3) Child between 14 and 16 Any person who has sexual intercourse with another person who is of or above the age of 14 years and under the age of 16 years is liable to imprisonment for 10 years.</p> <p>(4) Child between 14 and 16--aggravated offence Any person who has sexual intercourse with another person who is of or above the age of 14 years and under the age of 16 years in circumstances of aggravation is liable to imprisonment for 12 years.</p> <p><b>'circumstances of aggravation'</b> means circumstances in which:</p> <p>(a) at the time of, or immediately before or after, the commission of the offence, the alleged offender intentionally or recklessly inflicts actual bodily harm on the alleged victim or any other person who is present or nearby, or</p> <p>(b) at the time of, or immediately before or after, the commission of the offence, the alleged offender threatens to inflict actual bodily harm on the alleged victim or any other person who is present or nearby by means of an offensive weapon or instrument, or</p> <p>(c) the alleged offender is in the company of another person or persons, or</p> <p>(d) the alleged victim is (whether generally or at the time of</p>

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				<p>the commission of the offence) under the authority of the alleged offender, or</p> <p>(e) the alleged victim has a serious physical disability, or</p> <p>(f) the alleged victim has a cognitive impairment, or</p> <p>(g) the alleged offender took advantage of the alleged victim being under the influence of alcohol or a drug in order to commit the offence, or</p> <p>(h) the alleged offender deprives the alleged victim of his or her liberty for a period before or after the commission of the offence, or</p> <p>(i) the alleged offender breaks and enters into any dwelling-house or other building with the intention of committing the offence or any other serious indictable offence.</p>
			Section 66D	<p><b>Attempting, or assaulting with intent, to have sexual intercourse with child between 10 and 16</b></p> <p>Any person who attempts to commit an offence under section 66C upon another person who is of or above the age of 10 years, and under the age of 16 years, or assaults any such person with intent to commit such an offence, shall be liable to the penalty provided for the commission of the offence.</p>
			Section 66EB	<p><b>Procuring or grooming child under 16 for unlawful sexual activity</b></p>

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				<p><b>Definitions used in this section</b></p> <p><b>'adult person'</b> means a person who is of or over the age of 18 years.</p> <p><b>'child'</b> means a person who is under the age of 16 years.</p> <p><b>'conduct'</b> includes:</p> <p>(a) communicating in person or by telephone, the internet or other means, or</p> <p>(b) providing any computer image, video or publication.</p> <p><b>'unlawful sexual activity'</b> means an act that constitutes an offence under this Division or Division 10A, 15 or 15A (or, in the case of an act occurring outside this State, that would constitute such an offence if it occurred in this State).</p> <p>This section makes it an offence for an adult to:</p> <p>(a) intentionally procures a child for unlawful sexual activity with that or any other person is guilty of an offence. (Maximum penalty of 15 years for children under 14, and 12 years in any other case)</p> <p>(b) intentionally meet a child, or travel with the intention of meeting a child, whom the adult person has groomed for sexual purposes, and who does so with the intention of procuring the child for unlawful sexual activity with that adult person or any other person.</p>

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				<p>(Maximum penalty of 15 years for children under 14, and 12 years in any other case)</p> <p>(c) engage in any conduct that exposes a child to indecent material or provides a child with an intoxicating substance and who does so with the intention of making it easier to procure the child for unlawful sexual activity with that or any other person.</p> <p>(Maximum penalty of 14 years for children under 14, and 10 years in any other case)</p>
			Section 73	<p><b>Sexual intercourse with child between 16 and 18 under special care</b></p> <p>Any person who has sexual intercourse with another person who is under his or her special care, and is of or above the age of 16 years and under the age of 17 years, is liable to imprisonment for 8 years.</p> <p>Any person who has sexual intercourse with another person who is under his or her special care, and is of or above the age of 17 years and under the age of 18 years, is liable to imprisonment for 4 years.</p> <p>A person is under 'Special care' if and only if:</p> <p>(a) the offender is the step-parent, guardian or foster parent of the victim, or</p> <p>(b) the offender is a school teacher and the victim is a pupil</p>

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				<p>of the offender, or</p> <p>(c) the offender has an established personal relationship with the victim in connection with the provision of religious, sporting, musical or other instruction to the victim, or</p> <p>(d) the offender is a custodial officer of an institution of which the victim is an inmate, or</p> <p>(e) the offender is a health professional and the victim is a patient of the health professional.</p>
			Section 80A	<p>(1) In this section: '<b>circumstances of aggravation</b>' means circumstances in which:</p> <p>(a) at the time of, or immediately before or after, the commission of the offence, the alleged offender intentionally or recklessly inflicts actual bodily harm on the alleged victim or any other person who is present or nearby, or</p> <p>(b) at the time of, or immediately before or after, the commission of the offence, the alleged offender threatens to inflict actual bodily harm on the alleged victim or any other person who is present or nearby by means of an offensive weapon or instrument, or</p> <p>(c) the alleged offender is in the company of another person or persons, or</p> <p>(d) the alleged victim is under the age of 16 years, or</p> <p>(e) the alleged victim is (whether generally or at the time of</p>

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				<p>the commission of the offence) under the authority of the alleged offender, or</p> <p>(f) the alleged victim has a serious physical disability, or</p> <p>(g) the alleged victim has a cognitive impairment.</p> <p><b>'self-manipulation'</b> means the penetration of the vagina (including a surgically constructed vagina) or anus of any person by an object manipulated by the person, except where the penetration is carried out for proper medical or other proper purposes.</p> <p><b>'threat'</b> means:</p> <p>(a) a threat of physical force, or</p> <p>(b) intimidatory or coercive conduct, or other threat, which does not involve a threat of physical force.</p> <p>(2) Any person who compels another person to engage in self-manipulation, by means of a threat that the other person could not reasonably be expected to resist, is liable to imprisonment for 14 years.</p> <p>(2A) Any person who compels another person to engage in self-manipulation:</p> <p>(a) by means of a threat that the other person could not reasonably be expected to resist, and</p>

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				<p>(b) in circumstances of aggravation, is liable to imprisonment for 20 years.</p> <p>(3) A person does not commit an offence under this section unless the person knows that the other person engages in the self-manipulation as a result of the threat.</p>
			Section 80D	<p><b>Causing sexual servitude</b></p> <p>(1) A person:</p> <p>(a) who causes another person to enter into or remain in sexual servitude, and</p> <p>(b) who intends to cause, or is reckless as to causing, that sexual servitude,</p> <p>is guilty of an offence. Maximum penalty: Imprisonment for 15 years.</p> <p>(2) A person is guilty of an offence against this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. Maximum penalty: Imprisonment for 20 years.</p>
			Section 80E	<p><b>Conduct of business involving sexual servitude</b></p> <p>(1) A person:</p> <p>(a) who conducts any business that involves the sexual</p>

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				<p>servitude of other persons, and</p> <p>(b) who knows about, or is reckless as to, that sexual servitude,</p> <p>is guilty of an offence. Maximum penalty: Imprisonment for 15 years.</p> <p>(2) A person commits an offence against this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. Maximum penalty: Imprisonment for 19 years.</p> <p>(3) For the purposes of this section, '<b>conducting a business</b>' includes:</p> <p>(a) taking any part in the management of the business, or</p> <p>(b) exercising control or direction over the business, or</p> <p>(c) providing finance for the business.</p>
			Section 91D	<p><b>Promoting or engaging in acts of child prostitution</b></p> <p>(1) Any person who:</p> <p>(a) by any means, causes or induces a child to participate in an act of child prostitution, or</p> <p>(b) participates as a client with a child in an act of child prostitution,</p>

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				<p>is liable to imprisonment for 10 years or, if the child is under the age of 14 years, to imprisonment for 14 years.</p> <p>(3) The consent of a child is not a defence to a charge relating to an offence under this section.</p>
			Section 91E	<p><b>Obtaining benefit from child prostitution</b></p> <p>(1) Any person who receives money or any other material benefit knowing that it is derived directly or indirectly from an act of child prostitution is liable to imprisonment for 10 years or, if the act of child prostitution involves a child under the age of 14 years, to imprisonment for 14 years.</p> <p>(2) A person is not guilty of an offence under this section if the person satisfies the court that the money or other material benefit concerned:</p> <p>(a) was received by the person for the lawful provision of goods or services, or</p> <p>(b) was paid or provided in accordance with a judgment or an order of a court or a legislative requirement, whether or not under New South Wales law.</p> <p>(3) The higher maximum penalty under this section in the case of an offence involving a child under the age of 14 years does not apply unless the age of the child is set out in the charge for the offence.</p>
			Section 91F	<p><b>Premises not to be used for child prostitution</b></p>

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				<p>(1) Any person who is capable of exercising lawful control over premises at which a child participates in an act of child prostitution is liable to imprisonment for 7 years.</p> <p>(2) For the purposes of this section, each person:</p> <p>(a) who is an owner, lessee, licensee or occupier of premises,</p> <p>(b) who is concerned in the management of premises or in controlling the entry of persons to, or their movement within, premises,</p> <p>is to be considered as capable of exercising lawful control over the premises, whether or not any other person is capable of exercising lawful control over the premises.</p> <p>(3) A person is not guilty of an offence under this section relating to an act of child prostitution if the person satisfies the court:</p> <p>(a) that the person did not know about the act, or</p> <p>(b) that the person did not know that a child was participating in the act or, for any other reason, did not know that the act was an act of child prostitution, or</p> <p>(c) that the person used all due diligence to prevent the child from participating in the act.</p>

**3. Victoria**

**CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION**

CRC Article Number & Description	Relevant Australian Legislation	Cth/State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 34:</b> States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:</p> <p>(a) The inducement or coercion of a child to engage in any unlawful sexual activity;</p> <p>(b) The exploitative use of children in prostitution or other unlawful sexual practices;</p> <p>(c) The exploitative use of children in pornographic performances and materials.</p>	<p><b>Adoption Act 1984</b></p>	<p>VIC</p>	<p>Section 9</p>	<p><b>Welfare and interests of child to be paramount</b></p> <p>In the administration of this Act, the welfare and interests of the child concerned shall be regarded as the paramount consideration.</p>
			<p>Section 11(5) and (6)</p>	<p><b>Persons in whose favour adoption orders may be made</b></p> <p>(5) The spouse or de facto spouse of a parent or of an adoptive parent of a child may make an application to the Court under this Act for an order for the adoption of the child by that spouse or de facto spouse.</p> <p>(6) Where an application is made under subsection (5) by the spouse or de facto spouse of a parent or of an adoptive parent of a child, the Court must not make an order for the adoption of the child solely by that spouse or de facto spouse unless it is satisfied that:</p> <p>(a) the making of an order in relation to the guardianship or custody of the child under the Family Law Act 1975 of the Commonwealth as amended and in force for the time being in relation to the child would not make adequate provision for the welfare and interests of the child; and</p> <p>(b) exceptional circumstances exist which warrant the making of an adoption order; and</p>

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				(c) an order for the adoption of the child would make better provision for the welfare and interests of the child than an order referred to in paragraph (a);...
			Section 12	<p><b>Orders in favour of relatives</b></p> <p>The Court shall not make an order for the adoption of a child in favour of a person who, or whose spouse or de facto spouse, is a relative of the child or in favour of two persons who are, or one of whom is, a relative of the child unless the Court is satisfied that:</p> <p>(a) the making of an order in relation to the guardianship or custody of the child under the Family Law Act 1975 of the Commonwealth as amended and in force for the time being in relation to the child would not make adequate provision for the welfare and interests of the child; and</p> <p>(b) exceptional circumstances exist which warrant the making of an adoption order; and</p> <p>(c) the order for the adoption of the child would make better provision for the welfare and interests of the child than an order referred to in paragraph (a); and</p> <p>...</p>
			Section 15	<p><b>Court to be satisfied as to certain matters</b></p> <p>(1) The Court shall not make an order for the adoption of a child unless the Court has received a report in writing on behalf of the Secretary or the principal officer of an approved agency concerning the proposed adoption and, after</p>

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				<p>considering the report and any other evidence before the Court, the Court is satisfied that:</p> <p>...</p> <p>(d) the welfare and interests of the child will be promoted by the adoption.</p>
			Section 53(2)	<p><b>General effect of adoption order</b></p> <p>(2) Notwithstanding subsection (1), for the purposes of any law relating to a sexual offence, being a law for the purposes of which the relationship between persons is relevant, an adoption order, or the discharge of an adoption order, does not cause the cessation of any relationship that would have existed if the adoption order, or the discharging order, as the case may be, had not been made, and any such relationship shall be deemed to exist in addition to any relationship that exists by virtue of the application of that subsection in relation to that adoption order or by virtue of the discharge of that adoption order.</p>
	<b>Births, Deaths and Marriages Registration Act</b>	VIC	Section 29A	<p><b>Registrar to notify Chief Commissioner of Police of change of name of certain sex offenders</b></p> <p>(1) If:</p> <p>(a) under section 63(1A) of the Sex Offenders Registration Act 2004 the Registrar has been notified of details in relation to a person; and</p> <p>(b) the Registrar, at any time on or after that notification,</p>

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				<p>registers a change of name of that person, the Registrar must, as soon as practicable after that registration, cause written notice of it to be given to the Chief Commissioner of Police.</p> <p>(2) A notice under subsection (1) must state both the person's former name and new name.</p>
			Section 30I	<p><b>Registrar to notify Chief Commissioner of Police</b></p> <p>(1) If:</p> <p>(a) under section 63(1A) of the Sex Offenders Registration Act 2004 the Registrar has been notified of details in relation to a person; and</p> <p>(b) the Registrar, at any time on or after that notification, under this Part alters the record of that person's sex in that person's birth registration or issues a document acknowledging that person's name and sex:</p> <p>the Registrar must, as soon as practicable after altering the record or issuing the document, cause written notice of it to be given to the Chief Commissioner of Police.</p> <p>(2) A notice under subsection (1) must state both the person's former sex and new sex and former name and new name, as the case requires.</p>
	<b>Charter of Human</b>	VIC	Section 10	<b>Protection from torture and cruel, inhuman or degrading</b>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
	Rights and Responsibilities Act			<p><b>treatment</b></p> <p>A person must not be:</p> <p>(a) subjected to torture; or</p> <p>(b) treated or punished in a cruel, inhuman or degrading way; or</p> <p>(c) subjected to medical or scientific experimentation or treatment without his or her full, free and informed consent.</p>
			Section 11	<p><b>Freedom from forced work</b></p> <p>(1) A person must not be held in slavery or servitude.</p> <p>(2) A person must not be made to perform forced or compulsory labour.</p>
			Section 17	<p><b>Protection of families and children</b></p> <p>(1) Families are the fundamental group unit of society and are entitled to be protected by society and the State.</p> <p>(2) Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.</p>
			Section 24	<p><b>Fair hearing</b></p> <p>...</p> <p>(3) All judgments or decisions made by a court or tribunal in</p>

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				a criminal or civil proceeding must be made public unless the best interests of a child otherwise requires or a law other than this Charter otherwise permits.
			Section 44	<p><b>Review of Charter after 4 years of operation</b></p> <p>(1) The Attorney-General must cause a review to be made of the first 4 years of operation of this Charter and must cause a copy of a report of the review to be laid before each House of Parliament on or before 1 October 2011.</p> <p>(2) A review under subsection (1) must include consideration as to whether:</p> <p>(a) additional human rights should be included as human rights under this Charter, including but not limited to, rights under:</p> <p>(i) the International Covenant on Economic, Social and Cultural Rights; and</p> <p>(ii) the Convention on the Rights of the Child; and</p> <p>(iii) the Convention on the Elimination of All Forms of Discrimination against Women; and</p> <p>(b) the right to self-determination should be included in this Charter; and</p> <p>(c) regular auditing of public authorities to assess compliance with human rights should be made mandatory;</p>

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				<p>and</p> <p>(d) further provision should be made in this Charter with respect to proceedings that may be brought or remedies that may be awarded in relation to acts or decisions of public authorities made unlawful because of this Charter.</p>
	<p><b>Child Employment Act</b></p>	<p>VIC</p>	<p>Section 19</p>	<p><b>Supervision of children in employment</b></p> <p>(1) An employer of a child must ensure that the child is:</p> <p>(a) supervised at all times by a person who has a current assessment notice or is exempt from the requirement to have a current assessment notice under section 19B; and</p> <p>(b) directly and adequately supervised by a person referred to in paragraph (a) at all times in the employment, having regard to the following:</p> <p>(i) the nature and environment of the workplace, including the number of children employed at any one time in the workplace; and</p> <p>(ii) the nature of the work performed by the child; and</p> <p>(iii) the child's age, sex and physical and emotional development and maturity.</p> <p>...</p>
	<p><b>Child Wellbeing and</b></p>	<p>VIC</p>	<p>Section 5</p>	<p><b>Principles for children</b></p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
	<p><b>Safety Act</b></p>			<p>(1) The development and provision of services for children and families should be based upon the fundamental principles that:</p> <ul style="list-style-type: none"> <li>(a) society as a whole shares responsibility for promoting the wellbeing and safety of children;</li> <li>(b) all children should be given the opportunity to reach their full potential and participate in society irrespective of their family circumstances and background;</li> <li>(c) those who develop and provide services, as well as parents, should give the highest priority to the promotion and protection of a child's safety, health, development, education and wellbeing;</li> <li>(d) parents are the primary nurturers of a child and Government intervention into family life should be limited to that necessary to secure the child's safety and wellbeing, however, it is the responsibility of Government to meet the needs of the child when the child's family is unable to provide adequate care and protection;</li> <li>(e) every child should be able to enrol in a kindergarten program at an early childhood education and care centre.</li> </ul> <p>(2) Services for children and families should be designed and developed:</p> <ul style="list-style-type: none"> <li>(a) to readily identify harm and damage to the child and to provide for intervention by providers of services to remove or ameliorate the causes of that harm or damage and to</li> </ul>

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				<p>strengthen the capacity and efforts of parents, their families and communities to support the child as early as possible in the child's life;</p> <p>(b) to accord with the needs of each local community with the active involvement of that community's cultural groups, and to be accessible and responsive to the particular cultures, languages and circumstances of the community and to be properly planned and co-ordinated with services provided by other local and regional communities;</p> <p>(c) to give the highest priority to making appropriate and sufficient levels of assistance available to children and families in communities or population groups that are known to have the greatest need;</p> <p>(d) to promote continuous improvement in the quality of those services, based on the best available knowledge of the needs of children and their stages of development.</p> <p>(3) The providers of services to children and families should:</p> <p>(a) protect the rights of children and families and, to the greatest extent possible, encourage their participation in any decision making that affects their lives;</p> <p>(b) acknowledge and be respectful of the child's individual identity, circumstances and cultural identity and be responsive to the particular needs of the child;</p> <p>(c) make decisions about intervention by the providers of services into a child's or family's life and about access by a</p>

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				<p>child or family to those services in a timely manner being mindful of any harmful effects that may be caused to the child by a delay in making decisions or providing services;</p> <p>(d) ensure that families are made aware of the services available to them and of the benefits these services can provide, especially to those families in most need of assistance;</p> <p>(e) co-operate with other services or professionals to work in the interests of the child and family.</p>
			Section 6	<p><b>Role of Minister</b></p> <p>(1) The Minister must promote the co-ordination of Government programs that affect child wellbeing and safety.</p> <p>(2) The Minister may establish any advisory committee that the Minister considers appropriate to assist the Minister in the administration of this Act.</p>
			Section 10	<p><b>Functions of the Council</b></p> <p>(1) The functions of the Council are to provide the Premier and the Minister with independent and expert advice relating to policies and services that enhance the health, wellbeing, development and safety of children.</p> <p>(2) The Secretary must make available to the Council the services of any employees in the Department that are necessary to enable the Council to carry out its functions.</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Section 15	<p><b>Functions of the Board</b></p> <p>The functions of the Children's Services Co-ordination Board are:</p> <p>(a) to review annually and report to the Minister on the outcomes of Government actions in relation to children, particularly the most vulnerable children in the community; and</p> <p>(b) to monitor administrative arrangements to support co-ordination of Government actions relating to children at local and regional levels.</p>
			Section 19	<p><b>General functions in relation to child safety</b></p> <p>The functions of the Child Safety Commissioner are:</p> <p>(a) to provide advice and recommendations to the Minister about child safety issues, at the request of the Minister;</p> <p>(b) to promote child-friendly and child-safe practices in the Victorian community;</p> <p>(c) the functions relating to working with children conferred by Division 2;</p> <p>(d) the functions relating to out of home care conferred by Division 3;</p> <p>(e) the functions relating to child inquiries, including child</p>

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	<p><b>Children's Services Act</b></p>	VIC	Section 22 and 25	<p>deaths, conferred by Division 4;</p> <p>(f) any other functions conferred on the Child Safety Commissioner under this Act or any other Act.</p> <p><b>Secretary to consider whether persons are fit and proper person</b></p> <p>In determining an application under section 15 (application for licence to operate children's service), the Secretary must consider whether:</p> <p>(a) the applicant for the licence is a fit and proper person to operate a children's service; and</p> <p>(b) if the applicant is a body corporate, any director or other officer of the body corporate who exercises or may exercise control over the operation of the children's service is a fit and proper person; and</p> <p>(c) any person nominated by the applicant to manage or control the children's service in the absence of the licensee is a fit and proper person.</p> <p><b>Matters to be taken into account</b></p> <p>(1) Subject to subsection (2), in carrying out a fit and proper person check on a person, the Secretary may take into account all or any of the following matters:</p> <p>(a) whether the person has within the 10 years preceding the application been found guilty of an indictable offence against</p>

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				<p>the person or an offence involving dishonesty, fraud or trafficking in drugs of dependence for which the maximum penalty exceeds 3 months imprisonment;</p> <p>(b) whether the person has been found guilty of an offence against this Act or any corresponding previous Act or regulations;</p> <p>(ba) whether the person has been found guilty of an offence against:</p> <p>(i) the National Law or the national regulations; or</p> <p>(ii) the National Law as applying in or enacted by another jurisdiction or the regulations made under that law in another jurisdiction;</p> <p>(c) whether the person is not of sound financial reputation and stable financial background;</p> <p>(d) whether the person is not of good repute having regard to character, honesty and integrity.</p> <p>(2) The Secretary may take into account all or any of the matters referred to in subsection (1)(a), (1)(b), (1)(ba) or (1)(d) in carrying out a fit and proper person check on a person who is nominated to manage or control a children's service in the absence of the licensee.</p> <p>(3) Nothing in this section limits the circumstances in which a person may be considered not to be a fit and proper person:</p>

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				<p>(a) to operate a children's service; or</p> <p>(b) in the case of a body corporate, to be the director or other officer of the body corporate who exercises or may exercise control over the operation of the children's service; or</p> <p>(c) to manage or control a children's service in the absence of the licensee.</p>
			Section 25E	<p><b>Conditions on licence</b></p> <p>(1) A licence is granted subject to the condition that the children's service is operated in a way that:</p> <p>(a) ensures the safety of the children being cared for or educated; and</p> <p>(b) ensures that the developmental needs of those children are met; and</p> <p>(c) supports the health and wellbeing of those children.</p> <p>...</p>
			Section 26	<p><b>Protection of children from hazards</b></p> <p>(1) The proprietor of a children's service must ensure that every reasonable precaution is taken to protect children being cared for or educated by the service from harm and from any hazard likely to cause injury.</p>

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				<p>Penalty: 120 penalty units.</p> <p>(2) A staff member of a children's service must ensure that every reasonable precaution is taken to protect a child in the care of that staff member from harm and from any hazard likely to cause injury.</p> <p>Penalty: 120 penalty units.</p>
			Section 27	<p><b>Inadequate supervision of children</b></p> <p>(1) The proprietor of a children's service must ensure that all children being cared for or educated by the service are adequately supervised at all times that children are on the premises where the service operates or in the care of that service.</p> <p>Penalty: 120 penalty units.</p> <p>(2) A staff member of a children's service must ensure that any child in the care of that staff member is adequately supervised.</p> <p>Penalty: 120 penalty units.</p>
			Section 29C	<p><b>Secretary to be notified of a serious incident</b></p> <p>A proprietor of a children's service must notify the Secretary in the prescribed manner:</p> <p>(a) of the death of a child while being cared for or educated</p>

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				<p>by the service; or</p> <p>(b) of any incident involving injury or trauma to a child while being cared for or educated by the service requiring the attention of a registered medical practitioner or admission to a hospital; or</p> <p>(c) if a child being cared for or educated by the service appears to be missing or otherwise cannot be accounted for or appears to have been taken or removed from the service contrary to the regulations; or</p> <p>(d) if an incident of a kind that is prescribed as a serious incident occurs in relation to the children's service.</p> <p>Penalty: 120 penalty units.</p>
	<p><b>Children, Youth and Families Act</b></p>	<p>VIC</p>	<p>Section 81</p>	<p><b>Report to Secretary by service of allegation about carer</b></p> <p>(1) The person in charge of a registered out of home care service must make a report to the Secretary if:</p> <p>(a) the person in charge receives or becomes aware of an allegation that:</p> <p>(i) a person who is or was a registered foster carer has sexually or physically abused a child placed in his or her care by that service; or</p> <p>(ii) a person who is or was a registered out of home carer employed or engaged by the service as an out of home carer has sexually or physically abused a child in the course of that</p>

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				<p>employment or engagement; and</p> <p>(b) the person in charge is reasonably satisfied that an investigation of the allegation by the Secretary is warranted.</p> <p>...</p>
			Section 82	<p>(1) Any person may make a report to the Secretary alleging that:</p> <p>(a) a person who is or was a registered foster carer has sexually or physically abused a child placed in his or her care by an out of home care service; or</p> <p>(b) a person who is or was a registered out of home carer has sexually or physically abused a child in the course of the person's employment or engagement by an out of home care service as an out of home carer; or</p> <p>(c) a person, while acting as a foster carer, has sexually or physically abused a child who was placed in his or her care by a community service approved under section 58(1) of the Children and Young Persons Act 1989; or</p> <p>(d) a person, while employed or engaged as a carer for children by a community service approved under section 58(1) of the Children and Young Persons Act 1989, has sexually or physically abused a child placed in his or her care by the community service.</p>
			Section 83	<b>Secretary to report allegation to police</b>

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				The Secretary must report to the Chief Commissioner of Police any allegation of sexual or physical abuse made in a report under section 81 or 82.
			Section 105	<p><b>Finding of Panel on allegation</b></p> <p>(1) At a hearing the Suitability Panel must first determine whether or not the allegation that the person has physically or sexually abused the child is proved on the balance of probabilities.</p> <p>...</p> <p>(5) If the Suitability Panel determines that the allegation is proved, the Panel must make a finding of misconduct against the person.</p>
			Section 106	<p><b>Finding in relation to disqualification</b></p> <p>(1) If the Suitability Panel has made a finding of misconduct against a person, the Panel must then determine on the balance of probabilities whether or not the person poses an unacceptable risk of harm to children.</p> <p>(2) In making the determination the Suitability Panel must consider any of the following factors that the Panel considers relevant, giving a factor the weighting that the Panel considers appropriate in the circumstances:</p> <p>(a) the gravity of the misconduct;</p> <p>(b) any previous findings of misconduct by the Suitability</p>

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				<p>Panel in respect of the person;</p> <p>(c) the likelihood of the person physically or sexually abusing a child in the future;</p> <p>(d) the recency of the misconduct;</p> <p>(e) the relevance of the misconduct to the role of the person as an out of home carer;</p> <p>(f) the history of the person's work with the out of home care agency as an out of home carer.</p> <p>(3) If the Suitability Panel finds that the person poses an unacceptable risk of harm to children, the Panel must find that the person should be disqualified from registration under this Part.</p>
			Section 162	<p><b>When is a child in need of protection?</b></p> <p>(1) For the purposes of this Act a child is in need of protection if any of the following grounds exist:</p> <p>...</p> <p>(d) the child has suffered, or is likely to suffer, significant harm as a result of sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm of that type;</p> <p>(e) the child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that the child's emotional</p>

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				<p>or intellectual development is, or is likely to be, significantly damaged and the child's parents have not protected, or are unlikely to protect, the child from harm of that type;</p> <p>(f) the child's physical development or health has been, or is likely to be, significantly harmed and the child's parents have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange or allow the provision of, basic care or effective medical, surgical or other remedial care.</p>
			Section 274 and 275	<p><b>When Court may make order under this Part (Protection Orders)</b></p> <p>The Court may make an order under this Part in respect of a child if the Court finds:</p> <p>(a) that the child is in need of protection; or</p> <p>(b) that there is a substantial and irreconcilable difference between the person who has custody of the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.</p> <p><b>Types of protection order</b></p> <p>(1) If the Court makes a finding under section 274 it may make any one of the following protection orders:</p> <p>(a) an order requiring a person to give an undertaking;</p> <p>(b) a supervision order;</p>

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				<p>(c) a custody to third party order;</p> <p>(d) a supervised custody order;</p> <p>(e) a custody to Secretary order;</p> <p>(f) a guardianship to Secretary order;</p> <p>(g) a long-term guardianship to Secretary order;</p> <p>(h) an interim protection order.</p> <p>(2) A protection order may continue in force after the child attains the age of 17 years but ceases to be in force when the child attains the age of 18 years.</p>
			Section 493	<p><b>Offence to fail to protect child from harm</b></p> <p>(1) A person who has a duty of care in respect of a child:</p> <p>(a) who intentionally takes action that has resulted, or appears likely to result, in:</p> <p>(i) the child suffering significant harm as a result of:</p> <p>(A) physical injury; or</p> <p>(B) sexual abuse; or</p> <p>(ii) the child suffering emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged; or</p>

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				<p>(iii) the child's physical development or health being significantly harmed; or</p> <p>(b) who intentionally fails to take action that has resulted, or appears likely to result, in the child's physical development or health being significantly harmed,</p> <p>is guilty of an offence and liable to a penalty of not more than 50 penalty units or to imprisonment for a term of not more than 12 months.</p> <p>(2) Proceedings for an offence under subsection (1) may only be brought by a person after consultation with the Secretary.</p> <p>(3) A person may be guilty of an offence under subsection (1) even though the child was protected by the action of another person from harm of the type referred to in that subsection.</p>
	<p><b>Classification (Publications, Films and Computer Games) (Enforcement) Act 1995</b></p>	VIC	Sections 10, 11, 12 and 13	<p><b>Attendance of minor at certain films: offence by parents etc.</b></p> <p>A person who:</p> <p>(a) is a parent or guardian of a minor; and</p> <p>(b) knows that a film classified RC, X 18+ or R 18+ or an unclassified film which would, if classified, be classified RC, X 18+ or R 18+ is to be exhibited in a public place,</p>

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				<p>must not permit the minor to attend the exhibition of the film.</p> <p>Penalty: 20 penalty units.</p> <p><b>Attendance of minor at certain films: offence by minor</b></p> <p>A minor who is 10 or older must not attend the exhibition in a public place of a film classified RC, X 18+ or R 18+, knowing that the film is so classified.</p> <p>Penalty: 5 penalty units.</p> <p><b>Private exhibition of certain films in presence of a minor</b></p> <p>(1) A person must not exhibit in a place, other than a public place, in the presence of a minor a film classified RC, X 18+ or R 18+ or an unclassified film which would, if classified, be classified RC, X 18+ or R 18+.</p> <p>Penalty:</p> <p>(a) if the film is classified, or is subsequently classified, R 18+:20 penalty units;</p> <p>(b) if the film is classified, or is subsequently classified, X 18+:60 penalty units or imprisonment for 6 months;</p> <p>(c) if the film is classified, or is subsequently classified, RC:240 penalty units or imprisonment for 2 years.</p> <p>(2) It is a defence to a prosecution for an offence against subsection (1) to prove that:</p>

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				<p>(a) the accused believed on reasonable grounds that the minor was an adult; or</p> <p>(b) the parent or guardian of the minor consented to the minor being present at the exhibition of the film.</p> <p><b>Attendance of minor at R 18+ film: offence by exhibitor</b></p> <p>(1) A person must not exhibit in a public place a film classified R 18+ if a minor is present during any part of the exhibition.</p> <p>Penalty: 20 penalty units.</p> <p>(2) It is a defence to a prosecution for an offence against subsection (1) to prove that:</p> <p>(a) the minor produced to the accused or the employee or agent of the accused acceptable proof of age before the minor was admitted to the public place; or</p> <p>(b) the accused or the employee or agent of the accused believed on reasonable grounds that the minor was an adult.</p>
			Section 20	<p><b>Sale or delivery of certain films to minors</b></p> <p>(1) A person must not sell or deliver to a minor a film classified RC or X 18+ or an unclassified film which would, if classified, be classified RC or X 18+.</p> <p>Penalty:</p>

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				<p>(a) if the film is classified, or is subsequently classified, X 18+:60 penalty units or imprisonment for 6 months;</p> <p>(b) if the film is classified, or is subsequently classified, RC:240 penalty units or imprisonment for 2 years.</p> <p>(2) A person must not sell or deliver to a minor a film classified R 18+, unless the person is a parent or guardian of the minor.</p> <p>Penalty: 30 penalty units.</p> <p>(3) It is a defence to a prosecution for an offence against subsection (2) to prove that:</p> <p>(a) the minor produced to the accused or the employee or agent of the accused acceptable proof of age before the accused sold or delivered the film to the minor and the accused or the employee or agent of the accused believed on reasonable grounds that the minor was an adult; or</p> <p>(b) in the case of delivery of a film classified R 18+, the minor was employed by the accused or the employer of the accused and the delivery took place in the course of that employment.</p> <p>(4) A minor who is 15 or older must not buy a film classified RC, X 18+ or R 18+ knowing that it is so classified.</p> <p>Penalty: 5 penalty units.</p> <p>(5) A person must not sell or deliver to a minor under 15 a</p>

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				<p>film classified MA 15+, unless the person is a parent or guardian of the minor.</p> <p>Penalty: 10 penalty units.</p> <p>(6) It is a defence to a prosecution for an offence against subsection (5) to prove that the accused or the employee or agent of the accused believed on reasonable grounds that:</p> <p>(a) the minor was 15 or older; or</p> <p>(b) the parent or guardian of the minor had consented to the sale or delivery.</p>
			Section 29	<p><b>Sale of restricted publications to minors</b></p> <p>(1) A person must not sell or deliver to a minor a publication classified Category 1 restricted or Category 2 restricted, unless the person is a parent or guardian of the minor.</p> <p>Penalty: 60 penalty units or imprisonment for 6 months.</p> <p>(2) It is a defence to a prosecution for an offence against subsection (1) to prove that the minor produced to the accused acceptable proof of age before the accused sold or delivered the publication to the minor and the accused believed on reasonable grounds that the minor was an adult.</p>
			Section 33	<p><b>Display of certain parts of publications and advertisements</b></p> <p>(1) A person must not exhibit or display for sale in a public</p>

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				<p>place to which minors have access any publication or advertisement for a publication if any part of that publication or advertisement depicts or deals with nudity, sex, drug misuse, crime, cruelty, violence or revolting phenomena in a manner that a reasonable adult would consider unsuitable for general public display unless:</p> <p>(a) that part of the publication or advertisement is concealed by a cover; or</p> <p>(b) the publication or advertisement is displayed in a rack that conceals that part; or</p> <p>(c) for some other reason that part of the publication or advertisement cannot be seen without being handled.</p> <p>Penalty: 10 penalty units.</p> <p>(2) It is a defence to a prosecution for an offence against subsection (1) to prove that the accused or the employee or agent of the accused took reasonable precautions to ensure that the publication or advertisement was not exhibited or displayed in contravention of subsection (1).</p>
			Section 36	<p><b>Unclassified and RC computer games</b></p> <p>(1) A person must not:</p> <p>(a) sell; or</p> <p>(b) demonstrate in a public place,</p>

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				<p>a computer game classified RC or an unclassified computer game which would, if classified, be classified RC.</p> <p>Penalty: 240 penalty units or imprisonment for 2 years.</p> <p>(2) A minor who is 10 or older must not buy a computer game classified RC, knowing that it is so classified.</p> <p>Penalty: 5 penalty units.</p> <p>(3) A person must not sell a commercial quantity of:</p> <p>(a) computer games classified RC; or</p> <p>(b) unclassified computer games which would, if classified, be classified RC; or</p> <p>(c) computer games that are a mixture of computer games referred to in paragraphs (a) and (b).</p> <p>Penalty: 1200 penalty units or imprisonment for 10 years.</p> <p>(4) An offence against subsection (3) is an indictable offence.</p>
			Section 37	<p><b>MA 15+ computer games</b></p> <p>A person must not demonstrate a computer game classified MA 15+ in a public place unless:</p> <p>(a) the determined markings are exhibited before the computer game can be played; and</p>

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				<p>(b) entry to the place is restricted to adults or minors who are in the care of a parent or guardian while in the public place.</p> <p>Penalty: 5 penalty units.</p>
			Section 39	<p><b>Private demonstration of RC computer games in presence of a minor</b></p> <p>(1) A person must not demonstrate in a place, other than a public place, in the presence of a minor a computer game classified RC or an unclassified computer game which would, if classified, be classified RC.</p> <p>Penalty: 20 penalty units.</p> <p>(2) It is a defence to a prosecution for an offence against subsection (1) to prove that:</p> <p>(a) the accused believed on reasonable grounds that the minor was an adult; or</p> <p>(b) the parent or guardian of the minor consented to the minor being present at the demonstration of the computer game.</p>
			Section 42	<p><b>Sale or delivery of certain computer games to minors</b></p> <p>(1) A person must not sell or deliver to a minor a computer game classified RC or an unclassified computer game which would, if classified, be classified RC.</p> <p>Penalty: 240 penalty units or imprisonment for 2 years.</p>

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				<p>(2) A person must not sell or deliver to a minor who is under 15 a computer game classified MA 15+, unless the person is a parent or guardian of the minor.</p> <p>Penalty: 30 penalty units.</p> <p>(3) It is a defence to a prosecution for an offence against subsection (2) to prove that the accused or the employee or agent of the accused believed on reasonable grounds that:</p> <p>(a) the minor was 15 or older; or</p> <p>(b) the parent or guardian of the minor had consented to the sale or delivery.</p>
			Section 56	<p><b>Definitions</b></p> <p>In this Part:</p> <p><b>'material unsuitable for minors of any age'</b> means:</p> <p>(a) objectionable material; or</p> <p>(b) a film that is classified R 18+ or would, if classified, be classified R 18+; or</p> <p>(c) a publication that is classified Category 1 restricted or Category 2 restricted, or would, if classified, be classified Category 1 restricted or Category 2 restricted;</p> <p><b>'material unsuitable for minors under 15'</b> means:</p>

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				<p>(a) a film that is classified MA 15+ or would, if classified, be classified MA 15+; or</p> <p>(b) a computer game that is classified MA 15+ or would, if classified, be classified MA 15+;</p> <p><b>'objectionable material'</b> means:</p> <p>(a) an objectionable publication; or</p> <p>(b) an objectionable film; or</p> <p>(c) a computer game that:</p> <p>(i) depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that it offends against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that it should not be classified; or</p> <p>(ii) promotes, incites or instructs in matters of crime or violence; or</p> <p>(iv) is unsuitable for a minor to see or play; or</p> <p>(v) is classified RC or would, if classified, be classified RC;</p> <p><b>'on-line information service'</b> means a service which permits, through a communication system, on-line computer access to or transmission of data or computer programs.</p>

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			Section 57A	<p><b>Publication or transmission of child pornography</b></p> <p>A person who knowingly uses an on-line information service to publish or transmit, or make available for transmission, objectionable material that describes or depicts a person who is, or looks like, a minor engaging in sexual activity or depicted in an indecent sexual manner or context is guilty of an indictable offence and liable to a term of imprisonment not exceeding 10 years.</p>
			Section 58	<p><b>Publication or transmission of certain material to minors</b></p> <p>(1) A person must not use an on-line information service to publish or transmit, or make available for transmission, to a minor material unsuitable for minors of any age.</p> <p>Penalty:</p> <p>(a) if the material is objectionable material: 240 penalty units or imprisonment for 2 years;</p> <p>(b) in any other case: 60 penalty units or imprisonment for 6 months.</p> <p>(2) It is a defence to a prosecution for an offence against subsection (1) to prove that:</p> <p>(a) the accused:</p> <p>(i) did not know and could not reasonably have known that the person to whom the material was published or transmitted</p>

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				<p>or made available for transmission was a minor; and</p> <p>(ii) had taken reasonable steps to avoid publishing or transmitting, or making available for transmission, the material to a minor; or</p> <p>(b) the accused believed on reasonable grounds that the material was not material unsuitable for minors of any age.</p> <p>(3) Subsection (1) does not apply to a person who provides an on-line information service or a telecommunication service unless the person knowingly publishes, transmits or makes available for transmission to a minor material unsuitable for minors of any age.</p> <p>(4) A person must not use an on-line information service to publish or transmit, or make available for transmission, material to a minor under 15 knowing it to be material unsuitable for minors under 15.</p> <p>Penalty: 30 penalty units.</p> <p>(5) It is a defence to a prosecution for an offence against subsection (4) to prove that:</p> <p>(a) the accused believed on reasonable grounds that the parent or guardian of the minor had consented to the material being published or transmitted, or made available for transmission, to the minor; or</p> <p>(b) the accused:</p>

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				<p>(i) did not know and could not reasonably have known that the person to whom the material was published or transmitted, or made available for transmission, was a minor under 15; and</p> <p>(ii) had taken reasonable steps to prevent publishing or transmitting, or making available for transmission, the material to a minor under 15.</p> <p>(6) Subsection (4) does not apply to a person who provides an on-line information service or a telecommunication service unless the person knowingly publishes, transmits or makes available for transmission to a minor under 15 material unsuitable for minors under 15.</p>
			Section 77	<p><b>Restricted publications area: offences</b></p> <p>(1) The manager of a restricted publications area must not permit a minor to enter that area.</p> <p>Penalty: 10 penalty units.</p> <p>(2) It is a defence to a prosecution for an offence against subsection (1) to prove that the accused believed on reasonable grounds that the minor was an adult.</p>
			Sections 37A and 37B	<p><b>Objectives of Subdivisions 8A to 8G</b></p> <p>The objectives of Subdivisions (8A) to (8G) are:</p> <p>(a) to uphold the fundamental right of every person to make decisions about his or her sexual behaviour and to choose not</p>
<b>Crimes Act 1958</b>	VIC			

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				<p>to engage in sexual activity;</p> <p>(b) to protect children and persons with a cognitive impairment from sexual exploitation.</p> <p><b>Guiding principles</b></p> <p>It is the intention of Parliament that in interpreting and applying Subdivisions (8A) to (8G), courts are to have regard to the fact that:</p> <p>(a) there is a high incidence of sexual violence within society; and</p> <p>(b) sexual offences are significantly underreported; and</p> <p>(c) a significant number of sexual offences are committed against women, children and other vulnerable persons including persons with a cognitive impairment; and</p> <p>(d) sexual offenders are commonly known to their victims; and</p> <p>(e) sexual offences often occur in circumstances where there is unlikely to be any physical signs of an offence having occurred.</p>
			Section 44	<p><b>Incest</b></p> <p>(1) ...</p> <p>(2) A person must not take part in an act of sexual</p>

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				<p>penetration with a person under the age of 18 whom he or she knows to be the child or other lineal descendant or the step-child of his or her de facto spouse.</p> <p>Penalty: Level 2 imprisonment (25 years maximum).</p> <p>...</p>
			Sections 45 to 49A	<p><b>Sexual penetration of child under the age of 16</b></p> <p>(1) A person who takes part in an act of sexual penetration with a child under the age of 16 is guilty of an indictable offence.</p> <p>(2) A person who is guilty of an offence against subsection (1) is liable:</p> <p>(a) if the court is satisfied beyond reasonable doubt that the child was, at the time of the offence, under the age of 12, to level 2 imprisonment (25 years maximum); or</p> <p>(b) if the court is satisfied beyond reasonable doubt that the child was, at the time of the offence, aged between 12 and 16 and under the care, supervision or authority of the accused, to level 4 imprisonment (15 years maximum); or</p> <p>(c) in any other case of sexual penetration of a child between the ages of 12 and 16, to level 5 imprisonment (10 years maximum).</p> <p>(3) Subsection (1) does not apply to an act of sexual</p>

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				<p>penetration if:</p> <ul style="list-style-type: none"> <li>(a) the child is aged between 12 and 16; and</li> <li>(b) the persons taking part in the act are married to each other.</li> </ul> <p>(4) Consent is not a defence to a charge under subsection (1) unless at the time of the alleged offence the child was aged 12 or older and:</p> <ul style="list-style-type: none"> <li>(a) the accused satisfies the court on the balance of probabilities that he or she believed on reasonable grounds that the child was aged 16 or older; or</li> <li>(b) the accused was not more than 2 years older than the child; or</li> <li>(c) the accused satisfies the court on the balance of probabilities that he or she believed on reasonable grounds that he or she was married to the child.</li> </ul> <p>(4A) If consent is relevant to a charge under subsection (1), the prosecution bears the burden of proving lack of consent.</p> <p>(5) A circumstance of aggravation described in subsection (2) is not an element of an offence against subsection (1) but must be stated in the indictment.</p> <p>(6) An accused who takes issue with a circumstance of aggravation described in subsection (2) and who wishes to have the matter determined on the trial may do so by pleading</p>

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				<p>not guilty to the offence with which he or she is charged even if he or she does not take issue with any acts, facts, matters or circumstances relied upon by the prosecution to support a finding of guilt.</p> <p>(7) A circumstance of aggravation described in subsection (2):</p> <p>(a) is to be determined by the jury if the accused pleads not guilty to the offence; and</p> <p>(b) is to be determined by the trial judge if the accused pleads guilty to the offence.</p> <p>(8) An offender who pleads not guilty to an offence against subsection (1) is to be taken to have pleaded guilty to the offence for the purposes of section 5(2)(e) of the Sentencing Act 1991 if:</p> <p>(a) he or she:</p> <p>(i) took issue with a circumstance of aggravation described in subsection (2); and</p> <p>(ii) did not take issue with any acts, facts, matters or circumstances relied upon by the prosecution to support a finding of guilt; and</p> <p>(b) the circumstance of aggravation is not proved.</p> <p>(9) For the avoidance of doubt it is declared that it is the intention of the Parliament that an offence against subsection</p>

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				<p>(1) is not an offence to which section 28 of the Criminal Procedure Act 2009 applies even though the offence is punishable by level 5 imprisonment where a circumstance of aggravation described in subsection (2) is not present.</p> <p><b>Indecent act with child under the age of 16</b></p> <p>(1) A person must not wilfully commit, or wilfully be in any way a party to the commission of, an indecent act with or in the presence of a child under the age of 16 to whom he or she is not married.</p> <p>Penalty: Level 5 imprisonment (10 years maximum).</p> <p>(2) Consent is not a defence to a charge under subsection (1) unless at the time of the alleged offence:</p> <p>(a) the accused satisfies the court on the balance of probabilities that he or she believed on reasonable grounds that the child was aged 16 or older; or</p> <p>(b) the accused was not more than 2 years older than the child; or</p> <p>(c) the accused satisfies the court on the balance of probabilities that he or she believed on reasonable grounds that he or she was married to the child.</p> <p>(3) If consent is relevant to a charge under subsection (1), the prosecution bears the burden of proving lack of consent.</p>

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				<p><b>Persistent sexual abuse of child under the age of 16</b></p> <p>(1) A person who persistently sexually abuses a child under the age of 16 to whom he or she is not married is guilty of an indictable offence.</p> <p>(2) To prove an offence under subsection (1) it is necessary to prove:</p> <p>(a) that the accused during a particular period (while the child was under the age of 16) did an act in relation to the child which would constitute an offence under a provision of this Subdivision or Subdivision (8A) or (8B); and</p> <p>(b) that an act which would constitute an offence under a provision of this Subdivision or Subdivision (8A) or (8B) took place between the accused and the child on at least two other occasions during that period.</p> <p>(2A) It is not necessary that the alleged acts be of a similar nature or constitute an offence under the same provision.</p> <p>(3) It is not necessary to prove an act referred to in subsection (2)(a) or (b) with the same degree of specificity as to date, time, place, circumstances or occasion as would be required if the accused were charged with an offence constituted by that act instead of an offence against subsection (1).</p> <p>(4) A person who is guilty of an offence under subsection (1) is liable to level 2 imprisonment (25 years maximum).</p>

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				<p>(5) If on the trial of a person charged with an offence against subsection (1) the jury are not satisfied that he or she is guilty of the offence charged but are satisfied that the accused did an act during that period which constitutes an offence against Subdivision (8A), (8B), (8C), (8D) or (8E) of Division 1 of Part I, the jury must acquit the accused of the offence charged but may find him or her guilty of that other offence and he or she is liable to punishment accordingly.</p> <p>(6) Subsection (5) does not restrict the operation of section 421 or 422.</p> <p>(7) A prosecution for an offence under subsection (1) must not be commenced without the consent of the Director of Public Prosecutions.</p> <p><b>Sexual penetration of 16 or 17 year old child</b></p> <p>(1) A person must not take part in an act of sexual penetration with a 16 or 17 year old child to whom he or she is not married and who is under his or her care, supervision or authority.</p> <p>Penalty: Level 5 imprisonment (10 years maximum).</p> <p>(2) Consent is not a defence to a charge under subsection (1) unless the accused satisfies the court on the balance of probabilities that at the time of the alleged offence the accused believed on reasonable grounds:</p> <p>(a) that the child was aged 18 or older; or</p>

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				<p>(b) that he or she was married to the child.</p> <p>(3) If consent is relevant to a charge under subsection (1), the prosecution bears the burden of proving lack of consent.</p> <p>(4) For the purposes of subsection (1), and without limiting that subsection, a child is under the care, supervision or authority of a person if the person is:</p> <ul style="list-style-type: none"> <li>(a) the child's teacher;</li> <li>(b) the child's foster parent;</li> <li>(c) the child's legal guardian;</li> <li>(d) a minister of religion with pastoral responsibility for the child;</li> <li>(e) the child's employer;</li> <li>(f) the child's youth worker;</li> <li>(g) the child's sports coach;</li> <li>(h) the child's counsellor;</li> <li>(i) the child's health professional;</li> <li>(j) a member of the police force acting in the course of his or her duty in respect of the child;</li> <li>(k) employed in, or providing services in, a remand centre, youth residential centre, youth justice centre or prison and is</li> </ul>

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				<p>acting in the course of his or her duty in respect of the child.</p> <p><b>Indecent act with 16 or 17 year old child</b></p> <p>(1) A person must not wilfully commit, or wilfully be in any way a party to the commission of, an indecent act with or in the presence of a 16 or 17 year old child to whom he or she is not married and who is under his or her care, supervision or authority.</p> <p>Penalty: Level 6 imprisonment (5 years maximum).</p> <p>(2) Consent is not a defence to a charge under subsection (1) unless the accused satisfies the court on the balance of probabilities that at the time of the alleged offence the accused believed on reasonable grounds:</p> <p>(a) that the child was aged 18 or older; or</p> <p>(b) that he or she was married to the child.</p> <p>(3) If consent is relevant to a charge under subsection (1), the prosecution bears the burden of proving lack of consent.</p> <p>(4) For the purposes of subsection (1), and without limiting that subsection, a child is under the care, supervision or authority of a person if the person is:</p> <p>(a) the child's teacher;</p> <p>(b) the child's parent, adoptive parent, foster parent or step</p>

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				<p>parent;</p> <p>(c) the child's legal guardian;</p> <p>(d) a minister of religion with pastoral responsibility for the child;</p> <p>(e) the child's employer;</p> <p>(f) the child's youth worker;</p> <p>(g) the child's sports coach;</p> <p>(h) the child's counsellor;</p> <p>(i) the child's health professional;</p> <p>(j) a member of the police force acting in the course of his or her duty in respect of the child;</p> <p>(k) employed in, or providing services in, a remand centre, youth residential centre, youth justice centre or prison and is acting in the course of his or her duty in respect of the child.</p> <p><b>Facilitating sexual offences against children</b></p> <p>(1) Subject to this section, a person who in Victoria makes travel arrangements for another person or does or omits to do any other act that aids, facilitates or contributes to in any way whatever the commission by another person of an offence against this Subdivision (other than this section) or against Division 2 of Part IIIA of the Crimes Act 1914 of the</p>

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				<p>Commonwealth or against a law in force only in a place outside Victoria the necessary elements of which consist of or include elements which, if present or occurring in Victoria, would constitute an offence against this Subdivision (other than this section) is guilty of an indictable offence and liable to level 3 imprisonment (20 years maximum).</p> <p>(2) For a person to be guilty of an offence against subsection (1) the person:</p> <p>(a) must make the travel arrangements or do or omit to do the other act with a view to personal gain or gain for another person; and</p> <p>(b) must:</p> <p>(i) intend that the conduct would aid, facilitate or contribute to the commission of an offence of the type committed by the other person; or</p> <p>(ii) be reckless as to whether or not the conduct would aid, facilitate or contribute to the commission of an offence of the type committed by the other person.</p>
			Section 54	<p><b>Occupier etc. permitting unlawful sexual penetration</b></p> <p>The owner or occupier of, or a person managing or assisting in the management of, any premises must not induce or knowingly allow a child under the age of 17 to enter or remain on the premises for the purpose of taking part in an unlawful act of sexual penetration.</p>

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				<p>Penalty:</p> <p>Level 4 imprisonment (15 years maximum) if the child is under the age of 13;</p> <p>Level 5 imprisonment (10 years maximum) if the child is aged between 13 and 17.</p>
			Section 56	<p><b>Abduction of child under the age of 16</b></p> <p>(1) A person must not take away a child under the age of 16 against the will of a person who has lawful charge of the child with the intention that the child should take part in an act of sexual penetration outside marriage with him or her or any other person.</p> <p>Penalty: Level 6 imprisonment (5 years maximum).</p> <p>(2) A person must not cause a child under the age of 16 to be taken away against the will of a person who has lawful charge of the child with the intention that the child should take part in an act of sexual penetration outside marriage with him or her or any other person.</p> <p>Penalty: Level 6 imprisonment (5 years maximum).</p>
			Section 58	<p><b>Procuring sexual penetration of a child</b></p> <p>(1) A person aged 18 years or more must not solicit or procure a child under the age of 16 years to take part in an act of sexual penetration, or an indecent act (within the meaning of Subdivision (8D)), outside marriage with him or her or</p>

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				<p>another person.</p> <p>Penalty: Level 5 imprisonment (10 years maximum).</p> <p>(2) A person aged 18 years or more must not solicit or procure another person to take part in an act of sexual penetration, or an indecent act (within the meaning of Subdivision (8D)), outside marriage with a child under the age of 16 years.</p> <p>Penalty: Level 5 imprisonment (10 years maximum).</p> <p>(3) A person aged 18 years or more must not solicit or procure a 16 or 17 year old child to whom he or she is not married and who is under his or her care, supervision or authority to take part in an act of sexual penetration, or an indecent act (within the meaning of Subdivision (8D)), with him or her or another person.</p> <p>Penalty: Level 5 imprisonment (10 years maximum).</p> <p>(4) If:</p> <p>(a) a person does an act or thing referred to in subsection (1), (2) or (3) outside, or partly outside, Victoria; and</p> <p>(b) there is a real and substantial link within the meaning of subsection (5) between the doing of the act or thing and Victoria,</p> <p>those subsections apply to the act or thing as if it had been</p>

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				<p>done wholly within Victoria.</p> <p>(5) For the purposes of subsection (4), there is a real and substantial link with Victoria:</p> <p>(a) if a significant part of the conduct relating to, or constituting the doing of, the act or thing occurred in Victoria; or</p> <p>(b) where the act or thing was done wholly outside Victoria, if the act or thing was done with the intention that the act of sexual penetration or the indecent act occur in Victoria.</p> <p>(6) For the purposes of subsection (3), and without limiting that subsection, a child is under the care, supervision or authority of a person if the person is:</p> <p>(a) the child's teacher;</p> <p>(b) the child's foster parent;</p> <p>(c) the child's legal guardian;</p> <p>(d) a minister of religion with pastoral responsibility for the child;</p> <p>(e) the child's employer;</p> <p>(f) the child's youth worker;</p> <p>(g) the child's sports coach;</p>

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				<p>(h) the child's counsellor;</p> <p>(i) the child's health professional;</p> <p>(j) a member of the police force acting in the course of his or her duty in respect of the child;</p> <p>(k) employed in, or providing services in, a remand centre, youth residential centre, youth justice centre or prison and is acting in the course of his or her duty in respect of the child.</p>
			Sections 60AB to 60AE	<p><b>Sexual servitude</b></p> <p>(1) In this section:</p> <p><b>'commercial sexual services'</b> means services for commercial benefit involving the use or display of the body of the person providing the services for the sexual arousal or sexual gratification of others;</p> <p><b>'threat'</b> means:</p> <p>(a) threat of force; or</p> <p>(b) threat to cause a person's deportation; or</p> <p>(c) threat of any other detrimental action unless there are reasonable grounds for the threat of that action in connection with the provision of commercial sexual services.</p> <p>(2) A person who, by the use of:</p>

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				<p>(a) force; or</p> <p>(b) a threat; or</p> <p>(c) unlawful detention; or</p> <p>(d) fraud or misrepresentation, including by omission; or</p> <p>(e) a manifestly excessive debt,</p> <p>causes another person to provide, or to continue providing, commercial sexual services is guilty of an offence and liable to level 4 imprisonment (15 years maximum).</p> <p>(3) A person who:</p> <p>(a) causes or induces another person to provide commercial sexual services; and</p> <p>(b) knows that, or is reckless as to whether, the other person providing those services will not be free to stop providing those services because of the use of:</p> <p>(i) force; or</p> <p>(ii) a threat; or</p> <p>(iii) unlawful detention; or</p> <p>(iv) fraud or misrepresentation, including by omission; or</p> <p>(v) a manifestly excessive debt,</p>

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				<p>is guilty of an offence and liable to level 4 imprisonment (15 years maximum).</p> <p>(4) A person who:</p> <p>(a) conducts a business that involves the provision of commercial sexual services; and</p> <p>(b) knows that, or is reckless as to whether, the persons providing those services are not free to stop providing those services because of the use of:</p> <p>(i) force; or</p> <p>(ii) a threat; or</p> <p>(iii) unlawful detention; or</p> <p>(iv) fraud or misrepresentation, including by omission; or</p> <p>(v) a manifestly excessive debt,</p> <p>is guilty of an offence and liable to level 4 imprisonment (15 years maximum).</p> <p>(5) For the purposes of subsection (4), conducting a business includes:</p> <p>(a) taking any part in the management of the business; or</p> <p>(b) exercising control or direction over the business; or</p>

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				<p>(c) providing finance for the business.</p> <p><b>Aggravated sexual servitude</b></p> <p>(1) A person is guilty of aggravated sexual servitude if:</p> <p>(a) the person commits an offence against section 60AB(2), (3) or (4); and</p> <p>(b) the offence was committed against a person under the age of 18 years; and</p> <p>(c) the accused intended to commit, or was reckless as to committing, the offence against a person under the age of 18 years.</p> <p>(2) A person guilty of aggravated sexual servitude is guilty of an offence and liable to level 3 imprisonment (20 years maximum).</p> <p><b>Deceptive recruiting for commercial sexual services</b></p> <p>(1) A person who, intending to induce another person to enter into an engagement to provide commercial sexual services, deceives that other person about the fact that the engagement will involve the provision of commercial sexual services is guilty of an offence and liable to level 6 imprisonment (5 years maximum).</p> <p>(2) In subsection (1), commercial sexual services has the same meaning as in section 60AB.</p>

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				<p><b>Aggravated deceptive recruiting for commercial sexual services</b></p> <p>(1) A person is guilty of aggravated deceptive recruiting for commercial sexual services if:</p> <ul style="list-style-type: none"> <li>(a) the person commits an offence against section 60AD; and</li> <li>(b) the offence was committed against a person under the age of 18 years; and</li> <li>(c) the accused intended to commit, or was reckless as to committing, the offence against a person under the age of 18 years.</li> </ul> <p>(2) A person guilty of aggravated deceptive recruiting for sexual services is guilty of an offence and liable to level 5 imprisonment (10 years maximum).</p>
			Section 60B	<p><b>Loitering near schools etc.</b></p> <p>(1) In this section, sexual offence means:</p> <ul style="list-style-type: none"> <li>(a) an offence against section 38, 39, 40, 44(1), 44(2), 44(4), 45, 47, 47A, 48, 49, 55 or 56; or</li> <li>(b) any offence specified in clause 7A, 7B, 8, 9, 10 or 12 of Schedule 8; or</li> <li>(c) an offence of conspiracy to commit, incitement to commit or attempting to commit an offence referred to in</li> </ul>

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				<p>paragraph (a) or (b).</p> <p>(2) A person who:</p> <p>(a) has been found guilty of:</p> <p>(i) a sexual offence; or</p> <p>(ia) an offence against:</p> <p>(A) section 5, 6, 7 or 11 of the Sex Work Act 1994; or</p> <p>(B) section 6, 7, 8 or 9 of the Prostitution Regulation Act 1986; or</p> <p>(C) section 59(1)(a) or (b) or 60 inserted in this Act on 1 March 1981 by section 5 of the Crimes (Sexual Offences) Act 1980 and repealed on 5 August 1991 by section 3 of the Crimes (Sexual Offences) Act 1991; or</p> <p>(ii) murder where there are reasonable grounds to believe that a sexual offence was also committed on the victim; or</p> <p>(iii) an offence against section 19 of the Summary Offences Act 1966; or</p> <p>(iv) an offence against section 68, 69 or 70 or an offence of attempting to commit an offence against section 69; or</p> <p>(v) an offence against:</p> <p>(A) section 60A of the Classification of Films and</p>

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				<p>Publications Act 1990; or</p> <p>(B) section 168A, 168B or 168C of the Police Offences Act 1958,</p> <p>as in force at any time before its repeal; and</p> <p>(b) is found loitering without reasonable excuse in or near:</p> <p>(i) a school, a children's services centre or an education and care service premises; or</p> <p>(ii) a public place within the meaning of the Summary Offences Act 1966 regularly frequented by children and in which children are present at the time of the loitering,</p> <p>is guilty of an offence.</p> <p>(2A) An offence against subsection (2) is:</p> <p>(a) an indictable offence for which the offender is liable to level 6 imprisonment (5 years maximum) or a level 6 fine (600 penalty units maximum) if at the time of the commission of the offence the offender had previously been sentenced as a serious sexual offender (within the meaning of Part 2A of the Sentencing Act 1991) for a sexual offence (within the meaning of that Part) or a violent offence (within the meaning of that Part); or</p> <p>(b) a summary offence for which the offender is liable to level 7 imprisonment (2 years maximum) or a level 7 fine</p>

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				<p>(240 penalty units maximum) in any other case.</p> <p>(3) If a person has at any time been convicted of an offence against a law of another State or a Territory of the Commonwealth which creates an offence substantially similar to a sexual offence the conviction for the offence against that law must be taken for the purposes of this section to be a conviction of a sexual offence.</p> <p>(4) In this section:</p> <p><b>'children's services centre'</b> means a place at which a children's service within the meaning of the Children's Services Act 1996 operates;</p> <p><b>'education and care service premises'</b> means a place at which an education and care service (other than a family day care service) within the meaning of the Education and Care Services National Law (Victoria) educates or cares for children.</p>
			Sections 67A to 70AA	<p><b>Definitions</b></p> <p>In this Subdivision:</p> <p><b>'child pornography'</b> means a film, photograph, publication or computer game that describes or depicts a person who is, or appears to be, a minor engaging in sexual activity or depicted in an indecent sexual manner or context;</p> <p><b>'classified'</b> means classified under the Commonwealth Act; Commonwealth Act means the Classification (Publications,</p>

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				<p>Films and Computer Games) Act 1995 of the Commonwealth;</p> <p><b>'computer game'</b> has the same meaning as in the Commonwealth Act;</p> <p><b>'film'</b> has the same meaning as in the Commonwealth Act;</p> <p><b>'law enforcement agency'</b> means:</p> <p>(a) the police force of Victoria or of any other State or of the Northern Territory of Australia; or</p> <p>(b) the Australian Federal Police; or</p> <p>(c) the Australian Crime Commission established by the Australian Crime Commission Act 2002 of the Commonwealth; or</p> <p>(d) any other authority or person responsible for the enforcement of the laws of:</p> <p>(i) Victoria or any other State; or</p> <p>(ii) the Commonwealth; or</p> <p>(iii) the Northern Territory of Australia;</p> <p><b>'minor'</b> means a person under the age of 18 years;</p> <p><b>'photograph'</b> includes a photocopy or other reproduction of a photograph;</p>

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				<p><b>'publication'</b> has the same meaning as in the Commonwealth Act.</p> <p><b>Production of child pornography</b></p> <p>(1) A person who prints or otherwise makes or produces child pornography is guilty of an indictable offence punishable on conviction by level 5 imprisonment (10 years maximum).</p> <p>(1A) It is a defence to a prosecution for an offence against subsection (1) to prove, in the case of:</p> <ul style="list-style-type: none"> <li>(a) a film; or</li> <li>(b) a photograph contained in a publication; or</li> <li>(c) a computer game,</li> </ul> <p>that at the time of the alleged offence the film, publication or computer game was classified other than RC or X or X 18+ or would, if classified, be classified other than RC or X or X 18+.</p> <p>(2) Nothing in subsection (1) makes it an offence for:</p> <ul style="list-style-type: none"> <li>(a) any member or officer of a law enforcement agency; or</li> <li>(b) a person authorised in writing by the Chief Commissioner of Police assisting a member or officer; or</li> <li>(c) a person belonging to a class of persons authorised in</li> </ul>

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				<p>writing by the Chief Commissioner of Police assisting a member or officer,</p> <p>to print or otherwise make or produce child pornography in the exercise or performance of a power, function or duty conferred or imposed on the member or officer by or under this or any other Act or at common law.</p> <p><b>Procurement etc. of minor for child pornography</b></p> <p>(1) A person who:</p> <p>(a) invites a minor to be in any way concerned in the making or production of child pornography; or</p> <p>(b) procures a minor for the purpose of making or producing child pornography; or</p> <p>(c) causes a minor to be in any way concerned in the making or production of child pornography; or</p> <p>(d) offers a minor to be in any way concerned in the making or production of child pornography,</p> <p>is guilty of an indictable offence punishable on conviction by level 5 imprisonment (10 years maximum).</p> <p>(2) It is a defence to a prosecution for an offence against subsection (1) to prove, in the case of:</p> <p>(a) a film; or</p>

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				<p>(b) a photograph contained in a publication; or</p> <p>(c) a computer game,</p> <p>that at the time of the alleged offence the film, publication or computer game would, if classified, be classified other than RC or X or X 18+.</p> <p><b>Possession of child pornography</b></p> <p>(1) A person who knowingly possesses child pornography is guilty of an indictable offence.</p> <p>Penalty: Level 6 imprisonment (5 years maximum).</p> <p>(2) It is a defence to a prosecution for an offence against subsection (1) to prove:</p> <p>(a) in the case of:</p> <p>(i) a film; or</p> <p>(ii) a photograph contained in a publication; or</p> <p>(iii) a computer game,</p> <p>that at the time of the alleged offence the film, publication or computer game was classified other than RC or X or X 18+ or would, if classified, be classified other than RC or X or X 18+; or</p> <p>(b) that the film, photograph, publication or computer game possesses artistic merit or is for a genuine medical, legal,</p>

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				<p>scientific or educational purpose; or</p> <p>(c) that the accused believed on reasonable grounds that the minor was aged 18 years or older or that he or she was married to the minor; or</p> <p>(d) that the accused made the film or took the photograph or was given the film or photograph by the minor and that, at the time of making, taking or being given the film or photograph, the accused was not more than 2 years older than the minor was or appeared to be; or</p> <p>(e) that the minor or one of the minors depicted in the film or photograph is the accused.</p> <p>(3) Despite subsection (2)(b), the defence of artistic merit cannot be relied on in a case where the prosecution proves that the minor was actually under the age of 18 years.</p> <p>(4) Nothing in this section makes it an offence for:</p> <p>(a) any member or officer of a law enforcement agency; or</p> <p>(b) a person authorised in writing by the Chief Commissioner of Police assisting such a member or officer; or</p> <p>(c) a person belonging to a class of persons authorised in writing by the Chief Commissioner of Police assisting such a member or officer,</p> <p>to have child pornography in his or her possession in the</p>

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				<p>exercise or performance of a power, function or duty conferred or imposed on the member or officer by or under this or any other Act or at common law.</p> <p><b>Forfeiture</b></p> <p>(1) If a person is charged with an offence against section 68, 69 or 70 and the court is satisfied that the person committed the offence, the court may order that the child pornography in respect of which the offence was committed is forfeited to the Crown.</p> <p>(2) If, despite the acquittal of a person charged with an offence against section 68, 69 or 70, the court is satisfied that an offence has been committed in respect of the child pornography, the court may order that the child pornography is forfeited to the Crown.</p> <p>(3) If a film, photograph, publication or computer game has been lawfully seized under this Subdivision by a member of the police force but at the expiration of 6 months after the seizure no person has been charged with an offence in relation to the seized item, a member of the police force may apply to the Magistrates' Court for an order that the film, photograph, publication or computer game is child pornography and is forfeited to the Crown.</p> <p>(4) The owner of a film, photograph, publication or computer game that has been lawfully seized by a member of the police force may apply within 28 days after the seizure to the Magistrates' Court for the return of the film, photograph,</p>

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				<p>publication or computer game.</p> <p>(5) An application under subsection (4) may be made after 28 days after the seizure if the Magistrates' Court is satisfied that the applicant has a reasonable excuse for failing to make the application within the period referred to in subsection (4).</p> <p>(6) On an application under subsection (4), if the Magistrates' Court is satisfied that:</p> <p>(a) the applicant is the owner of the film, photograph, publication or computer game; and</p> <p>(b) the film, photograph, publication or computer game is not child pornography,</p> <p>the Court must order that, at the expiration of 6 months, after the seizure, the film, photograph, publication or computer game be returned to the applicant unless the applicant or another person has been charged with an offence in relation to the film, photograph, publication or computer game.</p> <p>(7) Subject to subsection (8), child pornography which is forfeited under this section may be destroyed or otherwise dealt with as directed by the Minister.</p> <p>(8) The Minister must not direct the destruction of child pornography before the expiration of the time allowed for instituting an appeal against the order or, if an appeal is lodged within that time, before the determination of the appeal.</p>

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				(9) Nothing in this section limits the right of the Director of Public Prosecutions or any other person to apply for an order under the Confiscation Act 1997.
			Sections 70AB and 70AC	<p><b>Definitions</b></p> <p>In this Subdivision:</p> <p><b>'minor'</b> means person under the age of 18 years;</p> <p><b>'sexual performance'</b> means live performance that is, or could reasonably be considered to be, for the sexual arousal or sexual gratification of any person.</p> <p><b>Sexual performance involving a minor</b></p> <p>A person must not:</p> <p>(a) invite a minor to be in any way concerned in a sexual performance; or</p> <p>(b) procure a minor for the purpose of being in any way concerned in a sexual performance; or</p> <p>(c) cause a minor to be in any way concerned in a sexual performance; or</p> <p>(d) offer a minor to be in any way concerned in a sexual performance,</p> <p>in circumstances where there is payment or reward to the</p>

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				<p>minor or to any other person in respect of the performance.</p> <p>Penalty: Level 5 imprisonment (10 years maximum).</p>
			Section 425	<p><b>Alternative verdicts for certain charges of sexual offences</b></p> <p>(1) If on the trial of a person charged with rape the jury are not satisfied that he or she is guilty of rape or of an attempt to commit rape but are satisfied that he or she is guilty of:</p> <ul style="list-style-type: none"> <li>(a) assault with intent to commit rape; or</li> <li>(b) an offence against section 39 (indecent assault); or</li> <li>(c) assault with intent to commit an offence against section 45(1) (sexual penetration of child under the age of 16); or</li> <li>(e) an offence against section 47(1) (indecent act with child under the age of 16); or</li> <li>(f) an offence against section 18 (causing injury intentionally or recklessly),</li> </ul> <p>the jury may acquit the accused of rape and find him or her guilty of whichever of those offences they are satisfied he or she is guilty and he or she is liable to punishment accordingly.</p> <p>(3) If on the trial of a person charged with an offence against section 44 or 45(1) the jury are not satisfied that he or she is guilty of the offence charged or of an attempt to commit the</p>

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				<p>offence charged but are satisfied that he or she is guilty of:</p> <ul style="list-style-type: none"> <li>(a) assault with intent to commit the offence charged; or</li> <li>(b) an offence against section 47(1) (indecent act with child under the age of 16); or</li> <li>(c) an offence against section 18 (causing injury intentionally or recklessly),</li> </ul> <p>the jury may acquit the accused of the offence charged and find him or her guilty of whichever of those offences they are satisfied that he or she is guilty and he or she is liable to punishment accordingly.</p>

**4. Queensland**

**CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION**

CRC Article Number & Description	Relevant Australian Legislation	Cth/State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 34:</b> States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:</p> <p>(a) The inducement or coercion of a child to engage in any unlawful sexual activity;</p> <p>(b) The exploitative use of children in prostitution or other unlawful sexual practices;</p> <p>(c) The exploitative use of children in pornographic performances and materials.</p>	<p><b>Adoption Act 2009</b></p>	<p>Qld</p>	<p>Section 214</p>	<p>Section 214 provides the effect of a final adoption order for the adoption of a child.</p> <p>Subsection (3) provides that the adopted child stops being a child of the former parent and vice versa.</p> <p>Subsection (8) provides that, despite the final adoption order, a former relationship continues in addition to other relationships created by the order, for the purpose of a law relating to a sexual offence for which relationships are relevant. An example of such an offence is the offence of incest.</p>
			<p>Section 290(3)</p>	<p>Part 11 Division 1 of the Act allows a person to request for an authorisation to access adoption information. However, subsection 290 (3) deems that the authorisation may exclude information if the chief executive is satisfied that allowing access to the information would be an unreasonable invasion of a person's privacy or otherwise unreasonably harm a person's interests. For example, the authorisation may exclude a part of a document showing the adopted person's birth was the result of a sexual offence.</p>
			<p>Section 36(4)(d)</p>	<p>Under Division 6, a person may apply to the Children's Court</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>for the grant of an order dispensing with the need for the consent of a stated parent to a child's adoption.</p> <p>The applicant is generally required to serve a copy of the application on the relevant parent.</p> <p>However, section 36(4)(d) deems that the court may dispense with the requirement to serve a copy of the application on the relevant parent if the court is satisfied that the child's conception was a result of an offence committed by the relevant parent.</p>
	<b>Anti-Discrimination Act 1991*</b>	Qld	Section 28 (1)	Section 28 which relates to 'working with children' deems that it is not unlawful to discriminate on the basis of lawful sexual activity or gender identity against a person with respect to a matter that is otherwise prohibited under subdivision 1 if the work involves the care or instruction of minors.
			Section 28 (2)	Subsection 2 further provides that it is not unlawful to discriminate against a person with respect to a matter that is otherwise prohibited under subdivision 1 if the work involves the care or instruction of minors; and the person has been convicted in Queensland or elsewhere of an offence of a sexual nature involving a child; or disqualified from working with children under an Act of a State or of the Commonwealth.
	<b>Child Care Act 2002</b>	Qld	Section 9	One of the guiding principles of the Act is that child care should be provided to a child in a way that protects the child from harm.

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				[Note that 'harm' under this Act has the definition under the Child Protection Act 1999, which includes, inter alia, sexual abuse or exploitation.]
			Section 81	A licensee of a child care service must immediately report the death, serious injury, harm [including sexual abuse or exploitation] or suspected harm to the chief executive.
			Section 103	The chief executive may give a prohibition notice to a person if the chief executive is satisfied there would be an unacceptable risk of harm [including sexual abuse or exploitation] to children if the person were responsible for providing care for the children.
	<b>Child Employment Act 2006</b>	Qld	Section 8A Prohibition on nudity and sexually provocative clothing	An employer must not require or permit a child to work while the child is nude; or while the child is clothed or covered in another way so the child's sexual organs or anus or breasts (if a female child is at least 5 years) are visible.  Limited exceptions apply where the child is under 12 months and a parent has given the employer written consent and the parent is present while the child is working.
			Section 8B Prohibition on work as social escort	An employer must not require or permit a child to work as a social escort.  <b>'Social escort'</b> has the meaning under Prostitution Act 1999, and it means a person who, under an arrangement of a commercial character, is held out to the public for hire to accompany another person to social affairs, places of entertainment or amusement; or consort with a person in any

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				place, whether public or private;
	<b>Child Protection Act 1999</b>	Qld	Sections 4 to 6	The purpose of this Act is to provide for the protection of children. The Act sets out the general principles for ensuring safety, wellbeing and best interest of children, which include that a child has a right to be protected from harm or risk of harm.
			Section 9	This section prescribes that harm, to a child, is any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing, and can be caused by sexual abuse or exploitation.
			Section 14	If the chief executive [of the Queensland Department of Communities, Child Safety and Disability Services] becomes aware of alleged or risk of harm to a child and suspects that the child is in need of protection, the chief executive must have an authorised officer to investigate the allegation and take any appropriate action.
			Section 15	If an authorised officer / police investigates an allegation of harm to a child, the officer must tell the child's parents or the child's long term guardians about the outcome of the investigation.
			Section 16	This section provides that in the event that contact with a child is denied, and immediate risk of harm is suspected, an authorised officer or police with the power to enter a place, search and find the child and remain in the place as considered reasonably necessary,

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			Section 17	This section allows an authorised officer or police to investigate an allegation of harm or risk of harm to a child in education premises and day care centres in certain circumstances.
			Section 18	An authorised officer or police officer can take a child into the chief executive's custody if he or she reasonably believes a child is at risk of harm and the child is likely to suffer harm if the officer does not immediately take the child into custody
			Section 20	This section sets out the obligations of an officer on taking a child into custody (inform the child's parents or long-term guardian)
			Section 21	An authorised officer or police officer is allowed to move a child to a safe place if it is reasonably believed that a child who is under 12 years is at risk of harm but does not consider it necessary to take the child into the chief executive's custody to ensure the child's protection
			Section 22	This section deems that if a person (acting honestly), notifies the department of suspicion that a child is likely to be harmed or gives information about the alleged harm, the person is not liable, civilly, criminally or under an administrative process. Further, merely because the person gives the notification or information, the person cannot be held to have breached any code of professional etiquette or ethics. The person also has defence of absolute privilege for publishing the information.
			Part 2 Temporary	This Part provides that temporary assessment orders may be made by a magistrate upon an application by an authorised

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			assessment orders	officer or a police. The order may include authorisation of an authorised officer or police to have contact with the child and take the child into custody, authorisation of the child's medical examination and direction to a parent not to have contact with the child. The duration for a temporary assessment order must not be more than 3 business days unless extended.
			Part 3 Assessment orders	This Part provides that assessment orders may be made. Unlike an application for a temporary order, an assessment order requires the applicant to name the parent(s) of a child to be the respondent in the proceedings. The duration for an assessment order must not be more than 4 weeks unless extended.
			Part 3AA Temporary custody orders	Similar to Parts 2 and 3 except that this Part relates to temporary custody orders which allow an authorised officer or police to take the child into or keep the child in custody while the order is in force. The duration of this order must not be more than 3 business days.
			Section 51ZD	The chief executive and the child's parents can enter into a care agreement for the short-term placement of the child in the care of someone other than the parties.
			Section 51ZE	A care agreement may be entered into if it would be in the child's best interests to be temporarily placed in the care of someone other than the child's parents. The chief executive must obtain the child's views before entering the care agreement.

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			Part 4  Child protection orders	<p>This Part sets out the application process for a child protection order, and the types of order that the Children's Court may grant include:</p> <ul style="list-style-type: none"> <li>• Directing a parent of the child to do or refrain from doing something related to the child's protection;</li> <li>• Directing a parent not to have contact with the child;</li> <li>• Granting custody of the child to a suitable family member or the chief executive;</li> <li>• Granting short-term guardianship of the child to the chief executive;</li> <li>• Granting long-term guardianship of the child to a suitable family member or another suitable person nominated by the chief executive or the chief executive.</li> </ul>
			Section 62	<p>A child protection order:</p> <ul style="list-style-type: none"> <li>• must not be more than 1 year (if custody or guardianship not granted); or</li> <li>• most not be more than 2 years (if custody or short-term guardianship granted); or</li> <li>• must end on the day before the child turns 18 years (if long-term guardianship granted)</li> </ul>
			Section 74	<p>If the chief executive has custody or guardianship of a child, he or she must ensure that the charter of rights for a child in</p>

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			Compliance with CRC	care is complied with.
			Chapter 2A Tribunal proceedings	This Chapter sets out the provisions regarding proceedings before a tribunal [the Queensland Civil and Administrative Tribunal].
			Chapter 3 Court proceedings	This Chapter sets out the provisions regarding proceedings before a court for an application for a court assessment order or child protection order.
			Section 122 Statement of standards of care	The chief executive must take reasonable steps to ensure a child placed in the care of an approved kinship carer, approved foster carer, an entity conducting departmental care service, a licensee or an appropriate entity must meet a list of prescribed standards.
			Section 149	An authorised officer under the act must have the necessary expertise or experience, or the person has satisfactorily finished training approved by the chief executive.
			Chapter 5A Service delivery and coordination	This Chapter primarily establishes SCAN system (Suspected Child Abuse and Neglect) with the aim to facilitate sharing of relevant information between members of the system, planning and coordinating actions to assess and respond to children's protection needs and a holistic and culturally responsive assessment of children's protection needs.
			Section 193	This section prescribes that if a child is a witness in a proceeding for an offence of a sexual nature, a report of the

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				proceeding must not disclose identifying information about the child unless the court expressly authorises the information to be included in the report.
			Section 194	This section prevents a person from publishing identifying information about a child victim. (some limited exceptions apply, for example, under transcript of court proceedings and report made to the police)
	<b>Child Protection (Offender Prohibition Order) Act 2008</b>	Qld	Section 3	<p>The main purpose of this Act is to provide for the protection of the lives of children and for their sexual safety.</p> <p>This Act provides for the making of orders prohibiting particular sexual offenders from engaging in conducts posing a risk to the lives of sexual safety of children.</p>
			Section 6	<p>The commissioner [of the police service] may apply to a court for an offender prohibition order if the commissioner believes that the person is a relevant sexual offender and has recently engaged in concerning conduct.</p> <p>Examples of concerning conduct:</p> <ul style="list-style-type: none"> <li>• loitering at or near a park fitted with playground equipment regularly used by children;</li> <li>• seeking employment or volunteer work that will involve the employee coming into contact with children, including, for example, door-to-door sales or collecting;</li> <li>• residing near education and care service premises or a child care centre; or</li> </ul>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<ul style="list-style-type: none"> <li>residing or boarding in a household with children under 16 years.</li> </ul>
			Sections 6 to 10	These sections set out the provisions relating to application for an offender prohibition order, the proceedings and matters that a court must consider before making an order.
			Section 11	Conduct that may be prohibited by an order include: <ul style="list-style-type: none"> <li>associating with, otherwise contacting, state persons;</li> <li>being in stated locations or a stated type of location;</li> <li>residing at a stated residence or stated location;</li> <li>engaging in stated behaviour; and</li> <li>being in stated employment that is likely to bring the respondent into contact with children.</li> </ul>
			Part 2, Division 2 Temporary order	A magistrate or a court may make a temporary order pending a proceeding for a final order.  A temporary order may prohibit the conducts set out in section 11.
			Section 36	If a court makes an offender prohibition order for a respondent who is not a reportable offender, the respondent is taken to be a reportable offender for the purpose of Offender Reporting Act.

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Section 38	Failure to comply with an offender prohibition order is an offence under the Act, and contravention may result in an imprisonment of up to 2 years.
			Section 42	This Section provides the commissioner access to any information held by a government entity which is relevant to an assessment of whether the proposed respondent poses an unacceptable risk of committing an offence against a child.
	<b>Child Protection (Offender Reporting) Act 2004</b>	Qld	Section 3	<p>The purpose of this Act is to require particular offenders who commit sexual, or particular other serious, offences against children to keep police informed of their whereabouts and other personal details for a period of time after their release into the community to reduce the likelihood that they will re-offend and to facilitate the investigation and prosecution of any future offences that they may commit.</p> <p>As a guide, this Act:-</p> <ul style="list-style-type: none"> <li>• provides for the establishment of a child protection register;</li> <li>• requires certain offenders to report specified personal details for inclusion in the register;</li> <li>• requires those reportable offenders to keep those details up to date, and to also report particular travel plans;</li> <li>• imposes those reporting obligations for a period of between 4 years and life, depending on the number, severity and timing of the offences committed; and</li> </ul>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<ul style="list-style-type: none"> <li>allows for the recognition of the period of reporting obligations imposed under foreign jurisdiction laws.</li> </ul>
			Part 3 Offender reporting orders	A court may only subject a class 1 or 2 offender to an offender reporting order if the court is satisfied that the person poses a risk to the lives or the sexual safety of children.
			Part 4 Reporting obligations	This Part sets out the reporting obligations of a reportable offender, including initial report, ongoing reporting obligations, suspension or extension of reporting obligations, failure to comply with reporting obligations and modified reporting procedures for protected witnesses.
			Section 14	Generally a reportable offender must report his or her personal details to the police commissioner within 7 days. The reportable offender must report annually or when there are changes to relevant personal details.
			Sections 20 to 24	A reportable offender needs to report an intended absence (for 14 days or more) from Queensland, including change of travel plans, and the reportable offender has to report other absences from Queensland and provide the AFP with information about international travel.
			Section 40A	The reportable offender must allow a DNA sample to be taken if asked by the police officer.
			Section 50	Failure to comply with the offender's reporting obligations is an offence, and the maximum penalty is up to 5 years imprisonment.

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Part 5  The register	<p>The police commissioner must establish, or arrange with another entity to establish a child protection register. The key information which should be in the register include:</p> <ul style="list-style-type: none"> <li>• the offender's name and other identifying particulars;</li> <li>• details of each class 1 or 2 offence;</li> <li>• details of each offence of which the offender has been found guilty;</li> <li>• the date on which the offender was sentenced;</li> <li>• the date on which the offender was released from government detention for a reportable offence.</li> </ul> <p>Access to this register is restricted and the information is confidential.</p>
			Section 5A  Change of name	<p>The reportable offender must obtain the police commissioner's written permission before changing, or applying to change, the offender's name under the relevant law.</p>
	<b>Children's Court Act 1992</b>	Qld	Generally	<p>This Act establishes the Children's Court of Queensland and sets out other related provisions</p>
			Section 20  Who may be present at a	<p>Generally in a proceeding before the court in relation to a child, the court must exclude from the room in which the court is sitting a person who is not:</p>

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			proceeding	<ul style="list-style-type: none"> <li>• the child;</li> <li>• a parent or family member of the child;</li> <li>• witness giving evidence;</li> <li>• if the witness is a complainant pursuant to the Criminal Law (Sexual Offences) Act 1978, the witness can be accompanied by a person who will provide emotional support to the witness; or</li> <li>• a party or person representing a party to the proceeding.</li> </ul>
	<b>Classification of Computer Games and Images Act 1995</b>	Qld	Section 26(3)	<p>A person must not knowingly have possession of a child abuse computer game.</p> <p>[A 'child abuse computer game' is defined as a computer game that is an objectionable computer game because it depicts a person who is, or who looks like, a child under 16 years (whether the person is engaged in sexual activity or not) in a way likely to cause offence to a reasonable adult.]</p>
			Section 26(3) and (4)	A person must not attempt to, or actually make or produce, or copy a child abuse computer game.
			Section 28	<p>A person must not obtain, or attempt to obtain, a minor to be in any way concerned in the making or production of an objectionable computer game.</p> <p>[An '<b>objectionable computer game</b>' means a computer game that describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty,</p>

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				violence, or revolting or abhorrent phenomena, in a way that offends against standards of morality, decency and propriety generally accepted by reasonable adults, depicts a person who is, or who looks like, a child under 16 years (whether the person is engaged in sexual activity or not) in a way likely to cause offence to a reasonable adult.]
			Section 63	An offence against section 28 and other provisions of this Act involving a child abuse computer game is punishable on indictment.
	<b>Classification of Films Act 1991</b>	Qld	Section 2	The object of this Act is to give effect to the scheme for the classification of publications, films and computer games mentioned in the Commonwealth Act, section 3, but only to the extent that the scheme relates to films
			Section 41(3)	A person must not knowingly have possession of a child abuse film.  [Child abuse film means a film that is an objectionable film because it depicts a person who is, or who looks like, a child under 16 years (whether the person is engaged in sexual activity or not) in a way that is likely to cause offence to a reasonable adult person.]
			Section 42(3)	A person must not make, or attempt to make, a child abuse film.
			Section 42(4)	A person must not copy, or attempt to copy, a child abuse film.

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Section 43	A person must not procure, or attempt to procure, a minor to be in any way concerned in the making or production of an objectionable film.
			Section 61	An offence against section 43 (Procurement of minor for objectionable film) or against another provision of this Act involving a child abuse film is punishable on indictment.
	<b>Classification of Publications Act 1991</b>	Qld	Section 12	<p>A person must not advertise, sell or distribute, or attempt to advertise, sell or distribute, a prohibited publication or child abuse photograph.</p> <p>[‘Child abuse photograph’ means child abuse photograph means a photograph or any other image or material (however produced or reproduced) that depicts or describes in pictorial or other form a person who is, or who looks like, a child under 16 years (whether the person is engaged in sexual activity or not) in a way that is likely to cause offence to a reasonable adult person]</p>
			Section 13	<p>A person must not have possession of a prohibited publication (including child abuse publication) for the purpose of publishing it.</p> <p>[‘Child abuse publication’ means a Refused Classification publication that depicts or describes in pictorial or other form a person who is, or who looks like, a child under 16 years (whether the person is engaged in sexual activity or not) in a way that is likely to cause offence to a reasonable adult person.]</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Section 14	A person must not knowingly have possession of a child abuse publication or child abuse photograph.
			Section 15	A person must not exhibit or display, or attempt to exhibit or display, a prohibited publication or child abuse photograph in a public place or in such a way that it is visible to persons in or on a public place.
			Section 16	A person must not leave, or attempt to leave, a prohibited publication or child abuse photograph in or on a public place with intent to cause offence to another person or with reckless disregard to the offence that could be caused to another person.
			Section 17	A person must not print or otherwise make or produce, or attempt to print or otherwise make or produce, a prohibited publication (including child abuse publication) for the purpose of publishing it.
			Section 18	A person must not procure, or attempt to procure, a minor to be in any way concerned in the making or production of an RC publication or child abuse photograph.
			Section 20	A person must not knowingly or recklessly leave, or attempt to leave, a prohibited publication or child abuse photograph in or on private premises without the occupier's permission.
	<b>Commission for Children and Young People and Child Guardian Act 2000</b>	Qld	Section 5	The object of this Act is to establish the Commission for Children and Young People and Child Guardian to promote and protect the rights, interests and wellbeing of children in Queensland.

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Chapters 2 and 3	These chapters establish the Commission for Children and Young People and Child Guardian, and sets out its powers and obligations relating to the commissioner's monitoring functions.
			Chapter 4	<p>Complaints may be made in relation to a service provided to a child:</p> <ul style="list-style-type: none"> <li>• while the child is in the child safety system;</li> <li>• while the child is subject to a conditional release order, supervised release order, intensive supervision order, community service order or probation order;</li> <li>• while the child is in detention; or</li> <li>• in the course of a program or service established under the Youth Justice Act 1992, section 302.</li> </ul> <p>This Chapter also includes provisions relating to assessment of complaints and investigations.</p>
			Chapter 8	The main purpose of this chapter is to ensure that persons employed in particular employment, or carrying on particular businesses, as prescribed under this Act undergo screening under this chapter.
			Section 174	<p>A disqualified person must not apply for, or start or continue in regulated employment or regulated businesses.</p> <p>[A '<b>disqualified person</b>' includes a person who is subject to offender reporting obligations, or an offender prohibition</p>

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				order, or a disqualification order or a sexual offender order.]
			Chapter 8A	The purposes of this chapter are to require persons who are to be engaged, or to continue to be engaged, by the commission in child-related duties to have a positive notice or positive exemption notice, and to enable the commissioner to obtain the criminal history of a person who proposes to be engaged by the commission.
			Schedule 1 Part 1	<p>Regulated employment includes employment carried out inside:</p> <ul style="list-style-type: none"> <li>• Residential facilities</li> <li>• Schools - boarding facilities</li> <li>• Schools - employees other than teachers and parents</li> <li>• Child care services and similar employment</li> <li>• Education and care services and similar employment</li> <li>• Churches, clubs and associations involving children</li> <li>• Health, counselling and support services</li> <li>• Private teaching, coaching or tutoring</li> <li>• Education programs conducted outside of school</li> <li>• Child accommodation services including home stays</li> </ul>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<ul style="list-style-type: none"> <li>• Religious representatives</li> <li>• Sport and active recreation</li> <li>• Emergency services cadet program</li> <li>• School crossing supervisors</li> <li>• Care of children under Child Protection Act 1999</li> <li>• Regulation about usual functions of employment</li> </ul>
			Schedule 1 Part 2	Regulated businesses include: <ul style="list-style-type: none"> <li>• Health, counselling and support services</li> <li>• Private teaching, coaching or tutoring</li> <li>• Child care services and similar businesses</li> <li>• Education and care services and similar businesses</li> <li>• Educational programs conducted outside of school</li> <li>• Religious representatives</li> <li>• Child accommodation services including home stays</li> <li>• Sport and active recreation</li> <li>• Hostel for children other than residential facility</li> </ul>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<ul style="list-style-type: none"> <li>• Businesses relating to licensed care service under Child Protection Act 1999</li> <li>• Non-State schools - directors of governing bodies and authorised persons</li> </ul>
			Schedules 2 - 6	These Schedules set out the serious offences, disqualifying offences and offences that may form basis of investigative information.
	<b>Corrective Services Act 2006</b>	Qld	Section 48	<p>A corrective services officer may seize a prisoner's ordinary mail, or anything in it, to stop otherwise inappropriate correspondence leaving the facility.</p> <p>Example of inappropriate correspondence: correspondence by a prisoner, who has been convicted of a sexual offence against a child, to a child with whom the prisoner had no relationship before being imprisoned.</p>
			Section 181A	For a prisoner who is serving a term of imprisonment for life for a repeat serious child sex offence, the prisoner's parole eligibility date is the day after the day on which the prisoner has served 20 years and not 15 years as prescribed under section 181 under the Penalties and Sentences Act 1992.
	<b>Crime and Misconduct Act 2001</b>	Qld	Section 4	The main purposes of this Act are to combat and reduce the incidence of major crime and to continuously improve the integrity of, and to reduce the incidence of misconduct in, the public sector.
			Section 27	The reference committee may refer a major crime to the

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				<p>commission for investigation.</p> <p>Example of a major crime include criminal paedophilia facilitated by the use of the internet by offenders to groom children or distribute obscene material depicting children.</p>
			Section 107	<p>If a person to be searched is a child, or a person with impaired capacity, who may not be able to understand the purpose of the search, the authorised commission officer must conduct the search in the presence of a support person.</p>
	<p><b>Criminal Code Act 1899 (including Criminal Code)* [in particular Chapter 22]</b></p>	Qld	Section 208(1)	<p>A person who does, or attempts to do, any of the following commits a crime:</p> <ul style="list-style-type: none"> <li>• sodomises a person under 18 years;</li> <li>• permits a male person under 18 years to sodomise him or her;</li> <li>• sodomises a person with an impairment of the mind;</li> <li>• permits a person with an impairment of the mind to sodomise him or her.</li> </ul>
			Section 208(2)	<p>For an offence other than an attempt, the offender is liable to imprisonment for life if the offence is committed in respect of:</p> <ul style="list-style-type: none"> <li>• a child under 12 years; or</li> <li>• a child, or a person with an impairment of the mind, who is to the knowledge of the offender his or her lineal</li> </ul>

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				descendant or under his or her guardianship or care.
			Section 210	<p>Any person who:</p> <ul style="list-style-type: none"> <li>• unlawfully and indecently deals with a child under the age of 16 years;</li> <li>• unlawfully procures a child under the age of 16 years to commit an indecent act;</li> <li>• unlawfully permits himself or herself to be indecently dealt with by a child under the age of 16 years;</li> <li>• wilfully and unlawfully exposes a child under the age of 16 years to an indecent act by the offender or any other person;</li> <li>• without legitimate reason, wilfully exposes a child under the age of 16 years to any indecent object or any indecent film, videotape, audiotape, picture, photograph or printed or written matter; or</li> <li>• without legitimate reason, takes any indecent photograph or records, by means of any device, any indecent visual image of a child under the age of 16 years</li> </ul> <p>is guilty of an indictable offence.</p> <p>More severe penalties apply if the child is below 12 years.</p>
			Section 213	Any person who, being the owner or occupier of any premises, or having, or acting or assisting in, the management

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				<p>or control of any premises, induces or knowingly permits any child under the prescribed age to be in or upon the premises for the purpose of any person, whether a particular person or not, doing an act in relation to the child (a proscribed act) defined to constitute an offence in section 208, 210 or 215 is guilty of an indictable offence.</p> <p>More severe penalties apply if the child is below 12 years.</p>
			Section 215	<p>Any person who has or attempts to have unlawful carnal knowledge with or of a child under the age of 16 years is guilty of an indictable offence.</p> <p>More severe penalties apply if the child is below 12 years.</p>
			Section 217	<p>A person who procures a person who is not an adult or is a person with an impairment of the mind to engage in carnal knowledge (either in Queensland or elsewhere) commits a crime.</p>
			Section 218	<p>A person who:</p> <ul style="list-style-type: none"> <li>• by threats or intimidation of any kind, procures a person to engage in a sexual act, either in Queensland or elsewhere; or</li> <li>• by a false pretence, procures a person to engage in a sexual act, either in Queensland or elsewhere; or</li> <li>• administers to a person, or causes a person to take, a drug or other thing with intent to stupefy or overpower the person to enable a sexual act to be engaged in with the</li> </ul>

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				<p>person;</p> <ul style="list-style-type: none"> <li>commits a crime.</li> </ul> <p>This section is not limited to children as victim.</p>
			Section 218A	<p>Any adult who uses electronic communication with intent to:</p> <ul style="list-style-type: none"> <li>procure a person under the age of 16 years, or a person the adult believes is under the age of 16 years, to engage in a sexual act, either in Queensland or elsewhere; or</li> <li>expose, without legitimate reason, a person under the age of 16 years, or a person the adult believes is under the age of 16 years, to any indecent matter, either in Queensland or elsewhere;</li> <li>commits a crime.</li> </ul> <p>More severe penalties apply if the child is below 12 years.</p>
			Section 219	<p>Any person who takes or entices away, or detains a child who is under the prescribed age and is not the husband or wife of that person for the purpose of any person, whether a particular person or not, doing an act in relation to the child (a proscribed act) defined to constitute an offence in section 208, 210 or 215 is guilty of a crime.</p> <p>More severe penalties apply if the child is below 12 years.</p>
			Section 222	<p>Any person who:</p>

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				<ul style="list-style-type: none"> <li>• has carnal knowledge with or of the person's offspring or other lineal descendant, or sibling, parent, grandparent, uncle, aunt, nephew or niece; and</li> <li>• knows that the other person bears that relationship to him or her, or some relationship of that type to him or her;</li> <li>• commits a crime.</li> </ul>
			Section 224	Any person who, with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is guilty of a crime, and is liable to imprisonment for 14 years.
			Section 227	<p>Any person who</p> <ul style="list-style-type: none"> <li>• wilfully and without lawful excuse does any indecent act in any place to which the public are permitted to have access, whether on payment of a charge for admission or not; or</li> <li>• wilfully does any indecent act in any place with intent to insult or offend any person;</li> </ul> <p>is guilty of a misdemeanour.</p> <p>This section is not limited to children as victims.</p>
			Section 228	Any person who knowingly, and without lawful justification

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				<p>or excuse:</p> <ul style="list-style-type: none"> <li>• publicly sells, distributes or exposes for sale any obscene book or other obscene printed or written matter, any obscene computer generated image or any obscene picture, photograph, drawing, or model, or any other object tending to corrupt morals; or</li> <li>• exposes to view in any place to which the public are permitted to have access, whether on payment of a charge for admission or not, any obscene picture, photograph, drawing, or model, or any other object tending to corrupt morals; or</li> <li>• publicly exhibits any indecent show or performance</li> </ul> <p>is guilty of a misdemeanour.</p> <p>In the case of an offence above involves depicting a person who is or is represented to be a child under 16 years, more severe penalty applies.</p>
			Section 228A	A person who involves a child in the making of child exploitation material commits a crime.
			Section 228B	A person who makes child exploitation material commits a crime.
			Section 228C	A person who distributes child exploitation material commits a crime.

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Section 228D	A person who knowingly possesses child exploitation material commits a crime.
			Section 228F	<p>When material alleged to be child exploitation material is on display in a courtroom, the court must exclude from the courtroom anyone who is not an essential person.</p> <p>An essential person is:</p> <ul style="list-style-type: none"> <li>• a party, or a person representing a party, to the proceeding;</li> <li>• a Crown Law Officer or a person authorised by a Crown Law Officer;</li> <li>• the prosecutor;</li> <li>• a witness giving evidence;</li> <li>• a person who a witness is entitled to have present in court under the Evidence Act 1977 or the Criminal Law (Sexual Offences) Act 1978;</li> <li>• a person allowed by the court.</li> </ul>
			Section 228G	Whether or not the person is convicted of the offence under s210(f), s218A, s228A, s228B, s228C or s228D, the court may order the photograph, visual image, or material that is the subject of the offence be forfeited to the State.
			Section 229B	Any adult who maintains an unlawful sexual relationship

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				with a child under the prescribed age commits a crime.
			Section 286	It is the duty of every person who has care of a child under 16 years to take the precautions that are reasonable in all the circumstances to avoid danger to the child's life, health or safety and he or she is held to have caused any consequences that result to the life and health of the child because of any omission to perform that duty, whether the child is helpless or not.
			Section 323A	Any person who performs female genital mutilation on another person is guilty of a crime. It is not a defence that the other person, or, if the other person is a child, a parent or guardian of the other person, consented to the mutilation.
			Section 323B	Any person who takes a child from the State, or arranges for a child to be taken from the State, with the intention of having female genital mutilation performed on the child is guilty of a crime.
			Section 349	Any person who rapes another person is guilty of a crime.  For this section, a child under the age of 12 years is incapable of giving consent.
			Section 350	Any person who attempts to commit the crime of rape is guilty of a crime
			Section 351	Any person who assaults another with intent to commit rape is guilty of a crime.

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Section 352	<p>Any person who:</p> <ul style="list-style-type: none"> <li>unlawfully and indecently assaults another person; or</li> <li>procures another person, without the person's consent to commit an act of gross indecency or to witness an act of gross indecency by the person or any other person</li> </ul> <p>is guilty of a crime.</p>
			Section 578(2)	<p>Upon an indictment charging a person with having unlawful carnal knowledge with or of a child under the age of 16 years, the person may be convicted of any offence, if established by the evidence, defined in section 210(1), 217 or 218.</p>
			Sections 590AO and 590AF	<p>The prosecution is not, for a relevant proceeding, required under this chapter division to give the accused person a copy of a thing the prosecution reasonably considers to be sensitive evidence other than as required under this section.</p> <p><b>['Sensitive evidence'</b> means anything containing or displaying an image of a person (the imaged person) that is obscene or indecent or disclosure of which to another person, without the imaged person's consent, would interfere with the imaged person's privacy.</p> <p>Child exploitation material under chapter 22, or material alleged to be child exploitation material, is sensitive evidence.]</p>
	<b>Criminal Law (Sexual Offences)</b>	Qld	Generally	<p>This Act deals with the rules of proceedings for sexual offences under criminal law. Its coverage is general and is not</p>

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	<b>Act 1978</b>			limited to sexual offences on children.
			Part 2 Evidence	This Part sets out the special rules of evidence in sexual offences proceedings.
			Part 3 Limit on publicity	This Part imposes a general exclusion of public from the proceedings, and prohibits the complainant's and defendant's identity generally.
	<b>Dangerous Prisoners (Sexual Offenders) Act 2003</b>	Qld	Overview- Section 3	<p>This Act sets out a process for placing additional supervision and directions on prisons who have committed a 'serious sexual offence' (defined below) once they have been released from prison.</p> <p>Section 3 of the Act states that the objects of this Act are:</p> <p>(a) to provide for the continued detention in custody or supervised release of a particular class of prisoner to ensure adequate protection of the community; and</p> <p>(b) to provide continuing control, care or treatment of a particular class of prisoner to facilitate their rehabilitation.</p>
	<b>Dangerous Prisoners (Sexual Offenders) Act 2003</b>		Schedule - Dictionary	<p><b>serious sexual offence</b> means an offence of a sexual nature, whether committed in Queensland or outside Queensland:</p> <p>(a) involving violence; or</p> <p>(b) against children.</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
	<p><b>Dangerous Prisoners (Sexual Offenders) Act 2003</b></p>		5	<p><b>Attorney General may apply for Orders</b></p> <p>(1) The Attorney-General may apply to the court for an order or orders under section 8 and a division 3 order in relation to a prisoner.</p> <p>(2) The application must:</p> <p>(a) state the orders sought; and</p> <p>(b) be accompanied by any affidavits to be relied on by the Attorney-General for the purpose of seeking an order or orders under section 8; and</p> <p>(c) be made during the last 6 months of the prisoner's period of imprisonment.</p> <p>(3) On the filing of the application, the registrar must record a return date for the matter to come before the court for a hearing ('<b>preliminary hearing</b>') to decide whether the court is satisfied that there are reasonable grounds for believing the prisoner is a serious danger to the community in the absence of a division 3 order.</p> <p>(4) The return date for the preliminary hearing must be within 28 business days after the filing.</p> <p>(5) A copy of the application and any affidavit to be relied on by the Attorney-General must be given to the prisoner within 2 business days after the filing.</p>

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				<p>(6) In this section:</p> <p><b>'prisoner'</b> means a prisoner detained in custody who is serving a period of imprisonment for a serious sexual offence, or serving a period of imprisonment that includes a term of imprisonment for a serious sexual offence, whether the person was sentenced to the term or period of imprisonment before or after the commencement of this section.</p>
			9AA	<p><b>Victim's submission relating to division 3 order</b></p> <p>(1) As soon as practicable after the court sets a date for the hearing of an application for a division 3 order, the chief executive must give written notice of the application and hearing date to the following eligible person:</p> <p>(a) subject to paragraph (b), the actual victim of the serious sexual offence for which the prisoner is serving a term or period of imprisonment; or</p> <p>(b) if the victim is under 18 years or has a legal incapacity, the victim's parent or guardian.</p> <p>(2) The notice must invite the eligible person to give to the chief executive, before the date stated in the notice, a written submission stating:</p> <p>(a) the person's views about any division 3 order or conditions of release to which the prisoner should be subject; and</p>

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				<p>(b) any other matters prescribed under a regulation.</p> <p>(3) It is sufficient compliance with subsection (1) for the chief executive to give the notice to the eligible person at the eligible person's last-known address recorded in the eligible persons register.</p> <p>(3A) The chief executive must, before the hearing, give the Attorney-General:</p> <p>(a) if the chief executive received a submission from an eligible person in response to a notice given to the person under subsection (3):the submission; or</p> <p>(b) information that the eligible person has not given a submission in response to the notice.</p> <p>(4) The Attorney-General must place before the court for the hearing of the division 3 order any submission received from the eligible person before the hearing date.</p>
			11	<p><b>Preparation of psychiatric report</b></p> <p>(1) Each psychiatrist examining the prisoner must prepare a report under this section.</p> <p>(2) The report must indicate:</p> <p>(a) the psychiatrist's assessment of the level of risk that the prisoner will commit another serious sexual offence:</p>

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				<p>(i) if released from custody; or</p> <p>(ii) if released from custody without a supervision order being made; and</p> <p>(b) the reasons for the psychiatrist's assessment.</p> <p>(3) For the purposes of preparing the report, the chief executive must give each psychiatrist any medical, psychiatric, prison or other relevant report or information in relation to the prisoner in the chief executive's possession or to which the chief executive has, or may be given, access.</p>
	<p><b>Dangerous Prisoners (Sexual Offenders) Act 2003</b></p>		<p>16A</p>	<p><b>16A Curfew and monitoring directions</b></p> <p>(1) The purpose of this section is to enable the movements of a released prisoner to be restricted and to enable the location of the released prisoner to be monitored.</p> <p>(2) A corrective services officer may give 1 or both of the following directions to the released prisoner:</p> <p>(a) a direction to remain at a stated place for stated periods ('<b>curfew direction</b>');</p> <p><i>Example:</i></p> <p>a direction to remain at the released prisoner's place of residence from 2.30p.m. to 7.00p.m. on school days, if the prisoner is not required to be at a place of employment during these hours</p>

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				<p>(b) a direction to do 1 or both of the following ('<b>monitoring direction</b>'):           <ul style="list-style-type: none"> <li>(i) wear a stated device;</li> <li>(ii) permit the installation of any device or equipment at the place where the released prisoner resides.</li> </ul> <p>(3) A corrective services officer may give any reasonable directions to a released prisoner that are necessary for the proper administration of a curfew direction or monitoring direction.</p> </p>
			16B	<p><b>16B Other directions</b></p> <p>(1) A corrective services officer may give a released prisoner a reasonable direction about:</p> <ul style="list-style-type: none"> <li>(a) the prisoner's accommodation; or</li> </ul> <p><i>Example:</i></p> <p>a direction that the released prisoner may only reside at a place of residence approved by a corrective services officer</p> <ul style="list-style-type: none"> <li>(b) the released prisoner's rehabilitation or care or treatment; or</li> </ul> <p><i>Example:</i></p> <p>a direction that the released prisoner participate in stated</p>

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				<p>treatment programs</p> <p>(c) drug or alcohol use by the released prisoner.</p> <p>(2) A direction under subsection (1) may relate to a matter even though the relevant order imposes a requirement about the matter, either generally or specifically.</p> <p>(3) However, the direction must not be directly inconsistent with a requirement of the order.</p>
		Qld		<p><b>20 Warrant for released prisoner suspected of contravening a supervision order or interim supervision order</b></p> <p>(1) This section applies if a police officer or corrective services officer reasonably suspects a released prisoner is likely to contravene, is contravening, or has contravened, a requirement of the released prisoner's supervision order or interim supervision order.</p> <p>(2) The officer may, by a complaint to a magistrate, apply for a warrant for the arrest of the released prisoner directed to all police officers and corrective services officers to arrest the released prisoner and bring the released prisoner before the Supreme Court to be dealt with according to law.</p> <p>(3) The magistrate must issue the warrant, in the approved form, if the magistrate is satisfied the grounds for issuing the warrant exist.</p> <p>(4) However, the warrant may be issued only if the</p>

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				<p>complaint is under oath.</p> <p>(6) The warrant may state the suspected contravention in general terms.</p> <p>(7) If the magistrate issues a warrant under subsection (3), the commissioner of the police service or the chief executive must give a copy of the warrant to the Attorney-General within 24 hours after the warrant is issued.</p>
			43AA	<p><b>43AA Contravention of relevant order</b></p> <p>A released prisoner must not contravene the relevant order without reasonable excuse. Maximum penalty:2 years imprisonment.</p>
			43AB	<p><b>43AB Applying for change of name without permission</b></p> <p>(1) A person who is a released prisoner must obtain the chief executive's written permission before applying to change the person's name under the <i>Births, Deaths and Marriages Registration Act 2003</i> (the <b>registration Act</b>).</p> <p>Maximum penalty:20 penalty units or 6 months imprisonment.</p> <p>(2) In deciding whether to give the permission, the chief executive must consider each of the following:</p> <p>(a) the safety of the person and other persons; and</p>

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				<p>(b) the person’s rehabilitation or care or treatment; and</p> <p>(c) whether the proposed name change could be used to further an unlawful activity or purpose; and</p> <p>(d) whether the proposed name change could be considered offensive to a victim of a crime or an immediate family member of a deceased victim of a crime.</p> <p>(3) Subsection (4) applies if the chief executive becomes aware that the person has failed to comply with subsection (1) in registering, under the registration Act, a change of name.</p> <p>(4) The chief executive may apply to the registrar under the registration Act for the cancellation of the registration.</p>
	<p><b>Domestic and Family Violence Protection Act 2012</b></p>		3	<p>(1) The main objects of this Act are:</p> <p>(a) to maximise the safety, protection and wellbeing of people who fear or experience domestic violence, and to minimise disruption to their lives; and</p> <p>(b) to prevent or reduce domestic violence and the exposure of children to domestic violence; and</p> <p>(c) to ensure that people who commit domestic violence are held accountable for their actions.</p> <p>(2) The objects are to be achieved mainly by:</p> <p>(a) allowing a court to make a domestic violence order to</p>

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				<p>provide protection against further domestic violence; and</p> <p>(b) giving police particular powers to respond to domestic violence, including the power to issue a police protection notice; and</p> <p>(c) imposing consequences for contravening a domestic violence order or police protection notice, in particular, liability for the commission of an offence.</p>
			8	<p><b>8 Meaning of domestic violence</b></p> <p>(1) <b>Domestic violence</b> means behaviour by a person (the <b>first person</b>) towards another person (the <b>second person</b>) with whom the first person is in a relevant relationship that: [s 8]</p> <p>(a) is physically or sexually abusive; or</p> <p>(b) is emotionally or psychologically abusive; or</p> <p>(c) is economically abusive; or</p> <p>(d) is threatening; or</p> <p>(e) is coercive; or</p> <p>(f) in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing or that of someone else.</p> <p>(2) Without limiting subsection (1), domestic violence</p>

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				<p>includes the following behaviour:</p> <ul style="list-style-type: none"> <li>(a) causing personal injury to a person or threatening to do so; and</li> <li>(b) coercing a person to engage in sexual activity or attempting to do so; and</li> <li>(c) damaging a person’s property or threatening to do so; and</li> <li>(d) depriving a person of the person’s liberty or threatening to do so; and</li> <li>(e) threatening a person with the death or injury of the person, a child of the person, or someone else; and</li> <li>(f) threatening to commit suicide or self-harm so as to torment, intimidate or frighten the person to whom the behaviour is directed; and</li> <li>(g) causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the person to whom the behaviour is directed, so as to control, dominate or coerce the person; and</li> <li>(h) unauthorised surveillance of a person; and</li> <li>(i) unlawfully stalking a person.</li> </ul> <p>(3) A person who counsels or procures someone else to engage in behaviour that, if engaged in by the person, would be domestic violence is taken to have committed domestic</p>

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				<p>violence.</p> <p>(4) To remove any doubt, it is declared that, for behaviour mentioned in subsection (2) that may constitute a criminal offence, a court may make an order under this Act on the basis that the behaviour is domestic violence even if the behaviour is not proved beyond a reasonable doubt.</p> <p>(5) In this section:</p> <p><b>'coerce'</b>, a person, means compel or force a person to do, or refrain from doing, something.</p> <p><b>'unauthorised surveillance'</b>, of a person, means the unreasonable monitoring or tracking of the person's movements, activities or interpersonal associations without the person's consent, including, for example, by using technology.</p> <p><i>Examples of surveillance by using technology:</i></p> <ul style="list-style-type: none"> <li>• reading a person's SMS messages</li> <li>• monitoring a person's email account or internet browser history</li> <li>• monitoring a person's account with a social networking internet site</li> <li>• using a GPS device to track a person's movements</li> </ul>

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				<ul style="list-style-type: none"> <li>checking the recorded history in a person's GPS device</li> </ul> <p><b>'unlawful stalking'</b> see the Criminal Code, section 359B.</p>
	<p><b>Domestic and Family Violence Protection Act 2012</b></p>	Qld		<p><b>24 Who can a domestic violence order protect</b></p> <p>(1) As well as the aggrieved, the following persons can be protected by a domestic violence order:</p> <ul style="list-style-type: none"> <li>(a) a child of the aggrieved; or</li> <li>(b) a child who usually lives with the aggrieved; or</li> <li>(c) a relative of the aggrieved; or</li> <li>(d) an associate of the aggrieved.</li> </ul> <p>(2) A <b>'child who usually lives with the aggrieved'</b> means a child who spends time at the residence of the aggrieved on a regular or on-going basis.</p>
	<p><b>Education (General Provisions) Act 2006</b></p>	Qld	364	<p><b>'sexual abuse'</b>, in relation to a relevant person, includes sexual behaviour involving the relevant person and another person in the following circumstances:</p> <ul style="list-style-type: none"> <li>(a) the other person bribes, coerces, exploits, threatens or is violent toward the relevant person;</li> <li>(b) the relevant person has less power than the other person;</li> <li>(c) there is a significant disparity between the relevant person and the other person in intellectual capacity or</li> </ul>

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				maturity.
			365	Section 365 contains an obligation to report sexual abuse of person under 18 years at State school
			366	<b>Section 366 contains an obligation to report sexual abuse of person under 18 years at non-State school</b>
	<b>Guardianship and Administration Act 2000</b>	Qld	80C	<p><b>80C When tribunal may consent and effect of consent</b></p> <p>(1) On an application made under part 3, the tribunal may, by order, consent to the sterilisation of a child with an impairment.</p> <p>(2) The tribunal may consent to the sterilisation only if the tribunal is satisfied the sterilisation is in the best interests of the child.</p> <p>(3) A child's sterilisation, to which the tribunal has consented, is not unlawful.</p>
				<p><b>80D Whether sterilisation is in child's best interests</b></p> <p>(1) The sterilisation of a child with an impairment is in the child's best interests only if:</p> <p>(a) one or more of the following applies:</p> <p>(i) the sterilisation is medically necessary;</p> <p>(ii) the child is, or is likely to be, sexually active and there is no method of contraception that could reasonably be</p>

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				<p>expected to be successfully applied;</p> <p>(iii) if the child is female - the child has problems with menstruation and cessation of menstruation by sterilisation is the only practicable way of overcoming the problems; and</p> <p>(b) the child's impairment results in a substantial reduction of the child's capacity for communication, social interaction and learning; and</p> <p>(c) the child's impairment is, or is likely to be, permanent and there is a reasonable likelihood, when the child turns 18, the child will have impaired capacity for consenting to sterilisation; and</p> <p>(d) the sterilisation cannot reasonably be postponed; and</p> <p>(e) the sterilisation is otherwise in the child's best interests.</p> <p>(2) Sterilisation is not in the child's best interests if the sterilisation is:</p> <p>(a) for eugenic reasons; or</p> <p>(b) to remove the risk of pregnancy resulting from sexual abuse.</p> <p>(3) In deciding whether the sterilisation is in the child's best interests, the tribunal must:</p> <p>(a) ensure the child is treated in a way that respects the</p>

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				<p>child's dignity and privacy; and</p> <p>(b) do each of the following:</p> <p>(i) in a way that has regard to the child's age and impairment, seek the child's views and wishes and take them into account;</p> <p>(ii) to the greatest extent practicable, seek the views of each of the following persons and take them into account:</p> <p>(A) any parent or guardian of the child;</p> <p>(B) if a parent or guardian is not the child's primary carer, the child's primary carer;</p> <p>(C) the child representative for the child;</p> <p>(iii) take into account the information given by any health provider who is treating, or has treated, the child; and</p> <p>(c) take into account:</p> <p>(i) the wellbeing of the child; and</p> <p>(ii) alternative forms of health care that have proven to be inadequate in relation to the child; and</p> <p>(iii) alternative forms of health care that are available, or likely to become available, in the foreseeable future; and</p> <p>(iv) the nature and extent of short-term, or long-term, significant risks associated with the proposed sterilisation and</p>

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				<p>available alternative forms of health care.</p> <p>(4) The child's views and wishes may be expressed in the following ways:</p> <ul style="list-style-type: none"> <li>(a) orally;</li> <li>(b) in writing;</li> <li>(c) in another way including, for example, by conduct.</li> </ul>

**5. South Australia**

**CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION**

CRC Article Number & Description	Relevant Australian Legislation	Cth/State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 34:</b></p> <p>States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:</p> <p>(a) The inducement or coercion of a child to engage in any unlawful sexual activity;</p> <p>(b) The exploitative use of children in prostitution or other unlawful sexual practices;</p> <p>(c) The exploitative use of children in pornographic performances and materials.</p>	<p><b>Criminal Law Consolidation Act 1935</b></p>	<p>SA</p>	<p>Part 1 s. 5AA</p>	<p>It is an <b>aggravated offence</b> under this Act if the offender committed the offence knowing that the victim of the offence was, at the time of the offence:</p> <p>(i) in the case of an offence against Part 3 Division 11A:under the age of 14 years;</p> <p>(ii) in any other case - under the age of 12 years;</p> <p>It is also an aggravated offence under this act if the offender committed the offence knowing that the victim of the offence was a child of whom:</p> <p>(i) the offender; or</p> <p>(ii) a spouse or former spouse of the offender; or</p> <p>(iii) a domestic partner or former domestic partner of the offender, has custody as a parent or guardian; or</p> <p>(iv) a child who normally or regularly resides with:</p> <p>(A) the offender; or</p> <p>(B) a spouse or former spouse of the offender; or</p> <p>(C) a domestic partner or former domestic partner of the</p>

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				<p>offender;</p> <p>In this act <b>child</b> means a person under 18 years of age;</p>
			<p>Part 3 Division 11, s. 49</p>	<p><b>Unlawful sexual intercourse</b></p> <p>A person who has sexual intercourse with any person under the age of 14 years shall be guilty of an offence and liable to be imprisoned for life.</p> <p>Section 49(3) provides that a person who has sexual intercourse with a person under the age of seventeen years is guilty of an offence with a maximum penalty of imprisonment for 10 years.</p> <p>It is a defence to a charge under subsection 49(3) to prove that:</p> <p>(a) the person with whom the accused is alleged to have had sexual intercourse was, on the date on which the offence is alleged to have been committed, of or above the age of sixteen years; and</p> <p>(b) the accused:</p> <p>(i) was, on the date on which the offence is alleged to have been committed, under the age of seventeen years; or</p> <p>(ii) believed on reasonable grounds that the person with whom he is alleged to have had sexual intercourse was of or above the age of seventeen years.</p>

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				<p>A person who, being in a position of authority in relation to a person under the age of 18 years, has sexual intercourse with that person is guilty of an offence. The maximum penalty is imprisonment for 10 years.</p> <p>For the purposes of subsection 49(5), a person is in a <b>position of authority</b> in relation to a person under the age of 18 years (the <b>child</b>) if the person is:</p> <ul style="list-style-type: none"> <li>(a) a teacher (within the meaning of the <i>Education and Early Childhood Services (Registration and Standards) Act 2011</i>) engaged in the education of the child; or</li> <li>(b) a foster parent, step-parent or guardian of the child; or</li> <li>(c) a religious official or spiritual leader (however described and including lay members and whether paid or unpaid) providing pastoral care or religious instruction to the child; or</li> <li>(d) a medical practitioner, psychologist or social worker providing professional services to the child; or</li> <li>(e) a person employed or providing services in a correctional institution (within the meaning of the <i>Correctional Services Act 1982</i>) or a training centre (within the meaning of the <i>Young Offenders Act 1993</i>), or any other person engaged in the administration of those Acts, acting in the course of his or her duties in relation to the child; or</li> <li>(f) an employer of the child or other person who has the authority to determine significant aspects of the child's terms and conditions of employment or to terminate the child's</li> </ul>

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				<p>employment (whether the child is being paid in respect of that employment or is working in a voluntary capacity).</p> <p>Consent to sexual intercourse is not a defence to a charge of an offence under this section 49.</p>
			<p>Part 3, Division 11, s. 50</p>	<p><b>Persistent sexual exploitation of a child</b></p> <p>An adult person who, over a period of not less than 3 days, commits more than 1 act of sexual exploitation of a particular child under the prescribed age is guilty of an offence. The maximum penalty is imprisonment for life.</p> <p>Pursuant to section 50(2), a person commits an act of sexual exploitation of a child if the person commits an act in relation to the child of a kind that could, if it were able to be properly particularised, be the subject of a charge of a sexual offence.</p> <p>If:</p> <p>(a) at any time when an act of sexual exploitation of a child was allegedly committed the child was at least 16 years of age; and</p> <p>(b) the defendant proves that he or she believed on reasonable grounds that the child was of or over the prescribed age at that time,</p> <p>the act of sexual exploitation is not to be regarded for the purposes of an offence against this section 50.</p> <p>S. 50(5) provides that a person who has been tried and</p>

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				<p>convicted or acquitted on a charge of persistent sexual exploitation of a child may not be convicted of a sexual offence against the same child alleged to have been committed during the period during which the person was alleged to have committed the offence of persistent sexual exploitation of the child.</p> <p>This section 50 applies in relation to acts of sexual exploitation of a child whether they were committed before or after the commencement of this section.</p> <p>In this section 50 :</p> <p><b>'prescribed age'</b>, in relation to a child, means:</p> <p>(a) in the case of a person who is in a position of authority in relation to the child:18 years;</p> <p>(b) in any other case:17 years;</p> <p><b>'sexual offence'</b> means:</p> <p>(a) an offence against Division 11 (other than sections 59 and 61) or sections 63B, 66, 69 or 72; or</p> <p>(b) an attempt to commit, or assault with intent to commit, any of those offences; or</p> <p>(c) a substantially similar offence against a previous enactment.</p> <p>For the purposes of this section 50, a person is in a <b>position</b></p>

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				<p><b>of authority</b> in relation to a child if the person is:</p> <p>(a) a teacher (within the meaning of the <i>Education and Early Childhood Services (Registration and Standards) Act 2011</i>) engaged in the education of the child; or</p> <p>(b) a foster parent, step-parent or guardian of the child; or</p> <p>(c) a religious official or spiritual leader (however described and including lay members and whether paid or unpaid) providing pastoral care or religious instruction to the child; or</p> <p>(d) a medical practitioner, psychologist or social worker providing professional services to the child; or</p> <p>(e) a person employed or providing services in a correctional institution (within the meaning of the <i>Correctional Services Act 1982</i>) or a training centre (within the meaning of the <i>Young Offenders Act 1993</i>), or any other person engaged in the administration of those Acts, acting in the course of his or her duties in relation to the child; or</p> <p>(f) an employer of the child or other person who has the authority to determine significant aspects of the child's terms and conditions of employment or to terminate the child's employment (whether the child is being paid in respect of that employment or is working in a voluntary capacity).</p>
			Part 3, Division 11 s. 56	<p><b>Indecent Assault</b></p> <p>A person who indecently assaults another is guilty of an</p>

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				<p>offence. The maximum penalty is:</p> <p>(a) for a basic offence - imprisonment for 8 years;</p> <p>(b) for an aggravated offence - imprisonment for 10 years.</p> <p>If the victim of the offence was at the time of the offence under the age of 14 years, the offence is an aggravated offence and it is unnecessary for the prosecution to establish that the defendant knew of, or was reckless as to, the aggravating factor.</p>
			<p>Part 3, Division 11, s. 57</p>	<p><b>Consent no defence in certain cases</b></p> <p>A person under the age of 18 years will be taken not to be capable of consenting to an indecent assault committed by a person who is in a position of authority in relation to the person.</p> <p>Subject to subsection (3), no person under the age of seventeen years shall be deemed capable of consenting to any indecent assault.</p> <p>Subsection (3) provides that, where the person is between the age of sixteen and seventeen years, his or her consent shall be a defence to a charge of indecent assault if the accused proves that at the time of the indecent assault:</p> <p>(a) he or she was under the age of seventeen years; or</p> <p>(b) he or she believed on reasonable grounds that the person</p>

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				<p>was of or above the age of seventeen years.</p> <p>A person is in a <b>position of authority</b> in relation to a person under the age of 18 years (the <b>child</b>) if the person is:</p> <p>(a) a teacher (within the meaning of the <i>Education and Early Childhood Services (Registration and Standards) Act 2011</i>) engaged in the education of the child; or</p> <p>(b) a foster parent, step-parent or guardian of the child; or</p> <p>(c) a religious official or spiritual leader (however described and including lay members and whether paid or unpaid) providing pastoral care or religious instruction to the child; or</p> <p>(d) a medical practitioner, psychologist or social worker providing professional services to the child; or</p> <p>(e) a person employed or providing services in a correctional institution (within the meaning of the <i>Correctional Services Act 1982</i>) or a training centre (within the meaning of the <i>Young Offenders Act 1993</i>), or any other person engaged in the administration of those Acts, acting in the course of his or her duties in relation to the child; or</p> <p>(f) an employer of the child or other person who has the authority to determine significant aspects of the child's terms and conditions of employment or to terminate the child's employment (whether the child is being paid in respect of</p>

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				that employment or is working in a voluntary capacity).
			Part 3, Division 11, s. 58	<p><b>Acts of gross indecency</b></p> <p>Any person who, in public or in private:</p> <p>(a) commits any act of gross indecency with, or in the presence of, any person under the age of sixteen years;</p> <p>(b) incites or procures the commission by any such person of any act of gross indecency with the accused, or in the presence of the accused, or with any other person in the presence of the accused;</p> <p>(c) is otherwise a party to the commission of any act of gross indecency by or with, or in the presence of, any such person, or by or with any other person in the presence of any such person, or by any such person with any other person in the presence of the accused,</p> <p>shall be guilty of an offence and liable for a first offence to be imprisoned for a term not exceeding three years and for any subsequent offence to be imprisoned for a term not exceeding five years.</p> <p>It is no defence to a charge under this section that the act of indecency was committed with the consent of the person concerned.</p>
			Part 3, Division 11, s. 61	<b>Householder etc not to permit unlawful sexual intercourse on premises</b>

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				<p>Any person who, being the owner or occupier of any premises or having, or acting or assisting in, the management or control thereof, induces or knowingly suffers any person under the age of seventeen years to resort to, or be in, those premises for the purpose of having sexual intercourse shall be guilty of an offence and liable to be imprisoned for a term not exceeding seven years.</p>
			<p>Part 3, Division 11A, s. 62</p>	<p>In clauses 62 to 63C:</p> <p><b>'child pornography'</b> means material:</p> <p>(a) that:</p> <p>(i) describes or depicts a child under, or apparently under, the age of 17 years engaging in sexual activity; or</p> <p>(ii) consists of, or contains, the image of (or what appears to be the image of) a child under, or apparently under, the age of 17 years, or of the bodily parts of such a child, or in the production of which such a child has been or appears to have been involved; and</p> <p>(b) that is intended or apparently intended:</p> <p>(i) to excite or gratify sexual interest; or</p> <p>(ii) to excite or gratify a sadistic or other perverted interest in violence or cruelty;</p> <p><b>'disseminate'</b> - a person disseminates child pornography if</p>

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				<p>the person:</p> <p>(a) sends, supplies, exhibits, transmits or communicates it to another, or enters into an agreement or arrangement to do so; or</p> <p>(b) makes it available for access by another (including access by means of a computer) or enters into an agreement or arrangement to do so;</p> <p><b>'material'</b> includes:</p> <p>(a) any written or printed material; or</p> <p>(b) any picture, painting or drawing; or</p> <p>(c) any carving, sculpture, statue or figure; or</p> <p>(d) any photographic, electronic or other information or data from which an image or representation may be produced or reproduced; or</p> <p>(e) any film, tape, disc, or other object or system containing any such information or data;</p> <p><b>'pornographic nature'</b> of child pornography means the aspects of the material by reason of which it is pornographic;</p> <p><b>'private act'</b> means:</p> <p>(a) a sexual act; or</p> <p>(b) an act involving an intimate bodily function such as using</p>

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				<p>a toilet; or</p> <p>(c) an act or activity involving undressing to a point where the body is clothed only in undergarments; or</p> <p>(d) an activity involving nudity or exposure or partial exposure of sexual organs, pubic area, buttocks or female breasts;</p> <p><b>'prurient purpose'</b> - a person acts for a prurient purpose if the person acts with the intention of satisfying his or her own desire for sexual arousal or gratification or of providing sexual arousal or gratification for someone else.</p>
			Part 3, Division 11A, s. 63	<p><b>Production or dissemination of child pornography</b></p> <p>A person who:</p> <p>(a) produces, or takes any step in the production of, child pornography knowing of its pornographic nature; or</p> <p>(b) disseminates, or takes any step in the dissemination of, child pornography knowing of its pornographic nature,</p> <p>is guilty of an offence. The maximum penalty is:</p> <p>(a) for a basic offence - imprisonment for 10 years;</p> <p>(b) for an aggravated offence - imprisonment for 12 years.</p>
			Part 3, Division	<b>Possession of child pornography</b>

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			11A, s. 63A	<p>A person who:</p> <ul style="list-style-type: none"> <li>(a) is in possession of child pornography knowing of its pornographic nature; or</li> <li>(b) intending to obtain access to child pornography, obtains access to child pornography or takes a step towards obtaining access to child pornography,</li> </ul> <p>is guilty of an offence. The maximum penalty is:</p> <ul style="list-style-type: none"> <li>(a) for a first offence:               <ul style="list-style-type: none"> <li>(i) if it is a basic offence - imprisonment for 5 years;</li> <li>(ii) if it is an aggravated offence - imprisonment for 7 years;</li> </ul> </li> <li>(b) for a subsequent offence:               <ul style="list-style-type: none"> <li>(i) if it is a basic offence - imprisonment for 7 years;</li> <li>(ii) if it is an aggravated offence - imprisonment for 10 years.</li> </ul> </li> </ul> <p>It is a defence to a charge of an offence against this section 63A to prove that the material to which the charge relates came into the defendant's possession unsolicited and that the defendant, as soon as he or she became aware of the material and its pornographic nature, took reasonable steps to get rid of it.</p>
			Part 3, Division	<b>Procuring child to commit indecent act etc</b>

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			11A, s. 63B	<p>A person who:</p> <ul style="list-style-type: none"> <li>(a) incites or procures the commission of an indecent act by a child under the prescribed age in relation to that person; or</li> <li>(b) acting for a prurient purpose:               <ul style="list-style-type: none"> <li>(i) causes or induces a child under the prescribed age in relation to that person to expose any part of his or her body; or</li> <li>(ii) makes a photographic, electronic or other record from which the image, or images, of a child under the age of 17 years engaged in a private act may be reproduced,</li> </ul> </li> </ul> <p>is guilty of an offence. The maximum penalty is:</p> <ul style="list-style-type: none"> <li>(a) for a basic offence - imprisonment for 10 years;</li> <li>(b) for an aggravated offence - imprisonment for 12 years.</li> </ul> <p>This section applies whether the acts alleged to constitute the offence:</p> <ul style="list-style-type: none"> <li>(a) occur in private or in public; or</li> <li>(b) occur with or without the consent of the child, or the child's parent or guardian.</li> </ul> <p>A person who:</p> <ul style="list-style-type: none"> <li>(a) procures a child under the prescribed age in relation to that person or makes a communication with the intention of</li> </ul>

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				<p>procuring a child under the prescribed age in relation to that person to engage in, or submit to, a sexual activity; or</p> <p>(b) makes a communication for a prurient purpose and with the intention of making a child under the prescribed age in relation to that person amenable to a sexual activity,</p> <p>is guilty of an offence. The maximum penalty is:</p> <p>(a) for a basic offence - imprisonment for 10 years;</p> <p>(b) for an aggravated offence - imprisonment for 12 years.</p> <p>Other than where the defendant was in a position of authority in relation to the child it certain of the offences under this section 63B offer a defence if the defendant proves that:</p> <p>(a) the child was, on the date on which the offence is alleged to have been committed, of or above the age of 16 years; and</p> <p>(b) the accused:</p> <p>(i) was, on the date on which the offence is alleged to have been committed, under the age of 17 years; or</p> <p>(ii) believed on reasonable grounds that the child was of or above the age of 17 years.</p> <p>This section does not apply if the person and the child are legally married to each other.</p> <p>For the purposes of this section 63B, a person is in a position</p>

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				<p>of authority in relation to a child if the person is:</p> <ul style="list-style-type: none"> <li>(a) a teacher (within the meaning of the <i>Education Act 1972</i>) engaged in the education of the child; or</li> <li>(b) a foster parent, step-parent or guardian of the child; or</li> <li>(c) a religious official or spiritual leader (however described and including lay members and whether paid or unpaid) providing pastoral care or religious instruction to the child; or</li> <li>(d) a medical practitioner, psychologist or social worker providing professional services to the child; or</li> <li>(e) a person employed or providing services in a correctional institution (within the meaning of the <i>Correctional Services Act 1982</i>) or a training centre (within the meaning of the <i>Young Offenders Act 1993</i>), or any other person engaged in the administration of those Acts, acting in the course of his or her duties in relation to the child; or</li> <li>(f) an employer of the child or other person who has the authority to determine significant aspects of the child's terms and conditions of employment or to terminate the child's employment (whether the child is being paid in respect of that employment or is working in a voluntary capacity).</li> </ul> <p>For the purposes of this section 63B, the prescribed age of a child in relation to a person is:</p> <ul style="list-style-type: none"> <li>(a) if the person is in a position of authority in relation to the</li> </ul>

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				<p>child:18 years; or</p> <p>(b) in any other case:17 years.</p>
			<p>Part 3, Division 11A, s. 63C</p>	<p><b>Pornographic nature of material</b></p> <p>No offence is committed against this Division by reason of the production, dissemination or possession of material in good faith and for the advancement or dissemination of legal, medical or scientific knowledge.</p> <p>No offence is committed against this Division by reason of the production, dissemination or possession of material that constitutes, or forms part of, a work of artistic merit if, having regard to the artistic nature and purposes of the work as a whole, there is no undue emphasis on aspects of the work that might otherwise be considered pornographic.</p> <p>No offence is committed against this Division by reason of:</p> <p>(a) the possession or dissemination of a publication, film or computer game that has been classified under the <i>Classification (Publications, Films and Computer Games) Act 1995</i> (unless it is classified as a publication for which classification is refused (RC)); or</p> <p>(b) the possession of a publication, film or computer game for the purposes of obtaining a classification under that Act.</p>
			<p>Part 3, Division 12, s. 65A</p>	<p><b>Definitions relating to commercial sexual services in Division 12 (ss. 65A to 68) include:</b></p>

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				<p><b>'ask'</b> connotes a request made with serious intentment (as distinct from one made without an actual intention of obtaining the ostensible object of the request);</p> <p><b>'child'</b> means a person under the age of 18 years;</p> <p><b>'commercial sexual services'</b> means services provided for payment involving the use or display of the body of the person who provides the services for the sexual gratification of another or others;</p> <p><b>'compulsion'</b> - a person compels another (the <b>victim</b>) if the person controls or influences the victim's conduct by means that effectively prevent the victim from exercising freedom of choice;</p> <p><b>'payment'</b> includes any form of commercial consideration;</p> <p><b>'sexual servitude'</b> means the condition of a person who provides commercial sexual services under compulsion;</p> <p><b>'undue influence'</b> - a person exerts undue influence on another (the <b>victim</b>) if the person uses unfair or improper means to influence the victim's conduct.</p>
			Part 3, Division 12, s. 66	<p><b>Sexual servitude and related offences</b></p> <p>A person who compels another to provide or to continue to provide commercial sexual services is guilty of the offence of inflicting sexual servitude. The maximum penalty is:</p> <p>(a) if the victim is a child under the age of 14 years -</p>

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				<p>imprisonment for life;</p> <p>(b) if the victim is a child under the age of 18 years - imprisonment for 19 years;</p> <p>A person who, by undue influence, gets another to provide, or to continue to provide, commercial sexual services is guilty of an offence. The maximum penalty is:</p> <p>(a) if the victim is a child under the age of 14 years - imprisonment for life;</p> <p>(b) if the victim is a child under the age of 18 years - imprisonment for 12 years;</p>
			Part 3, Division 12, s. 67	<p><b>Deceptive recruiting for commercial sexual activities.</b></p> <p>A person who:</p> <p>(a) offers another (the <b>victim</b>) employment or some other form of engagement to provide personal services; and</p> <p>(b) knows at the time of making the offer:</p> <p>(i) that the victim will, in the course of or in connection with the employment or engagement, be asked or expected to provide commercial sexual services; and</p> <p>(ii) that the continuation of the employment or engagement, or the victim's advancement in the employment or engagement, will be dependent on the victim's preparedness</p>

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				<p>to provide commercial sexual services; and</p> <p>(c) fails to disclose that information to the victim at the time of offering the employment or engagement, is guilty of an offence.</p> <p>The maximum penalty if the victim is a child is imprisonment for 12 years.</p>
			<p>Part 3, Division 12, s. 68</p>	<p><b>Use of Children in commercial sexual activities</b></p> <p>A person must not employ, engage, cause or permit a child to provide, or to continue to provide, commercial sexual services. Maximum penalty:</p> <p>(a) if the child is under the age of 14 years - imprisonment for life;</p> <p>(b) in any other case - imprisonment for 9 years.</p> <p>A person must not ask a child to provide commercial sexual services. Maximum penalty:</p> <p>(a) if the child is under the age of 14 years - imprisonment for 9 years;</p> <p>(b) in any other case - imprisonment for 3 years.</p> <p>A person must not:</p> <p>(a) have an arrangement with a child who provides</p>

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				<p>commercial sexual services under which the person receives, on a regular or systematic basis, the proceeds, or a share in the proceeds, of commercial sexual services provided by the child; or</p> <p>(b) exploit a child by obtaining money knowing it to be the proceeds of commercial sexual services provided by the child.</p> <p>Maximum penalty:</p> <p>(a) if the child is under the age of 14 years - imprisonment for 5 years;</p> <p>(b) in any other case - imprisonment for 2 years.</p> <p>In proceedings for an offence against this section 68, it is not necessary for the prosecution to establish that the defendant knew the victim of the alleged offence to be a child.</p> <p>However, it is a defence to a charge of an offence against this section if it is proved that the defendant believed on reasonable grounds that the victim had attained 18 years of age.</p>
	<p><b>Children's Protection Act 1993</b></p>	<p>SA</p>	<p>s. 6</p>	<p><b>'abuse or neglect'</b>, in relation to a child, means:</p> <p>(a) sexual abuse of the child; or</p> <p>(b) physical or emotional abuse of the child, or neglect of the child, to the extent that:</p>

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				<p>(i) the child has suffered, or is likely to suffer, physical or psychological injury detrimental to the child's wellbeing; or</p> <p>(ii) the child's physical or psychological development is in jeopardy,</p> <p>and '<b>abused</b>' or '<b>neglected</b>' has a corresponding meaning;</p>
			s. 8	<p>(1) The Minister must seek to further the objects of this Act and, to that end, should endeavour:</p> <p>(a) to promote a partnership approach between the Government, local government, non-government agencies and families in taking responsibility for and dealing with the problem of child abuse and neglect;</p> <p>(b) to promote and assist in the development of co-ordinated strategies for dealing with the problem of child abuse and neglect;</p> <p>(c) to provide, or assist in the provision of, services for dealing with the problem of child abuse and neglect and for the care and protection of children;</p> <p>(d) to provide, or assist in the provision of, preventative and support services directed towards strengthening and supporting families, reducing the incidence of child abuse and neglect and maximising the well-being of children generally;</p> <p>(e) to assist the Aboriginal community to establish its own programmes for preventing or reducing the incidence of</p>

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				<p>abuse or neglect of children within the Aboriginal community;</p> <p>(f) to provide, or assist in the provision of, information or education services for parents, prospective parents and other members of the community in relation to the developmental, social and safety requirements of children;</p> <p>(g) to provide, or assist in the provision of, education to persons who are required to notify the Department on forming a reasonable suspicion that a child is being abused or neglected;</p> <p>(h) to provide, or assist in the provision of, services:</p> <p>(i) to assist children who are under the guardianship or in the custody of the Minister; and</p> <p>(ii) to assist persons who, as children, have been under the guardianship or in the custody of the Minister, to prepare for transition to adulthood;</p> <p>(i) to collect and publish relevant data or statistics or to assist in their collection or publication;</p> <p>(j) to promote, encourage or undertake research into child abuse and neglect;</p> <p>(k) to encourage the provision, by tertiary institutions in relevant courses, of instruction about child abuse and neglect and its prevention and treatment;</p>

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				<p>(ka) to encourage the provision of child safe environments particularly by government and non-government organisations that provide services for, or have contact with, children;</p> <p>(l) generally to do such other things as the Minister believes will further the objects of this Act.</p> <p>(2) The Minister must:</p> <p>(a) assist in the provision of:</p> <p>(i) services directed at enhancing the quality of care of children and family life by strengthening and supporting families, and thus preventing or reducing the incidence of child abuse and neglect; and</p> <p>(ii) support services to children who have been abused or neglected and their families; and</p> <p>(b) ensure that those support services are offered to children who are known by the Department to have been abused or neglected and their families and that genuine efforts are made to encourage such children and their families to avail themselves of the services.</p> <p>(3) The Minister must, at least twice in each calendar year, consult groups representing, or comprised of, children or other persons who are, or have been, under the guardianship, or in the custody, of the Minister.</p> <p>(4) The purpose of consultation as required under subsection</p>

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				(3) is to ensure that the Minister regularly receives advice from, and is made aware of the experiences of, persons who are, or have been, under the guardianship, or in the custody, of the Minister.
			s. 8A	<p>The Chief Executive has the following functions:</p> <ul style="list-style-type: none"> <li>(a) to develop codes of conduct and principles of good practice for working with children;</li> <li>(b) to provide guidance on appropriate standards of conduct for adults in dealing with children;</li> <li>(c) to define appropriate standards of care for ensuring the safety of children;</li> <li>(d) to provide guidance on how to deal with cases involving the bullying or harassment of a child;</li> <li>(e) to disseminate information about child abuse and neglect so that cases of child abuse and neglect are more readily recognised and more promptly dealt with;</li> <li>(f) to provide guidance on how to deal with cases involving the suspected abuse or neglect of a child;</li> <li>(g) to provide guidance on the recruitment and supervision of staff of government and non-government organisations who may have contact with children in the course of their employment;</li> <li>(h) to ensure, as far as practicable, that procedures for</li> </ul>

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				<p>making complaints about cases of suspected child abuse or neglect are easily accessible and, in particular, that they are accessible and responsive to children;</p> <p>(i) to monitor progress towards child safe environments in the government and non-government sectors and to report regularly to the Minister on that subject;</p> <p>(j) to develop and issue standards to be observed in dealing with information obtained about the criminal history of employees and volunteers who work with children in government or non-government organisations.</p>
			s. 11	<p>(1) If:</p> <p>(a) a person to whom this section applies suspects on reasonable grounds that a child has been or is being abused or neglected; and</p> <p>(b) the suspicion is formed in the course of the person's work (whether paid or voluntary) or of carrying out official duties, the person must notify the Department of that suspicion as soon as practicable after he or she forms the suspicion.</p> <p>Maximum penalty: \$10 000.</p> <p>(2) This section applies to the following persons:</p> <p>(a) a medical practitioner;</p> <p>(ab) a pharmacist;</p>

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				<p>(b) a registered or enrolled nurse;</p> <p>(c) a dentist;</p> <p>(d) a psychologist;</p> <p>(e) a police officer;</p> <p>(f) a community corrections officer (an officer or employee of an administrative unit of the Public Service whose duties include the supervision of young or adult offenders in the community);</p> <p>(g) a social worker;</p> <p>(ga) a minister of religion;</p> <p>(gb) a person who is an employee of, or volunteer in, an organisation formed for religious or spiritual purposes;</p> <p>(h) a teacher in an educational institution (including a kindergarten);</p> <p>(i) an approved family day care provider;</p> <p>(j) any other person who is an employee of, or volunteer in, a government or non-government organisation that provides health, welfare, education, sporting or recreational, child care or residential services wholly or partly for children, being a person who:</p> <p>(i) is engaged in the actual delivery of those services to</p>

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				<p>children; or</p> <p>(ii) holds a management position in the relevant organisation the duties of which include direct responsibility for, or direct supervision of,</p> <p>the provision of those services to children.</p> <p>(3) A notification under this section must be accompanied by a statement of the observations, information and opinions on which the suspicion is based.</p> <p>(4) This section does not require a priest or other minister of religion to divulge information communicated in the course of a confession made in accordance with the rules and usages of the relevant religion.</p> <p>(5) A person does not necessarily exhaust his or her duty of care to a child by giving a notification under this section.</p> <p>(6) A person must not threaten or intimidate, or cause damage, loss or disadvantage to, a person to whom this section applies because the person has discharged, or proposes to discharge, his or her duty under subsection (1).</p> <p>Maximum penalty: \$10 000.</p>
			s. 12	A person who (whether voluntarily or pursuant to a requirement of this Act) notifies the Department of a suspicion that a child has been or is being abused or neglected or provides any information to the Department in

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				<p>respect of such a notification:</p> <p>(a) cannot, by virtue of doing so, be held to have breached any code of professional etiquette or ethics, or to have departed from any accepted form of professional conduct; and</p> <p>(b) insofar as he or she has acted in good faith, incurs no civil or criminal liability in respect of the notification or the provision of the information.</p>
			s. 20	<p>(1) If the Chief Executive is of the opinion:</p> <p>(a) that there is some information or evidence leading to a reasonable suspicion that a child is at risk; and</p> <p>(b) that further investigation of the matter is warranted or a family care meeting should be held; and</p> <p>(c) that:</p> <p>(i) the investigation cannot properly proceed unless an order under this Division is made; or</p> <p>(ii) it is desirable that the child be protected while the matter is being investigated or a family care meeting is being held, the Chief Executive may apply to the Youth Court for an order under this Division.</p> <p>(2) If the Chief Executive suspects on reasonable grounds that a child is at risk as a result of the abuse of an illicit drug</p>

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				<p>by a parent, guardian or other person, the Chief Executive must apply for an order under this Division directing the parent, guardian or other person to undergo a drug assessment (unless the Chief Executive is satisfied that an appropriate assessment of the parent, guardian or other person has already occurred, or is to occur).</p>
			s. 37	<p>(1) If the Minister is of the opinion:</p> <p>(a) that a child is at risk; and</p> <p>(b) that an order under this Division should be made in respect of the child to secure his or her care and protection, the Minister may apply to the Youth Court for an order under this Division.</p> <p>(1a) If the Minister:</p> <p>(a) knows or suspects on reasonable grounds:</p> <p>(i) that a child is at risk as a result of drug abuse by a parent, guardian or other person; and</p> <p>(ii) that the cause of the child being at risk is not being adequately addressed; and</p> <p>(b) is of the opinion that the most appropriate response is an order under this Division for one or more of the following purposes:</p> <p>(i) to ensure that the parent, guardian or other person</p>

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				<p>undergoes appropriate treatment for drug abuse;</p> <p>(ii) to ensure that the parent, guardian or other person submits to periodic testing for drug abuse;</p> <p>(iii) to authorise or require the release of information regarding the treatment or the results of the test to the Chief Executive, the Minister must apply to the Youth Court for such an order.</p> <p>(2) If the Minister is of the opinion:</p> <p>(a) that proper arrangements exist for the care and protection of a child (whether pursuant to a decision of a family care meeting or pursuant to an exercise of administrative powers under the <i>Family and Community Services Act 1972</i> as in force immediately prior to the commencement of this Act); and</p> <p>(b) that the child would be likely to suffer significant psychological injury if the arrangements were to be disturbed; and</p> <p>(c) that it would be in the best interests of the child for the arrangements to be the subject of an order under this Division, the Minister may apply to the Youth Court for an order under this Division.</p>
	<p><b>Child Sex Offenders Registration Act 2006</b></p>	<p>SA</p>	<p>s. 65</p>	<p>(1) A registrable offender must not:</p> <p>(a) apply for; or</p>

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				<p>(b) engage in, work that is child-related work.</p> <p>Maximum penalty: Imprisonment for 5 years.</p> <p>(2) In proceedings for an offence against subsection (1), it is a defence to the charge for the accused to prove that, at the time the offence is alleged to have been committed, he or she did not know that the work was child-related work.</p>
	<p><b>Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004</b></p>	<p>SA</p>	<p>s. 10</p>	<p>(1) Where this Act requires, or allows, the Commissioner to avoid disclosure of information that may identify or lead to the identification of any person, the Commissioner may use a code or other system of identification under which the Commissioner can separately identify any person, and may provide that identifying information, and any other information obtained during the course of the Inquiry, to the Minister or another public official (including a police officer), as the Commissioner thinks fit.</p> <p>(2) Despite any other provision of this Act, the Commissioner must, under an arrangement established with the Commissioner of Police, provide to the Commissioner of Police any information concerning the commission (or alleged commission) of a sexual offence against a child arising during the course of the Inquiry unless:</p> <p>(a) the Commissioner has reasonable grounds to believe that the information has already been reported or provided to a police officer and has been recently considered or investigated (or reconsidered or reinvestigated) by the police;</p>

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				<p>or</p> <p>(b) the Commissioner has determined to provide the information to the Director of Public Prosecutions; or</p> <p>(c) the information has been provided by the person who is (or who is alleged to be) the victim of the offence and that person has asked the Commissioner that the information not be provided to the Commissioner of Police or to the Director of Public Prosecutions under this section (but subject to the exception that the Commissioner may provide the information to the Commissioner of Police or to the Director of Public Prosecutions if the Commissioner considers it in the public interest to do so).</p>
	<p><b>Intervention Orders (Prevention of Abuse) Act 2009</b></p>	<p>SA</p>	<p>s. 7</p>	<p>(1) An intervention order may be issued for the protection of:</p> <p>(a) any person against whom it is suspected the defendant will commit an act of abuse; or</p> <p>(b) any child who may hear or witness, or otherwise be exposed to the effects of, an act of abuse committed by the defendant against a person.</p> <p>(2) An intervention order may be issued for the protection of a person even if that person is not an applicant for the order and the application is not made on his or her behalf.</p> <p>(3) If an issuing authority proposes to intervene against a defendant for the protection of more than 1 person, it may do so by issuing a single intervention order or by issuing</p>

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				multiple intervention orders, as it considers appropriate in the circumstances.
			s. 8	<p>(1) '<b>Abuse</b>' may take many forms including physical, sexual, emotional, psychological or economic abuse.</p> <p>(2) An act is an '<b>act of abuse</b>' against a person if it results in or is intended to result in:</p> <ul style="list-style-type: none"> <li>(a) physical injury; or</li> <li>(b) emotional or psychological harm; or</li> <li>(c) an unreasonable and non-consensual denial of financial, social or personal autonomy; or</li> <li>(d) damage to property in the ownership or possession of the person or used or otherwise enjoyed by the person.</li> </ul>
			s. 10	<p>(1) The following must be recognised and taken into account in determining whether it is appropriate to issue an intervention order and in determining the terms of an intervention order:</p> <ul style="list-style-type: none"> <li>(a) abuse occurs in all areas of society, regardless of socio-economic status, health, age, culture, gender, sexuality, ability, ethnicity and religion;</li> <li>(b) abuse may involve overt or subtle exploitation of power imbalances and may consist of isolated incidents or patterns of behaviour;</li> </ul>

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				<p>(c) it is of primary importance to prevent abuse and to prevent children from being exposed to the effects of abuse;</p> <p>(d) as far as is practicable, intervention should be designed:</p> <p>(i) to encourage defendants who it is suspected will, without intervention, commit abuse to accept responsibility and take steps to avoid committing abuse; and</p> <p>(ii) to minimise disruption to protected persons and any child living with a protected person and to maintain social connections and support for protected persons; and</p> <p>(iii) to ensure continuity and stability in the care of any child living with a protected person; and</p> <p>(iv) to allow education, training and employment of a protected person and any child living with a protected person, and arrangements for the care of such a child, to continue without interruption; and</p> <p>(v) if the defendant is a child:</p> <p>(A) to ensure the child has appropriate accommodation, care and supervision; and</p> <p>(B) to ensure the child has access to appropriate educational and health services; and</p> <p>(C) to allow the education, training and employment of the child to continue without interruption.</p>

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				<p>(2) The following must also be taken into account in determining whether it is appropriate to issue an intervention order and in determining the terms of an intervention order:</p> <p>(a) any relevant Family Law Act order or Children's Protection Act order of which the issuing authority has been informed;</p> <p>(b) how the intervention order would be likely to affect contact (in accordance with a relevant Family Law Act order or Children's Protection Act order or otherwise) between:</p> <p>(i) the protected person or the defendant; and</p> <p>(ii) any child of, or in the care of, either of those persons;</p> <p>(c) any relevant agreement or order for the division of property under the <i>Family Law Act 1975</i> of the Commonwealth, or the <i>Domestic Partners Property Act 1996</i> or a corresponding law of another jurisdiction, of which the issuing authority has been informed;</p> <p>(d) if considering whether to prohibit the defendant from taking possession of property or to require the defendant to return property to a protected person or to allow a protected person to recover or have access to or make use of property - the income, assets and liabilities of the defendant and the protected person (to the extent that the issuing authority has been informed of those matters);</p> <p>(e) any other legal proceedings between the defendant and protected person of which the issuing authority has been</p>

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				<p>informed.</p> <p>(3) Before issuing an intervention order the issuing authority must consider whether, if the whereabouts of a person proposed to be protected by the order are not known to the defendant, the issuing of the order would be counterproductive.</p> <p>(4) An issuing authority may take into account any other factor the authority considers relevant in the circumstances.</p>

**6. Western Australia**

**CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION**

CRC Article Number & Description	Relevant Australian Legislation	Cth/State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 30:</b> States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:</p> <p>(a) The inducement or coercion of a child to engage in any unlawful sexual activity;</p>	<p><b>Adoption Act 1994</b></p>	<p>WA</p>	<p>Section 40</p>	<p><b>Assessment of applicants for adoptive parenthood</b></p> <p>In respect of assessment reports, each applicant needs to provide evidence on suitability for adoptive parenthood, including evidence that the applicant has not been found guilty at any time of any offence involving an assault or sexual offence against a child, committed when the applicant was 28 or more years of age.</p>
<p>(b) The exploitative use of children in prostitution or other unlawful sexual practices;</p> <p>(c) The exploitative use of children in pornographic performances and materials.</p>	<p><b>Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010</b></p>	<p>WA</p>	<p>Definitions</p>	<p><b>'child exploitation material'</b> means :</p> <p>(a) child pornography; or</p> <p>(b) material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be, a child :</p> <p>(i) in an offensive or demeaning context; or</p> <p>(ii) being subjected to abuse, cruelty or torture (whether or not in a sexual context);</p> <p><b>'child pornography'</b> means material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be a child :</p> <p>(a) engaging in sexual activity; or</p>

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				<p>(b) in a sexual context;</p> <p><b>'material'</b> includes :</p> <p>(a) any object, picture, film, written or printed matter, data or other thing; and</p> <p>(b) anything from which text, pictures, sound or data can be produced or reproduced, with or without the aid of anything else;</p>
			Section 217	<p><b>Involving child in child exploitation</b></p> <p>(1) For the purposes of this section, a person involves a child in child exploitation if the person :</p> <p>(a) invites a child to be in any way involved in the production of child exploitation material; or</p> <p>(b) causes a child to be in any way involved in the production of child exploitation material; or</p> <p>(c) procures a child for the purpose of the production of child exploitation material; or</p> <p>(d) offers a child for the purpose of the production of child exploitation material.</p> <p>(2) A person who involves a child in child exploitation is guilty of a crime and is liable to imprisonment for 10 years.</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Section 218	<p><b>Production of child exploitation material</b></p> <p>A person who produces child exploitation material is guilty of a crime and is liable to imprisonment for 10 years.</p>
			Section 219	<p><b>Distribution of child exploitation material</b></p> <p>A person who distributes child exploitation material is guilty of a crime and is liable to imprisonment for 10 years.</p> <p>A person who has possession of child exploitation material with the intention of distributing the material is guilty of a crime and is liable to imprisonment for 10 years.</p>
			Section 220	<p><b>Possession of child exploitation material</b></p> <p>A person who has possession of child exploitation material is guilty of a crime and is liable to imprisonment for 7 years.</p>
	<b>Children and Community Services Act 2004</b>		Section 124B	<p><b>Duty of certain people to report sexual abuse of children</b></p> <p>If a person is a doctor, nurse, midwife, police officer or teacher and believes on reasonable grounds that a child has been subject of sexual abuse or is the subject of ongoing sexual abuse, then such a person must report the belief as soon as practicable.</p>
			Section 192	<p><b>Children not to be employed to perform in indecent manner etc</b></p> <p>(1) A person who employs a child to perform in an indecent, obscene or pornographic manner in the course of</p>

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				<p>participating in an entertainment or exhibition or in the making of an advertisement is guilty of a crime, and is liable to imprisonment for 10 years.</p> <p>(2) A parent of a child who permits the child to be employed to perform in an indecent, obscene or pornographic manner in the course of participating in an entertainment or exhibition or in the making of an advertisement is guilty of a crime, and is liable to imprisonment for 10 years.</p> <p>(3) For the purposes of this section but without limiting its application :</p> <p>(a) a child is employed to perform in an indecent, obscene or pornographic manner if, in the course of the child's employment, the child :</p> <p>(i) is engaged in an activity of a sexual nature; or</p> <p>(ii) is in the presence of another person who is engaged in an activity of a sexual nature; or</p> <p>(iii) is required to pose or move in a manner calculated to give prominence to sexual organs, the anus or, in the case of a female, her breasts; and</p> <p>(b) a child's performance is in the course of participating in an entertainment or exhibition if the performance :</p> <p>(i) consists in whole or in part of modelling or posing of any kind; or</p>

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				<p>(ii) is only for the person employing the child or for some other particular person or a class of people; or</p> <p>(iii) is communicated in any way to an audience of one or more people; or</p> <p>(iv) is recorded in any way for later visual or audible presentation to an audience of one or more people; or</p> <p>(v) can be viewed on the Internet or in any other way.</p> <p>(4) Without limiting the definition of <b>'employ'</b> in section 188, if a child participates in an entertainment or exhibition carried on for profit or in the making of an advertisement for commercial purposes, then for the purposes of this section the person who carries on the entertainment or exhibition or makes the advertisement employs the child.</p>
			Section 101	<p><b>Failing to protect child from harm</b></p> <p>A person who has the care or control of a child who engages in conduct knowing that the conduct may result in the child suffering harm as a result of sexual abuse, or a person who is reckless as to whether the conduct may have that result is guilty of a crime and is liable to imprisonment for 10 years.</p>
	<b>Family Court Act 1997</b>		Section 5	<p><b>Definitions</b></p> <p><b>'abuse'</b> in relation to a child, means :</p> <p>(a) an assault, including a sexual assault, of the child which is an offence under a law, written or unwritten, in force in the</p>

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				<p>State or Territory in which the act constituting the assault occurs; or</p> <p>(b) a person involving the child in a sexual activity with that person or another person in which the child is used, directly or indirectly, as a sexual object by the first-mentioned person or the other person, and where there is unequal power in the relationship between the child and the first-mentioned person;</p>
			Section 60	<p><b>Object of Part</b></p> <p>The Objects of this Part are to ensure that the best interest of children are met by protecting children from physical or psychological harm from being subjected to, or exposed to, abuse neglect or family violence.</p>
			Section 66J	<p><b>Court to take prompt action in relation to allegations of child abuse or family violence</b></p> <p>This section applies if there has been a Part 5 Order in relation to a child and a document is filed in court that alleges as a consideration that it is relevant for whether the court should grant or refuse the application that there has been (or there might be a risk of) abuse of the child. The Court must consider what interim or procedural procedures should be made to enable appropriate evidence about the allegation to be obtained as expeditiously as possible and to protect the child or any of the parties to the proceedings. Court must deal with the issues raised by the allegations as expeditiously as possible.</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Section 70A	<p><b>Presumption of equal shared parental responsibility when making parenting orders</b></p> <p>(1) When making a parenting order in relation to a child, the court must apply a presumption that it is in the best interests of the child for the child's parents to have equal shared parental responsibility for the child.</p> <p>(2) The presumption does not apply if there are reasonable grounds to believe that a parent of the child (or a person who lives with a parent of the child) has engaged in :</p> <p>(a) abuse of the child or another child who, at the time, was a member of the parent's family (or that other person's family); or</p> <p>(b) family violence.</p>
			Section 160	<p><b>Where member of the Court personnel, family counsellor, family dispute resolution practitioner or arbitrator suspects child abuse etc.</b></p> <p>Applies to:</p> <p>(a) the Principal Registrar, a registrar or a deputy registrar; or</p> <p>(b) a family consultant; or</p> <p>(c) a family counsellor; or</p>

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				<p>(d) a family dispute resolution practitioner; or</p> <p>(e) an arbitrator; or</p> <p>(f) a legal practitioner independently representing a child's interests.</p> <p>If the above persons have reasonable grounds for suspecting that a child has been abused, or is at risk of being abused, the person must, as soon as practicable, notify the CEO of the suspicion and the basis for the suspicion.</p>
			Section 202K	<p><b>Evidence relating to child abuse or family violence</b></p> <p>Court may make an order in child-related proceedings required a prescribed government agency to provide the court with the documents or information in respect of any notification to the prescribed government agency of suspected abuse of a child to whom the proceedings relate or of suspected family violence affecting the child.</p>
			Section 51	<p><b>Guardian to act in best interests of represented person</b></p> <p>Subject to any direction of the State Administrative Tribunal, a guardian shall act according to his opinion of the best interests of the represented person.</p> <p>Without limiting the generality of the above, a guardian acts in the best interests of a represented person if he acts as far as possible in such a way as to protect the represented person from neglect, abuse or exploitation.</p>

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	<b>Working with Children (Criminal Record Checking) Act 2004</b>		Long Title	<ul style="list-style-type: none"> <li>• To provide for procedures for checking the criminal record of people who carry out, or propose to carry out, child-related work;</li> <li>• To prohibit people who have been charged with or convicted of certain offences from carrying out child-related work, and to provide for related matters.</li> </ul>

**7. Northern Territory**

**CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION**

CRC Article Number & Description	Relevant Australian Legislation	Cth/State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 34:</b></p> <p>States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:</p> <p>(a) The inducement or coercion of a child to engage in any unlawful sexual activity;</p> <p>(b) The exploitative use of children in prostitution or other unlawful sexual practices;</p> <p>(c) The exploitative use of children in pornographic performances and materials.</p>	<p><b>Alcohol Reform (Prevention of Alcohol-Related Crime and Substance Misuse) Act</b></p>	<p>NT</p>	<p>s3</p>	<p>The objects of the Act are to support family and social welfare and improve the health and wellbeing of people in the Territory by providing a legislative framework for, amongst other things, the protection of people, particularly children, from harm or nuisance resulting from the misuse of alcohol or drugs by others.</p> <p>To achieve the objects, this Act establishes a tribunal with the power to make orders beneficial to people who are misusing alcohol or drugs.</p>
			<p>s5</p>	<p>An authorised applicant who may make an application to the Tribunal for a referral of a person for an assessment is any of the following:</p> <p>(a) a police officer;</p> <p>(b) a person registered under the Health Practitioner Regulation National Law (other than as a student) to practise in:</p> <p>(i) the Aboriginal and Torres Strait Islander health practice profession; or</p> <p>(ii) the nursing and midwifery profession as a nurse; or</p>

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				<p>(iii) the psychology profession;</p> <p>(c) an adult member of the family of the person to whom the application relates (the relevant person);</p> <p>(d) a responsible adult for the child of the relevant person if it appears to the responsible adult that the child is adversely affected by the behaviour of the relevant person because of the relevant person's misuse of a substance;</p> <p>(e) another person prescribed by regulation.</p>
			s22 to s26	<p>An authorised applicant who reasonably believes that a person may be misusing a substance may apply to the Tribunal for a referral of the person for an assessment. The Tribunal may order a clinical assessment to be undertaken and following the clinical assessment may make a GAP Order (General Alcohol Prohibition Order).</p> <p>A Gap Order is an order prohibiting a person from purchasing, possessing or consuming alcohol for a set period.</p>
	<p><b>Alice Springs (Aquatic and Leisure Centre) Bylaws 2011</b></p>	NT	By-law 13 and 14	<p>The by-laws regulate use of the Alice Springs Aquatic and Leisure Centre situated at Speed Street, Alice Springs.</p> <p>The by-laws prohibit:</p> <p>(a) the use a camera, video camera, mobile telephone camera or any other device that records still or moving images in any change room in the Aquatic Centre; and</p>

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				(b) the use of a camera, video camera, mobile telephone camera or any other device that records still or moving images of a child under the age of 16 years without the consent of that person's parent or guardian.
	<b>Anti-Discrimination Act</b>	NT	s22(1) and Part 4	<p>The Act prohibits a person sexually harassing another person in certain areas of activity identified in Part 4 of the Act.</p> <p>The areas of activity identified in Part 4 of the Act are prohibited conduct in the areas of:</p> <ul style="list-style-type: none"> <li>(a) education; and</li> <li>(b) work; and</li> <li>(c) accommodation; and</li> <li>(d) goods, services and facilities; and</li> <li>(e) clubs; and</li> <li>(f) insurance and superannuation.</li> </ul>
			s22(2) and s22(3)	<p>The Act deems sexual harassment to have taken place if a person:</p> <ul style="list-style-type: none"> <li>(a) subjects another person to an unwelcome act of physical intimacy; or</li> <li>(b) makes an unwelcome demand or request (whether directly or by implication) for sexual favours from the other</li> </ul>

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				<p>person; or</p> <p>(c) makes an unwelcome remark with sexual connotations; or</p> <p>(d) engages in any other unwelcome conduct of a sexual nature, and:</p> <p>(e) that person does so:</p> <p>(i) with the intention of offending, humiliating or intimidating the other person; or</p> <p>(ii) in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct; or</p> <p>(iii) that other person is, or reasonably believes that he or she is likely to be, subjected to some detriment if he or she objects to the act, demand, request, remark or conduct.</p> <p>In determining whether a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct, consideration is given to such things as:</p> <p>(a) the sex, age or race of the other person; and</p> <p>(b) any impairment that the other person has; and</p> <p>(c) the relationship between the other person and the person</p>

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				engaging in the conduct; and  (d) any other circumstance of the other person.
	<b>Bail Act</b>	NT	s4	The Act applies to a person whether the person is an adult or child.
			s3	Child is defined as a person under the age of 18 years.
			s3A	The following offences are deemed to be serious sexual offences under the Act:  (a) an offence, committed by an adult, consisting of an attempt to procure, or the act of procuring, a child under the age of 16 years to engage in sexual intercourse or an indecent act;  (b) an offence, committed by an adult, consisting of indecent assault on a child under the age of 16 years;  (c) an offence, committed by an adult in the presence of a child, consisting of the commission of an act of gross indecency in a public place.
			s7A	A person accused of a serious sexual offence is not to be granted bail unless the person satisfies an authorised member or court that bail should not be refused.  However, the person may be granted bail if the person is assessed to be suitable to participate in a program of rehabilitation that is prescribed by the Regulations.

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			s24	<p>In making a determination as to the grant of bail to an accused person, an authorised member or a court must take into consideration so far as they can reasonably be ascertained only the matters listed in the Act.</p> <p>If the alleged victim of an offence is a child, or the alleged offence is a serious sexual offence, the safety and welfare of the alleged victim must be considered with particular care.</p> <p>In regard to a child's safety and welfare, the following matters are to be considered:</p> <ul style="list-style-type: none"> <li>(a) the child's age;</li> <li>(b) the age of the accused person;</li> <li>(c) any familial relationship that may exist between the child and the accused person;</li> <li>(d) the living arrangements for the child and for the accused person (assuming the accused person's release on bail);</li> <li>(e) the desirability of preserving the child's living arrangements and family and community relationships;</li> <li>(f) the emotional as well as the physical wellbeing of the child;</li> <li>(g) any other relevant matter.</li> </ul>
	<b>Care and Protection</b>	NT	Part 1.2	One of the main objects of the Act is to promote the wellbeing of children including to protect children from harm

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	<b>of Children Act</b>			<p>and exploitation.</p> <p>To achieve this object, the Act:</p> <p>(a) establishes measures for safeguarding the wellbeing of children by mandatory reporting requirements for children at risk, providing for powers of the Court to make orders and powers to the Minister, CEO and officers to take action for the wellbeing of children;</p> <p>(b) establishes measures for the prevention of harm and exploitation of children such as screening for child related employment; and</p> <p>(c) establishment of the office of Children's Commissioner.</p>
			s13	A child, for the purposes of the Act, means a person less than 18 years of age or a person apparently less than 18 years of age if the person's age cannot be proved.
			s14	Wellbeing of a child is defined to include the child's physical, psychological and emotional wellbeing.
			s15	<p>Harm to a child is defined as any significant detrimental effect caused by any act, omission or circumstance on:</p> <p>(a) the physical, psychological or emotional wellbeing of the child; or</p> <p>(b) the physical, psychological or emotional development of the child.</p>

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				<p>Harm can be caused by the following:</p> <ul style="list-style-type: none"> <li>(a) physical, psychological or emotional abuse or neglect of the child;</li> <li>(b) sexual abuse or other exploitation of the child;</li> <li>(c) exposure of the child to physical violence.</li> </ul>
			s16	<p>Exploitation of a child is defined to include sexual and any other forms of exploitation of the child.</p> <p>Sexual exploitation of a child includes:</p> <ul style="list-style-type: none"> <li>(a) sexual abuse of the child; and</li> <li>(b) involving the child as a participant or spectator in any of the following: <ul style="list-style-type: none"> <li>(i) an act of a sexual nature;</li> <li>(ii) prostitution;</li> <li>(iii) a pornographic performance.</li> </ul> </li> </ul>
			s26(1)	<p>If a person believes, on reasonable grounds, any of the following:</p> <ul style="list-style-type: none"> <li>(a) a child has suffered or is likely to suffer harm or exploitation;</li> <li>(b) a child aged less than 14 years has been or is likely to be</li> </ul>

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				<p>a victim of a sexual offence;</p> <p>(c) a child has been or is likely to be a victim of an offence against section 128 of the Criminal Code</p> <p>that person must, as soon as possible after forming that belief, report (orally or in writing) such belief and knowledge to the CEO or a police officer (<b>mandatory reporting obligation</b>).</p>
			s26(2)	<p>If a person is a health practitioner or someone who performs work of a kind that is prescribed by regulation and believes, on reasonable grounds:</p> <p>(a) that a child aged at least 14 years (but less than 16 years) has been or is likely to be a victim of a sexual offence; and</p> <p>(b) that the difference in age between the child and alleged sexual offender is more than 2 years;</p> <p>(c) that person must, as soon as possible after forming that belief, report (orally or in writing) such belief and knowledge to the CEO or a police officer (<b>mandatory reporting obligation</b>).</p>
			s30(1)	<p>The following people, must ensure that everyone providing services for a child under the person's control or direction is aware of the mandatory reporting obligations:</p> <p>(a) an operator of child-related services;</p> <p>(b) an approved provider of an education and care service operated under the Education and Care Services National</p>

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				<p>Law (NT);</p> <p>(c) the person in charge of a hospital or any other facility for health services;</p> <p>(d) the person in charge of a school or any other educational institution.</p>
			s30(2) and (2A)	A person who engages another person in child-related employment or to perform work as a health practitioner must ensure the other person is aware of the mandatory reporting obligations.
			s32 and s33	The CEO or a police officer may make inquiries about a child if the CEO/police officer receives information that raises concerns about the child's wellbeing.
			s35 and s36	The CEO or a police officer may initiate an investigation to determine whether a child is in need of protection.
			s51	<p>The CEO may take a child into provisional protection if:</p> <p>(a) the CEO reasonably believes:</p> <p>(i) the child is in need of protection; and</p> <p>(ii) the provisional protection is urgently needed to safeguard the wellbeing of the child; and</p> <p>(b) no protection order or temporary protection order is in force for the child.</p>

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				One example of urgency provided is where a child is likely to suffer from harm or exploitation if the child is left at the place where the child is found.
			Chapter 2, Part 2.1 Division 8 Subdivision 1	This subdivision of the Act gives authorised officers the power to take action, on a temporary basis and only in limited circumstances, to remove a child from a place where the wellbeing of the child is at risk.
			Chapter 2, Part 2.3 Division 2	To create an appropriate judicial process for safeguarding the wellbeing of children, particularly children who are or might be in need of protection, the Local Court is invested with a family matters jurisdiction to hear and determine amongst other things orders and decisions under the Act.
			s103, s111, s121	<p>The types of orders that may be obtained under the Act include:</p> <ul style="list-style-type: none"> <li>(a) a temporary protection order where the proposed order is urgently needed to safeguard the wellbeing of the child;</li> <li>(b) an assessment order where the proposed assessment is necessary for determining whether the child is in need of protection;</li> <li>(c) a protection order where the child is in need of protection;</li> </ul>
			Chapter 2, Part 2.4	The Act contains provisions enabling protection orders and related proceedings to be transferred between different jurisdictions so that children may be protected under orders when moving from one jurisdiction to another and so that

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				proceedings may be determined expeditiously.
			s185	<p>Child-related work is defined in the Act to mean any work that involves or may potentially involve contact with children in connection with any of the following:</p> <ul style="list-style-type: none"> <li>(a) child protection services provided by or for the Department;</li> <li>(b) an education and care service operated under the Education and Care Services National Law (NT);</li> <li>(c) an educational facility for children, including a government school established under the Education Act and a school registered under Part VII of that Act, other than a facility prescribed by regulation;</li> <li>(d) juvenile detention centres;</li> <li>(e) refuges or other residential facilities used by children;</li> <li>(f) wards of hospitals or any other facilities for health services in which children are ordinarily patients;</li> <li>(g) clubs, associations or movements (including those that are of a cultural, recreational or sporting nature) with significant child membership or involvement;</li> <li>(h) religious organisations;</li> <li>(i) babysitting or child-minding services;</li> </ul>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(j) fostering of children;</p> <p>(k) transportation services for children;</p> <p>(l) private tuition services for children;</p> <p>(m) counselling or other support services for children;</p> <p>(n) overnight camps for children;</p> <p>(o) road crossing services for school children;</p> <p>(p) any of the following services, activities or facilities that are provided or arranged for children:</p> <p>(i) gym or play facilities;</p> <p>(ii) photographic services;</p> <p>(iii) talent or beauty competitions;</p> <p>(iv) entertainment or party services;</p> <p>(v) any other services, activities or facilities prescribed by regulation.</p> <p>The Act specifically provides that the following people are persons engaged in child-related employment:</p> <p>(a) anyone performing child-related work:</p> <p>(b) as a minister of religion or as part of a religious vocation;</p>

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				<p>or</p> <p>(c) as a student for the practical training of an educational or vocational course; or</p> <p>(d) as a voluntary worker;</p> <p>(e) if a body is engaged to perform child-related work, any of the following:</p> <p>(i) for a body corporate as defined in the Corporations Act 2001 – an officer of the body corporate as defined in that Act;</p> <p>(ii) for any other body corporate – anyone (however described) who takes part in the management of the body corporate;</p> <p>(iii) for any unincorporated body or association – a member of the committee of management (however described) of the body or association;</p> <p>(f) if a partnership is engaged to perform child-related work – a partner in the partnership.</p>
			s186	<p>The Act states that an individual is not engaged in child-related employment if:</p> <p>(a) the individual:</p> <p>(i) is engaged as a voluntary worker in a capacity covered by section 185(2)(b), (c) or (g) (other than for work requiring</p>

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				<p>overnight stay); and</p> <p>(ii) is a parent of at least one of the children with whom the individual may have contact as such a worker; and</p> <p>(iii) performs work as such a worker under the direct supervision of someone who holds a clearance notice that is in force; and</p> <p>(iv) is not required by the person who engages the individual as such a worker to hold a clearance notice; or</p> <p>(b) the individual is less than 15 years of age; or</p> <p>(c) the individual:</p> <p>(i) is not a resident of the Territory; and</p> <p>(ii) is engaged as a voluntary worker to perform child-related work; and</p> <p>(iii) is so engaged for a total period that does not exceed the limit prescribed by regulation; or</p> <p>(iv) the individual is exempt under the regulations.</p>
			S187	<p>To ensure individuals who pose an unacceptable risk of harm or exploitation to children are prevented from contacting children through their employment, the Act:</p> <p>(a) requires an individual engaged in child-related</p>

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				<p>employment to hold a clearance notice that is in force;</p> <p>(b) prohibits a person engaging an individual in child-related employment unless the individual holds a clearance notice that is in force;</p>
			s201	<p>To prevent the exploitation of children in their employment and to ensure the wellbeing of children who are in employment the CEO has the power to prohibit a child from being employed, to prohibit a child from specified types of employment or impose specified conditions on the employment of the child.</p>
			Chapter 5, Part 5.1	<p>The Act establishes a Children's Commissioner to ensure the wellbeing of vulnerable children and the monitoring of the implementation of any government decision arising from the Inquiry into the Protection of Aboriginal Children from Sexual Abuse.</p>
			s258(2)	<p>A vulnerable child is defined as any of the following:</p> <p>(a) a child who is the subject of the exercise of a power or performance of a function under Chapter 2;</p> <p>(b) a child who has been arrested or is on bail, or in relation to whom an order made under the Youth Justice Act is in force;</p> <p>(c) a child in relation to whom an order made under the Volatile Substance Abuse Prevention Act is in force;</p> <p>(d) a child who is suffering from a mental illness or is</p>

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				<p>mentally disturbed, or has a disability;</p> <p>(e) a child who has sought or is seeking child-related services, or for whom a family member of the child has sought or is seeking child-related services, for any of the following:</p> <p>(i) the prevention of harm to, or exploitation of, the child;</p> <p>(ii) the protection of the child;</p> <p>(iii) care or support of the child;</p> <p>(iv) a person prescribed by regulation.</p>
			s260	<p>The Commissioner's functions include:</p> <p>(a) to investigate:</p> <p>(i) a complaint about services required to be provided to vulnerable children by service providers (see sections 263 to 265); or</p> <p>(ii) on the Commissioner's own initiative, a matter that may form the grounds for making a complaint (irrespective of when the matter occurred and whether or not a complaint was made);</p> <p>(b) to monitor the ways in which service providers respond to reports made by the Commissioner;</p> <p>(c) to monitor the administration of this Act in so far as it</p>

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				<p>relates to vulnerable children;</p> <p>(d) to monitor the implementation of any government decision arising from the Inquiry into the Protection of Aboriginal Children from Sexual Abuse;</p> <p>(a) to act in accordance with section 261 in relation to submissions received by the Commissioner about recommendations arising from the Board of Inquiry into the Child Protection System of the Northern Territory;</p> <p>(b) to report to the Minister on a matter relating to the Commissioner's functions as requested by the Minister.</p>
			s263	A person who is or has been a vulnerable child or an adult acting on behalf of a vulnerable child may make a complaint to the Commissioner.
			s264	<p>The grounds for making a complaint to the Commissioner must be made on one or more of the following grounds:</p> <p>(a) a service provider failed to provide services (required services) for the child, as a vulnerable child, that the provider was reasonably expected to provide;</p> <p>(b) the required services provided by the provider for the child failed to meet the standard that was reasonably expected of the provider.</p> <p>Required services is defined to include:</p> <p>(a) any services relating to the care or wellbeing of the child;</p>

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				<p>and</p> <p>(b) for a vulnerable child mentioned in section 258(2)(e) – child-related services covered by that section that are provided to the child, or a family member of the child, for any of the following:</p> <p>(i) the prevention of harm to, or exploitation of, the child;</p> <p>(ii) the protection of the child;</p> <p>(iii) care or support of the child.</p>
	<b>Care and Protection of Children (Screening) Regulations</b>	NT	Regulation 7(2)(a) and (s189 of the Care and Protection of Children Act)	Where a person has been convicted of an offence under s202C of the Criminal Code and the conviction related to the sexual servitude of a child, that person may not be issued with a clearance certificate for the purposes of child-related employment under the Care and Protection of Children Act.
	<b>Child Protection (Offender Reporting and Registration) Act</b>	NT		<p>The main purposes of this Act is to require certain offenders who commit sexual or certain other serious offences against children:</p> <p>(a) to keep police informed of their whereabouts and other personal details for a period of time; in order to reduce the likelihood that they will re-offend and in order to facilitate the investigation and prosecution of any future offences that they may commit,</p> <p>(b) to prohibit certain offenders from working in child-related employment, and</p>

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				(c) to enable courts to make orders prohibiting certain offenders from engaging in specified conduct.
			s3	A child means a person who is under the age of 18 years.
			s6, s7	Reportable offender is defined as someone who has been sentenced for a reportable offence or who has been made the subject of an offender reporting order.
			s12(1)	A reportable offence is defined as a Class 1 offence or a Class 2 offence or an offence that results in the making of an offender reporting order.
			s12(2), Schedule 1	<p>Class 1 offences include:</p> <p>1A. An offence against section 125E of the Criminal Code (using child for production of child abuse material or pornographic or abusive performance).</p> <ol style="list-style-type: none"> <li>1. An offence against section 127 of the Criminal Code (sexual intercourse or gross indecency involving child under 16 years).</li> <li>2. An offence against section 130 of the Criminal Code (sexual intercourse or gross indecency by provider of services to mentally ill or handicapped person) – where the victim is a child.</li> <li>3. An offence against section 131A of the Criminal Code (sexual relationship with a child).</li> <li>4. An offence against section 134(2) or (3) of the Criminal</li> </ol>

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				<p>Code (incest) – where the close family member is a child.</p> <p>5. An offence against section 162 or 163 of the Criminal Code (murder and manslaughter, respectively) – where the victim is a child.</p> <p>6. An offence against section 192 of the Criminal Code (sexual intercourse and gross indecency without consent) – where the victim is a child.</p> <p>7. An offence against section 192B of the Criminal Code (coerced sexual self-manipulation) – where the victim is a child.</p> <p>8. An offence against section 202B(2) or (3) of the Criminal Code (sexual servitude) – where the victim is a child.</p> <p>9. An offence against section 202C(2) or (3) of the Criminal Code (conducting business involving sexual servitude) – where the victim is a child.</p> <p>10. An offence against section 202D(2) of the Criminal Code (deceptive recruiting for sexual services) – where the victim is a child.</p> <p>11. An offence committed against section 60 to 69 (inclusive), 70(2), 71, 72 or 74 of the Criminal Law Consolidation Act – where the victim was a child.</p> <p>12. An offence against section 50BA of the Crimes Act 1914 (Cth) (sexual intercourse with child under 16 years).</p>

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			s12(3), Schedule 2	<p>Class 2 offences include:</p> <ol style="list-style-type: none"> <li>1. An offence against section 125B of the Criminal Code (possession of child pornography and certain indecent articles).</li> <li>2. An offence against section 125C of the Criminal Code (publishing indecent articles) – where the article is indecent because it portrays a child who is under, or who looks like he or she is under, the age of 16 years.</li> <li>3. An offence against section 128 of the Criminal Code (sexual intercourse or gross indecency involving child over 16 years under special care).</li> <li>4. An offence against section 131 of the Criminal Code (attempts to procure child under 16 years).</li> <li>5. An offence against section 132 of the Criminal Code (indecent dealing with child under 16 years).</li> <li>6. An offence against section 188(1) of the Criminal Code committed in the circumstances referred to in subsection (2)(k) of that section (indecent assault) – where the victim is a child.</li> <li>7. An offence against section 193 of the Criminal Code (assaults with intent to commit an offence) – where the intent is to commit a reportable offence.</li> <li>8. An offence against section 201 of the Criminal Code (abduction, enticement or detention of child under 16 years</li> </ol>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>for immoral purpose).</p> <p>9. An offence against section 13 of the Prostitution Regulation Act (causing or inducing infant to take part in prostitution).</p> <p>10. An offence against section 14 of the Prostitution Regulation Act (allowing infant to take part in prostitution).</p> <p>11. An offence against section 15 of the Prostitution Regulation Act (obtaining payment in respect of prostitution services provided by infant).</p> <p>12. An offence against section 16 of the Prostitution Regulation Act (entering into agreement for provision of prostitution services by infant).</p> <p>13. An offence against section 50BC of the Crimes Act 1914 (Cth) (sexual conduct involving child under 16 years).</p> <p>14. An offence against section 50BD of the Crimes Act 1914 (Cth) (inducing child under 16 years to be involved in sexual conduct).</p> <p>15. An offence against section 50DA or 50DB of the Crimes Act 1914 (Cth) (benefiting from offence and encouraging offence, respectively).</p> <p>16. An offence against section 271.4(1) or (2) of the Criminal Code Act 1995 (Cth) (trafficking in children to provide sexual services).</p>

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				<p>17. An offence against section 271.7 of the Criminal Code Act 1995 (Cth) (domestic trafficking in children to provide sexual services).</p> <p>18. An offence against section 474.19 of the Criminal Code Act 1995 (Cth) (using a carriage service for child pornography material).</p> <p>19. An offence against section 474.20 of the Criminal Code Act 1995 (Cth) (possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service).</p> <p>20. An offence against section 474.26 of the Criminal Code Act 1995 (Cth) (using a carriage service to procure persons under 16 years of age).</p> <p>21. An offence against section 474.27 of the Criminal Code Act 1995 (Cth) (using a carriage service to 'groom' persons under 16 years of age).</p>
			s13	<p>An offender reporting order is an order made under s13 of the Act. Under s13 of the Act, where a court finds a person guilty of an offence that is not a Class 1 or Class 2 offence, it may still order that the person comply with the reporting obligations of this Act.</p> <p>The court may only make the order under s13 of the Act if it is satisfied that the person poses a risk to the lives or the sexual safety of one or more children or children generally.</p>

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			s14	A reportable offender must report his or her personal details to the Commissioner within the time frames set out in the Act.
			s16	<p>In an initial report, the following are personal details that a reportable offender must report:</p> <ul style="list-style-type: none"> <li>(a) his or her current name, together with any other name by which he or she is, or has previously been, known;</li> <li>(b) in respect of each name other than his or her current name, the period during which he or she was known by that other name;</li> <li>(c) his or her date of birth;</li> <li>(d) the address of each of the premises at which he or she generally resides or, if he or she does not generally reside at any particular premises, the name of each of the localities in which he or she can generally be found;</li> <li>(e) the names and ages of any children who generally reside in the same household as that in which he or she generally resides or with whom he or she has regular unsupervised contact;</li> <li>(f) if he or she is employed: <ul style="list-style-type: none"> <li>(i) the nature of his or her employment; and</li> <li>(ii) the name of his or her employer (if any); and</li> </ul> </li> </ul>

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				<p>(iii) the address of each of the premises at which he or she is generally employed or, if he or she is not generally employed at any particular premises, the name of each of the localities in which he or she is generally employed;</p> <p>(g) details of his or her affiliation with any club or organisation that has child membership or child participation in its activities;</p> <p>(h) the make, model, colour and registration number of any motor vehicle owned by, or generally driven by, him or her;</p> <p>(i) details of any tattoos or permanent distinguishing marks that he or she has (including details of any tattoo or mark that has been removed);</p> <p>(j) whether he or she has ever been found guilty in any foreign jurisdiction of a foreign reportable offence or an offence that required him or her to report to a corresponding registrar or been the subject of a corresponding offender reporting order and, if so, where that finding occurred or that order was made;</p> <p>(k) if he or she has been in government custody, whether in the Territory or elsewhere, since he or she was sentenced or released from government custody (as the case may be) in respect of a reportable offence, foreign reportable offence or corresponding reportable offence – details of when and where that government custody occurred;</p> <p>(l) if, at the time of making a report under this Division, the reportable offender travels or intends to travel, within the</p>

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				<p>Territory or elsewhere, frequently (irrespective of the length of any such travel):</p> <ul style="list-style-type: none"> <li>(i) in general terms, the reason for travelling; and</li> <li>(ii) in general terms, the frequency and destinations of the travel;</li> <li>(m) a telephone number at the premises where the reportable offender generally resides or, if the reportable offender does not generally reside at any particular premises, at least one telephone number by which the reportable offender may be contacted for each of the localities in which he or she can generally be found;</li> <li>(n) the number of each mobile telephone used by the reportable offender;</li> <li>(o) each email address used by the reportable offender;</li> <li>(p) the name of each internet service provider the reportable offender uses to access the internet, and usernames adopted by the reportable offender;</li> <li>(q) any other information prescribed by regulation.</li> </ul>
			s18	<p>A reportable offender must report his or her personal details to the Commissioner each year. Personal details include the details listed in s16 of the Act and details of the person's physical appearance.</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			s19	<p>A reportable offender must report to the Commissioner any change in his or her personal details within 7 days after that change occurs.</p> <p>If the change is a change to the reportable offender's personal appearance that only alters the offender's appearance in a way that is insignificant, the offender need not report the change.</p> <p>if the change includes any of the following the reportable offender must report the change under subsection (1) even if the offender believes the change alters his or her appearance in a way that is insignificant:</p> <p>(a) shaving off a moustache or beard, growing a moustache or beard or applying a false moustache or beard;</p> <p>(b) colouring hair so it is a different colour (as opposed to a mere change in the shade of colour);</p> <p>(c) changing hair styles by shaving the head so it is bald, curling straight hair, straightening curly or wavy hair, shortening hair previously worn long or wearing a wig.</p> <p>If the change includes a change of the reportable offender's name, he or she must give the Commissioner, at the time of making the report, a copy of any new birth certificate issued in relation to the change of name and any other documents relating to the change of name.</p>
			s20	<p>If the reportable offender intends to travel within the Territory or leave the Territory, he or she must, at least 7 days before starting to travel, report the intended travel to the</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				Commissioner.
			s64	<p>The Commissioner is required to establish and maintain a Child Protection Offender Register or arrange for another person or body to establish and maintain a Child Protection Offender Register on the Commissioner's behalf.</p> <p>The Register contains detailed information in respect of each reportable offender.</p>
			s72	<p>A court may make a child protection prohibition order prohibiting a person from engaging in conduct specified in the order if the court is satisfied that the person is a reportable offender and, on the balance of probabilities, that:</p> <p>(a) there is reasonable cause to believe, having regard to the nature and pattern of conduct of the person, that the person poses a risk to the lives or sexual safety of one or more children or children generally; and</p> <p>(b) the making of the order may reduce that risk.</p>
			s74	<p>The court must specify the term for which a child protection prohibition order remains in force. The term cannot be more than 5 years or 2 years for young reportable offender (a child).</p>
			s83	<p>A person commits an offence if they fail to comply with a child protection prohibition order.</p>
			s92	<p>A reportable offender must not, during a prohibited period apply for or engage in employment that is child-related</p>

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				<p>employment.</p> <p>It is a defence is available if the defendant can prove to prove that the defendant did not know, at the time the offence is alleged to have been committed, that the employment was child-related employment.</p>
			s91	<p>Child-related employment is defined as employment involving contact with a child and includes employment in connection with any of the following:</p> <ul style="list-style-type: none"> <li>(a) child protection services;</li> <li>(b) child care centres or pre-schools;</li> <li>(c) educational institutions for children;</li> <li>(d) youth detention centres;</li> <li>(e) refuges or other residential facilities used by children;</li> <li>(f) wards of public or private hospitals in which children are ordinarily patients;</li> <li>(g) clubs, associations or movements (including of a cultural, recreational or sporting nature) with significant child membership or involvement;</li> <li>(h) religious organisations;</li> <li>(i) baby sitting or child minding services;</li> </ul>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(j) fostering children;</p> <p>(k) providing taxi services for the transport of children;</p> <p>(l) private tuition services of any kind for children;</p> <p>(m) counselling or other support services for children;</p> <p>(n) overnight camps regardless of the type of accommodation or of how many children are involved;</p> <p>(o) school crossing services provided to assist children to cross roads on their way to or from school.</p>
	<p><b>Commercial Passenger (Road) Transport Act and Commercial Passenger (Miscellaneous) Regulations</b></p>	NT	s8(1),	<p>Under this Act, a person who proposes to operate a commercial passenger vehicle must be accredited under the Act.</p> <p>A commercial passenger vehicle is defined in the Act to mean a taxi, private hire car, limousine, special function vehicle, minibus, courtesy vehicle, motor omnibus, tourist vehicle or special passenger vehicle.</p>
			s9(3)(b)	<p>An accreditation under the Act may not be granted or renewed, if the person has been convicted of a disqualifying offence.</p> <p>Disqualifying offence is defined in the Act to include those listed in Schedule 3 of the <i>Commercial Passenger (Miscellaneous) Regulations</i>. The offences listed in Schedule 3 of the Regulation include an offence against the following</p>

# CLAYTON UTZ

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>provisions of the Criminal Code:</p> <p>(a) s127 (Sexual intercourse or gross indecency involving a child under 16 years)</p> <p>(b) s131 (Attempts to procure a child under 16 years)</p> <p>(c) s131A (Sexual relationship with child)</p> <p>(d) s132 (Indecent dealing with child under 16 years)</p> <p>(e) s201 (Abduction, enticement or detention of child under 16 years for immoral purposes)</p>
			s9(3A) and s9(3B)	<p>However, an accreditation under the Act may be granted or renewed if the person's criminal record for the conviction is a spent record within the meaning of the Criminal Records (Spent Convictions) Act, the person is discharged without penalty or if the CEO has decided that the person may continue to hold accreditation despite the conviction.</p>
			s75A	<p>The Director of Commercial Passenger (Road) Transport must cancel the accreditation of an accredited operator on becoming aware the operator was convicted of a disqualifying offence.</p>
			s75B	<p>If an accredited operator is charged with a disqualifying offence, the Director may suspend the accreditation for the period the Director of Commercial Passenger (Road) Transport considers appropriate.</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			s75C	An accredited operator must immediately give written notice to the Director of Commercial Passenger (Road) Transport if the operator is charged with a disqualifying offence.
			s76	A person who has had the accreditation refused, cancelled or suspended because of a disqualifying offence may apply to the CEO for a review of the decision to see if there are exceptional circumstances that may allow the person to be accredited or continue to be accredited.
	<b>Criminal Code Act</b>	NT	s1	Child is defined in the Act as a person who is not an adult. Adult is defined as a person of or over the age of 18 years.
			s43AP	A child under 10 years old is not criminally responsible for an offence.
			s43AQ	A child aged 10 years or more but under 14 years old can only be criminally responsible for an offence if the child knows that his or her conduct is wrong. The question whether a child knows that his or her conduct is wrong is one of fact. The burden of proving that a child knows that his or her conduct is wrong is on the prosecution.
			Part V Division 2 Subdivision 1 (Child abuse material and indecent articles)  s125B	A person who possesses, distributes, produces, sells or offers or advertises for distribution or sale child abuse material is guilty of a crime.

# CLAYTON UTZ

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			s125A	<p>child abuse material is defined as material that depicts, describes or represents, in a manner that is likely to cause offence to a reasonable adult, a person who is a child or who appears to be a child:</p> <ul style="list-style-type: none"> <li>(a) engaging in sexual activity;</li> <li>(b) in a sexual, offensive or demeaning context; or</li> <li>(c) being subjected to torture, cruelty or abuse,</li> </ul> <p>but does not include:</p> <ul style="list-style-type: none"> <li>(d) a film, publication or computer game that is classified (other than as RC) under the Commonwealth Act; or</li> <li>(e) a film, publication or computer game that is the subject of an exemption under Part X of the <i>Classification of Publications, Films and Computer Games Act</i>.</li> </ul>
			s125C	A person who publishes an indecent article is guilty of an offence.
			125A	<p>Indecent article is defined to mean an article that:</p> <ul style="list-style-type: none"> <li>(a) promotes crime or violence, or incites or instructs in matters of crime or violence; or</li> <li>(b) depicts, describes or represents, in a manner that is likely to cause offence to a reasonable adult:</li> </ul> <ul style="list-style-type: none"> <li>(i) the use of violence or coercion to compel a person to</li> </ul>

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				<p>participate in, or submit to, sexual conduct;</p> <p>(ii) sexual conduct with or on the body of a dead person;</p> <p>(iii) the use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct;</p> <p>(iv) bestiality;</p> <p>(v) acts of torture or the infliction of extreme violence or extreme cruelty; or</p> <p>(vi) a person (whether or not engaged in sexual activity) who is a child who has not attained the age of 16 years or who looks like a child who has not attained that age.</p>
			s125D	<p>Where a body corporate is convicted of an offence under Part V Division 2 Subdivision 1, each person who is a director of the body corporate or otherwise concerned in its management is deemed to have committed that offence, and is liable to be proceeded against accordingly and punished as an individual.</p> <p>It is a defence for that person to prove that he or she could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the body corporate.</p>
			s125E	<p>A person who uses, offers or procures a person who is a child or who appears to be a child for the production of child abuse material or for a pornographic or abusive performance is guilty of a crime.</p> <p>Pornographic or abusive performance is defined to mean any</p>

# CLAYTON UTZ

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>performance by a person:</p> <ul style="list-style-type: none"> <li>(a) engaging in sexual activity;</li> <li>(b) in a sexual, offensive or demeaning context; or</li> <li>(c) being subject to torture, cruelty or abuse,</li> </ul> <p>that is likely to cause offence to a reasonable adult.</p>
			s127	<p>Any person who has sexual intercourse with or commits any act of gross indecency upon, a child who is under the age of 16 years is guilty of a crime and is liable to imprisonment for 16 years.</p> <p>If the child is of or over the age of 10 years and under the age of 16 years and the crime is committed in any of the following circumstances, the offender is liable to imprisonment for 20 years:</p> <ul style="list-style-type: none"> <li>(a) the offender is in the company of another person;</li> <li>(b) the child is (whether generally or at the time of the commission of the offence) under the care of the offender;</li> <li>(c) the child has a serious physical disability;</li> <li>(d) the child has a serious intellectual disability;</li> <li>(e) the offender took advantage of the child being under the influence of alcohol or a drug in order to commit the offence.</li> </ul>

# CLAYTON UTZ

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>If the child is under the age of 10 years, the offender is liable to imprisonment for 25 years.</p> <p>It is a defence to prove:</p> <ul style="list-style-type: none"> <li>(a) the child was of or above the age of 14 years; and</li> <li>(b) the accused person believed on reasonable grounds that the child was of or above the age of 16 years.</li> </ul>
			s131	<p>Any person who attempts to procure a child who is under the age of 16 years to:</p> <ul style="list-style-type: none"> <li>(a) have sexual intercourse either in the Territory or elsewhere; or</li> <li>(b) commit, perform or engage in any act of gross indecency,</li> <li>(c) is guilty of a crime and is liable to imprisonment for 3 years.</li> </ul> <p>If the offender is an adult he is liable to imprisonment for 5 years.</p> <p>It is a defence to prove:</p> <ul style="list-style-type: none"> <li>(a) the child was of or above the age of 14 years; and</li> <li>(b) the accused person believed on reasonable grounds that the child was of or above the age of 16 years.</li> </ul>
			s131A	Any adult who maintains a relationship of a sexual nature

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				<p>with a child under the age of 16 years is guilty of a crime and is liable to imprisonment for 7 years.</p> <p>However, a person shall not be convicted of the crime defined by this section unless it is shown that the offender, as an adult, has, during the period in which it is alleged that he maintained the relationship in issue with the child, done an act defined to constitute an offence of a sexual nature in relation to the child on 3 or more occasions, and evidence of the doing of any such act shall be admissible and probative of the maintenance of the relationship notwithstanding that the evidence does not disclose the dates or the exact circumstances of those occasions.</p> <p>An offence of a sexual nature is defined as an offence under section 127, 128, 130, 132, 134, 188(1) and (2)(k), 192 or 192B of the Act.</p> <p>It is a defence to prove:</p> <p>(a) the child was of or above the age of 14 years; and</p> <p>(b) the accused person believed on reasonable grounds that the child was of or above the age of 16 years.</p>
			s132	<p>Any person who:</p> <p>(a) indecently deals with a child under the age of 16 years;</p> <p>(b) exposes a child under the age of 16 years to an indecent act by the offender or any other person;</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(c) permits himself to be indecently dealt with by a child under the age of 16 years;</p> <p>(d) procures a child under the age of 16 years to perform an indecent act;</p> <p>(e) without legitimate reason, intentionally exposes a child under the age of 16 years to an indecent object or indecent film, video tape, audio tape, photograph or book; or</p> <p>(f) without legitimate reason, intentionally takes or records, by means of any device, an indecent visual image of a child under the age of 16 years,</p> <p>(g) is guilty of a crime and is liable to imprisonment for 10 years.</p> <p>If the child is under the age of 10 years, the offender is liable to imprisonment for 14 years.</p> <p>It is a defence to prove:</p> <p>(a) the child was of or above the age of 14 years; and</p> <p>(b) the accused person believed on reasonable grounds that the child was of or above the age of 16 years.</p>
			s134	<p>Any person who has sexual intercourse with another person who is a close family member is guilty of a crime and is liable to imprisonment for 14 years.</p> <p>close family member, of a person, is defined to mean any of</p>

# CLAYTON UTZ

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the following persons who are members of the person's family from birth:</p> <ul style="list-style-type: none"> <li>(a) a parent or grandparent;</li> <li>(b) a child or other lineal descendant;</li> <li>(c) a brother, sister, half-brother or half-sister;</li> </ul> <p>If the close family member is a child of or over the age of 10 years and under the age of 16 years, the offender is liable to imprisonment for 20 years.</p> <p>If the close family member is a child under the age of 10 years, the offender is liable to imprisonment for 25 years.</p> <p>It is a defence to prove that the accused person was acting under the coercion of the close family member.</p>
			s139	<p>Except as otherwise expressly stated, it is immaterial in the case of the crimes committed with respect to a child under a specified age that the accused person did not know that that child was under that age or believed that the child was not under that age.</p>
			s149	<p>It is the duty of every person having charge of a child under the age of 16 years or having charge of any person who is unable to withdraw himself from such charge by reason of age, sickness, unsoundness of mind, detention or other cause and who is unable to provide himself with the necessaries of life:</p>

# CLAYTON UTZ

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) to provide the necessaries of life for that child or other person; and</p> <p>(b) to use reasonable care and take reasonable precautions to avoid or prevent danger to the life, safety or health of the child or other person and to take all reasonable action to rescue such child or other person from such danger.</p>
			s186C	<p>A person who takes a child from the Territory, or arranges for a child to be taken from the Territory, with the intention of having female genital mutilation performed on the child is guilty of a crime and liable to imprisonment for 14 years.</p> <p>It is not a defence that the person mutilated by or because of the acts alleged to have been committed consented to the acts and/or consented to being taken from the Territory or that a parent or guardian of the person so consented.</p>
			s192(6)	<p>A person who attempts to have has sexual intercourse with another person who is under the age of 16 years without the other person's consent and knowing about or being reckless as to the lack of consent is liable to imprisonment for 14 years.</p>
			s201	<p>Any person who takes or entices away or detains a child who is under the age of 16 years with the intention that he or another shall have sexual intercourse with the child or that the child shall be indecently dealt with or exposed to indecent behaviour, is guilty of a crime and is liable to imprisonment for 7 years.</p>

# CLAYTON UTZ

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			s202B	<p>A person who causes a child of or over the age of 12 years to enter into or continue in sexual servitude is guilty of a crime and is liable to imprisonment for 20 years.</p> <p>A person who causes a child under the age of 12 years to enter into or continue in sexual servitude is guilty of a crime and is liable to imprisonment for life.</p> <p>sexual servitude is defined to mean the condition of a person who provides sexual services and who, because of the use of force or threat, is not free:</p> <p>(a) to stop providing sexual services; or</p> <p>(b) to leave the place or area where the person provides sexual services.</p>
			s202C	<p>A person who conducts a business that involves the sexual servitude of a child of or over the age of 12 years is guilty of a crime and is liable to imprisonment for 20 years.</p> <p>A person who conducts a business that involves the sexual servitude of a child under the age of 12 years is guilty of a crime and is liable to imprisonment for life.</p> <p>A person who conducts a business includes a reference to:</p> <p>(a) a person who takes part in the management of the business;</p> <p>(b) a person who exercises control or direction over the</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				business; and  (c) a person who provides finance for the business.
			s202D	A person who, with the intention of inducing a child to enter into an engagement to provide sexual services, deceives the child about the fact that the engagement will involve the provision of sexual services is guilty of a crime and is liable to imprisonment for 15 years.
			s202E	It is immaterial in relation to a crime committed with respect to a person who was at the time of the crime a child, or a child of a specified age, that the accused person:  (a) did not know that the person was a child or a child of a specified age; or  (b) believed that the person was an adult or a child of a different age.

**8. Tasmania**

**CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION**

CRC Article Number & Description	Relevant Australian Legislation	Cth/State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 34:</b></p> <p>States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:</p> <p>(a) The inducement or coercion of a child to engage in any unlawful sexual activity;</p> <p>(b) The exploitative use of children in prostitution or other unlawful sexual practices;</p> <p>(c) The exploitative use of children in pornographic performances and materials.</p>	<p><b>Criminal Code Act, 1924</b></p>	<p>TAS</p>	<p>Part IV, Chapter XIV, s. 124</p>	<p>Any person who has unlawful sexual intercourse with another person who is under the age of 17 years is guilty of a crime.</p> <p>It is a defence to a charge under this section to prove that the accused person believed on reasonable grounds that the other person was of or above the age of 17 years.</p> <p>The consent of a person against whom a crime is alleged to have been committed under this section is a defence to such a charge only where, at the time the crime was alleged to have been committed:</p> <p>(a) that person was of or above the age of 15 years and the accused person was not more than 5 years older than that person; or</p> <p>(b) that person was of or above the age of 12 years and the accused person was not more than 3 years older than that person.</p>
			<p>Part IV, Chapter XIV, s. 125</p>	<p>Any person who:</p> <p>(a) is the owner or occupier of any premises; or</p> <p>(b) has, or acts or assists in, the management or control of any premises:</p> <p>and who induces or knowingly permits any person under the</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				age of 17 years to be in or upon the premises for the purposes of having unlawful sexual intercourse with another person is guilty of a crime.
			Part IV, Chapter XIV, s. 125A	<p>In this section, '<b>unlawful sexual act</b>' means an act that constitutes an offence under section 124, 125B, 126, 127, 127A, 133 or 185 whether committed before, on or after the commencement of this section.</p> <p>Subsection (2) provides that a person who maintains a sexual relationship with a young person who is under the age of 17 years, and to whom he or she is not married, is guilty of a crime.</p> <p>An accused person is guilty of having committed an offence under subsection (2) if, during a particular period when the young person was under the age of 17 years:</p> <p>(a) the accused committed an unlawful sexual act in relation to the young person on at least 3 occasions; and</p> <p>(b) the young person was not married to the accused.</p> <p>It is a defence to a charge under subsection (2) to prove that the accused person believed on reasonable grounds that the young person was of or above the age of 17 years.</p>
			Part IV, Chapter XIV, s. 125B	<p>Any person who does any indecent act with, or directed at, another person who is under the age of 17 years is guilty of a crime.</p> <p>It is a defence to a charge under this section to prove that the</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>accused person believed on reasonable grounds that the other person was of or above the age of 17 years.</p> <p>The consent of a person against whom a crime is alleged to have been committed under this section is a defence to such a charge only where, at the time the crime was alleged to have been committed:</p> <p>(a) that person was of or above the age of 15 years and the accused person was not more than 5 years older than that person; or</p> <p>(b) that person was of or above the age of 12 years and the accused person was not more than 3 years older than that person.</p>
			Part IV, Chapter XIV, s. 125C	<p>In this section '<b>young person</b>' means a person under the age of 17 years.</p> <p>A person who procures:</p> <p>(a) a young person to have unlawful sexual intercourse with another person, either in this State or elsewhere; or</p> <p>(b) another person to have unlawful sexual intercourse with a young person, either in this State or elsewhere:</p> <p>is guilty of a crime.</p> <p>A person who procures:</p> <p>(a) a young person to commit an indecent act, either in this</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>State or elsewhere; or</p> <p>(b) another person to do an indecent act with, or directed at, a young person, either in this State or elsewhere:</p> <p>is guilty of a crime.</p> <p>In any case in which it is provided that the consent of a person to the act charged is a defence to a charge under section 124 or 125B, the like consent to an act which is the subject of the alleged procurement given under the like conditions as to the age of the parties is a defence to a charge under this section.</p> <p>It is also a defence to a charge under this section to prove that the accused person believed on reasonable grounds that the young person was of or above the age of 17 years.</p>
			Part IV, Chapter XIV, s. 125D	<p>Under subsection (1) a person (the '<b>accused person</b>') who makes a communication by any means with the intention of procuring a person under the age of 17 years, or a person the accused person believes is under the age of 17 years, to engage in an unlawful sexual act, either in this State or elsewhere, is guilty of a crime.</p> <p>For the purposes of subsection (1) '<b>unlawful sexual act</b>' means an act that would, if committed in relation to a person under the age of 17 years, constitute an offence under section 124, 125B, 126, 127, 127A, 133 or 185.</p> <p>Under subsection (3) a person (the '<b>accused person</b>') who makes a communication by any means with the intention of</p>

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				<p>exposing, without legitimate reason, a person under the age of 17 years, or a person the accused person believes is under the age of 17 years, to any indecent material, either in this State or elsewhere, is guilty of a crime.</p> <p>For the purposes of subsection (3) '<b>indecent material</b>' means any indecent film, printed matter, electronic data and any other thing of any kind (including any computer image or depiction).</p> <p>It is a defence to a charge under this section to prove that:</p> <p>(a) the person who received the communication, or to whom the communication was directed, was of or above the age of 15 years and the accused person was not more than 5 years older than that person; or</p> <p>(b) the person who received the communication, or to whom the communication was directed, was of or above the age of 12 years and the accused person was not more than 3 years older than that person; or</p> <p>(c) the accused person believed on reasonable grounds that the other person was of or above the age of 17 years.</p> <p>Subsections (1) and (3) apply notwithstanding that the person who received the communication, or to whom the communication was directed, was a person of or above the age of 17 years who was represented to the accused person as a person under the age of 17 years with a fictitious identity.</p> <p>Evidence that the person who received the communication, or</p>

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				to whom the communication was directed, was represented to the accused person as being under the age of 17 years is, in the absence of evidence to the contrary, proof that the accused person believed the person was under that age.
			Part IV, Chapter XIV, s. 127	<p>Any person who unlawfully and indecently assaults another person is guilty of a crime.</p> <p>In any case in which it is provided that the consent of a person to the act charged shall be a defence to a charge under section 124, the like consent to an act charged under this section given under the like conditions as to the age of the parties shall be a defence to a charge under this section.</p> <p>Except as hereinbefore provided, the consent of a person under 17 years of age shall be no defence to a charge under this section.</p>
			Part IV, Chapter XIV, s. 127A	<p>A person who unlawfully and indecently assaults another person by the penetration to the least degree of the vagina, genitalia or anus of that other person by:</p> <p>(a) any part of the human body other than the penis; or</p> <p>(b) an inanimate object:</p> <p>is guilty of a crime.</p> <p>Subsection (2) provides that in any case where it is provided that the consent of a person to the act charged shall be a defence to a charge under section 124, the like consent to an act charged under this section given under the like conditions</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>as to the age of the parties shall be a defence to a charge under this section.</p> <p>Except as provided by subsection (2), the consent of a person under 17 years shall be no defence to a charge under this section.</p>
			Part IV, Chapter XIV, s. 130	<p>A person who:</p> <p>(a) involves, or does anything to facilitate the involvement of, a person under the age of 18 years in the production of child exploitation material; and</p> <p>(b) knows, or ought to have known, that the material is or will be child exploitation material:</p> <p>is guilty of a crime.</p>
			Part IV, Chapter XIV, s. 130A	<p>A person who:</p> <p>(a) produces, or does anything to facilitate the production of, child exploitation material; and</p> <p>(b) knows, or ought to have known, that the material is or will be child exploitation material:</p> <p>is guilty of a crime.</p>
			Part IV, Chapter XIV, s. 130B	<p>A person who:</p> <p>(a) distributes, or does anything to facilitate the distribution</p>

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				<p>of, child exploitation material; and</p> <p>(b) knows, or ought to have known, that the material is child exploitation material:</p> <p>is guilty of a crime.</p> <p>For the purposes of this section:</p> <p><b>'distribute'</b>, in relation to child exploitation material, includes:</p> <p>(a) send, sell, deal, supply, exhibit, transmit or communicate that material to another person, or enter into an agreement or arrangement to do so; and</p> <p>(b) make that material available for access by another person, or enter into an agreement or arrangement to do so.</p>
			Part IV, Chapter XIV, s. 130C	<p>A person who:</p> <p>(a) is in possession of child exploitation material; and</p> <p>(b) knows, or ought to have known, that the material is child exploitation material:</p> <p>is guilty of a crime.</p>
			Part IV, Chapter XIV, s. 130D	<p>A person who, with intent to access child exploitation material, accesses child exploitation material is guilty of a crime.</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Part IV, Chapter XIV, s. 130F	<p>This section applies if a person is prosecuted for a crime under section 130, 130A, 130B, 130C or 130D.</p> <p>The court may, if it considers material which is the subject of a charge under any of the sections referred to in subsection (1) to be child exploitation material, order that the material be forfeited to the Crown.</p> <p>The court may make an order under subsection (2) whether or not the person is convicted of a crime under any of the sections referred to in subsection (1).</p> <p>If the person is convicted of a crime under any of the sections referred to in subsection (1), the court may also order that anything used to commit the crime be forfeited to the Crown.</p> <p>The court may also make any order that it considers appropriate to enforce the forfeiture.</p> <p>When any material or thing is forfeited to the Crown, the material or thing becomes the Crown's property and may be disposed of or destroyed in such manner as the Attorney-General may direct.</p>
	<b>Sex Industry Offences Act 2005</b>	TAS	Part 2, s. 9	<p>Subsection (1) provides that a person must not procure, or otherwise cause or permit, a child to provide sexual services in a sexual services business.</p> <p>Penalty:</p> <p>Imprisonment for a term not exceeding 15 years.</p>

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				<p>Subsection (2) provides that a person must not receive a fee or reward that he or she knows, or must reasonably be expected to know, is derived, directly or indirectly, from sexual services provided by a child in a sexual services business.</p> <p>Penalty:</p> <p>Imprisonment for a term not exceeding 15 years.</p> <p>Subsection (2) does not apply to a fee or reward received in the ordinary course of a business that is not a sexual services business.</p> <p>In a proceeding for an offence against subsection (1), it is a defence to the charge for the accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused believed on reasonable grounds, at the time the offence is alleged to have been committed, that the person concerned was of or over the age of 18 years.</p>
			Part 2, s. 11	<p>A self-employed sex worker must not, without reasonable excuse, proof of which lies on that sex worker, permit a child to be on any premises used by the self-employed sex worker while sexual services are being provided on those premises.</p> <p>The penalty is a fine not exceeding 20 penalty units.</p> <p>A person must not, without reasonable excuse, proof of which lies on that person, permit a child to be on any premises used by that person while he or she is receiving</p>

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				<p>sexual services from a self-employed sex worker.</p> <p>The penalty is a fine not exceeding 20 penalty units.</p>
	<p><b>Children, Young Persons and their Families Act 1997</b></p>	<p>TAS</p>	<p>s. 3</p>	<p><b>'abuse'</b> or <b>'neglect'</b> means:</p> <p>(a) sexual abuse; or</p> <p>(b) physical or emotional injury or other abuse, or neglect, to the extent that:</p> <p>(i) the injured, abused or neglected person has suffered, or is likely to suffer, physical or psychological harm detrimental to the person's wellbeing; or</p> <p>(ii) the injured, abused or neglected person's physical or psychological development is in jeopardy;</p> <p>and 'abused or neglected' has a corresponding meaning;</p>
			<p>s. 7</p>	<p>(1) The object of this Act is to provide for the care and protection of children in a manner that maximises a child's opportunity to grow up in a safe and stable environment and to reach his or her full potential.</p> <p>(2) The Minister must seek to further the object of this Act and, to that end, should endeavour:</p> <p>(a) to promote, and assist in the development of, a partnership approach between the Government, local government, non-Government agencies and families in taking responsibility for and dealing with the problem of child abuse</p>

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				<p>and neglect; and</p> <p>(b) to promote and assist in the development of coordinated strategies for dealing with the problem of child abuse and neglect; and</p> <p>(c) to provide, or assist in the provision of, services for dealing with the problem of child abuse and neglect and for the care and protection of children; and</p> <p>(d) to provide, or assist in the provision of, preventative and support services directed towards strengthening and supporting families and reducing the incidence of child abuse and neglect; and</p> <p>(e) to assist recognised Aboriginal organisations to establish and provide preventative and support services directed towards strengthening and supporting families and reducing the incidence of child abuse and neglect within the Aboriginal community; and</p> <p>(f) to provide, or assist in the provision of, information or education services for guardians, prospective guardians and other members of the community in relation to the developmental, social and safety requirements of children; and</p> <p>(g) to provide, or assist in the provision of, education to persons who are required to notify the Secretary if they know or reasonably believe or suspect that a child is being, or is</p>

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				<p>likely to be, abused or neglected; and</p> <p>(h) to provide, or assist in the provision of, services to help persons who have been under the guardianship or in the custody of the Secretary during childhood to make a successful transition to adulthood; and</p> <p>(i) to collect and publish relevant data or statistics or to assist in their collection or publication; and</p> <p>(j) to promote, encourage and undertake research into child abuse and neglect; and</p> <p>(k) to encourage the provision, by educational institutions, of courses offering instruction about child abuse and neglect and its prevention and treatment; and</p> <p>(l) generally to do such other things which the Minister believes will further the object of this Act.</p>
			s. 13	<p>(1) An adult who knows, or believes or suspects on reasonable grounds, that a child is suffering, has suffered or is likely to suffer abuse or neglect has a responsibility to take steps to prevent the occurrence or further occurrence of the abuse or neglect.</p> <p>(1A) If, while a woman is pregnant, an adult knows, or believes or suspects on reasonable grounds, that the child of that pregnancy once born:</p> <p>(a) is reasonably likely to suffer abuse or neglect; or</p>

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				<p>(b) is reasonably likely to require medical treatment or other intervention as a result of the behaviour of the woman, or another person with whom the woman resides or is likely to reside, before the birth of the child:</p> <p>that adult has a responsibility to take steps to prevent the occurrence of that abuse or neglect or that behaviour.</p> <p>(2) One step the adult may take to prevent the occurrence of abuse or neglect of a child, or behaviour referred to in subsection (1A)(b), is to inform the Secretary or a Community-Based Intake Service of:</p> <p>(a) his or her knowledge, belief or suspicion; and</p> <p>(b) the basis of that knowledge, belief or suspicion.</p>
			s. 14	<p>(1) In this section,</p> <p><b>prescribed person</b> means:</p> <p>(a) a medical practitioner; and</p> <p>(b) a registered nurse or enrolled nurse; and</p> <p>(ba) a person registered under the Health Practitioner Regulation National Law (Tasmania) in the midwifery profession; and</p> <p>(c) a person registered under the Health Practitioner Regulation National Law (Tasmania) in the dental profession as a dentist, dental therapist, dental hygienist or oral health</p>

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				<p>therapist; and</p> <p>(d) a person registered under the Health Practitioner Regulation National Law (Tasmania) in the psychology profession; and</p> <p>(e) a police officer; and</p> <p>(f) . . . . .</p> <p>(g) a probation officer appointed or employed under section 5 of the <i>Corrections Act 1997</i>; and</p> <p>(h) a principal and a teacher in any educational institution (including a kindergarten); and</p> <p>(i) a person who provides child care, or a child care service, for fee or reward; and</p> <p>(j) a person concerned in the management of an approved education and care service, within the meaning of the Education and Care Services National Law (Tasmania), or a child care service licensed under the <i>Child Care Act 2001</i>; and</p> <p>(k) any other person who is employed or engaged as an employee for, of or in, or who is a volunteer in:</p> <p>(i) a Government Agency that provides health, welfare, education, child care or residential services wholly or partly for children; and</p>

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				<p>(ii) an organisation that receives any funding from the Crown for the provision of such services; and</p> <p>(l) any other person of a class determined by the Minister by notice in the <i>Gazette</i> to be prescribed persons.</p> <p>(2) If a prescribed person, in carrying out official duties or in the course of his or her work (whether paid or voluntary), believes, or suspects, on reasonable grounds, or knows:</p> <p>(a) that a child has been or is being abused or neglected or is an affected child within the meaning of the <i>Family Violence Act 2004</i>; or</p> <p>(b) that there is a reasonable likelihood of a child being killed or abused or neglected by a person with whom the child resides; or</p> <p>(c) while a woman is pregnant, that there is a reasonable likelihood that after the birth of the child:</p> <p>(i) the child will suffer abuse or neglect, or may be killed by a person with whom the child is likely to reside; or</p> <p>(ii) the child will require medical treatment or other intervention as a result of the behaviour of the woman, or another person with whom the woman resides or is likely to reside, before the birth of the child:</p> <p>the prescribed person must inform the Secretary or a Community-Based Intake Service of that belief, suspicion or knowledge as soon as practicable after he or she forms the</p>

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				<p>belief or suspicion or gains the knowledge.</p> <p>Penalty:</p> <p>Fine not exceeding 20 penalty units.</p> <p>(3) Whether a person informs the Secretary or a Community-Based Intake Service under subsection (2) verbally or in writing, the person must include in the information a statement of the observations, information, opinions and other grounds upon which the belief, suspicion or knowledge is based.</p> <p>(4) For the purposes of this section, the Secretary may issue or approve guidelines relating to the manner in which a person may inform the Secretary or a Community-Based Intake Service under subsection (2).</p> <p>(5) Without limiting the matters and procedures that may be included in the guidelines, the guidelines may provide that a person may inform the Secretary or a Community-Based Intake Service under subsection (2) by following the procedure set out in the guidelines or by informing another person for or with whom the person works.</p> <p>(6) It is a defence to a charge for an offence against subsection (2):</p> <p>(a) if the person charged can prove that he or she honestly and reasonably believed that the Secretary or a Community-Based Intake Service had been informed of all the reasonable grounds on which his or her belief, suspicion or knowledge</p>

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				<p>was based by another person; or</p> <p>(b) if the person charged has complied with guidelines issued under subsection (4) that apply to him or her in respect of the organisation, body or other person for whom or in which the person works.</p>
			s. 49	<p>(1) If a care and protection order or interim care and protection order grants custody of a child to a person:</p> <p>(a) that grant does not affect the guardianship of the child; and</p> <p>(b) that person has the sole right to the custody of the child.</p> <p>(2) If a care and protection order or interim care and protection order grants guardianship of a child to a person:</p> <p>(a) that grant is a grant of both custody and guardianship of the child to that person; and</p> <p>(b) that person is the guardian of the child and his or her estate to the exclusion of all other persons; and</p> <p>(c) that person has the same rights, powers, duties, obligations and liabilities as a natural parent of the child would have.</p> <p>(3) If, when considering an application for a care and protection order, the Court finds that a child is at risk because a person other than a guardian with whom the child resides has abused or neglected or threatened the child, or is likely to</p>

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				<p>do so, the Court must not make an order removing the child from the guardianship or custody of the guardians with whom the child resides unless satisfied that:</p> <p>(a) they knew, or ought to have known, of the abuse or neglect or threats; or</p> <p>(b) once they are informed of the abuse or neglect or threats, they would be unlikely or unable to prevent further abuse or neglect or threats.</p> <p>(4) . . . . .</p> <p>(5) If custody or guardianship, or custody and then guardianship, of a child has been granted to a person under one or more care and protection orders and interim care and protection orders for a continuous period of 2 or more years and an application for another such order or an extension of that order is before the Court, the Court must, in the interests of securing a settled and permanent living arrangement for the child and despite section 42(6), consider making a care and protection order under section 42(4)(d) granting guardianship of the child until the child attains 18 years of age.</p>
			s. 91	<p>(1) A person who has a duty of care in respect of a child must not intentionally take, or fail to take, action that could reasonably be expected to result in:</p> <p>(a) the child suffering significant harm as a result of physical injury or sexual abuse; or</p>

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				<p>(b) the child suffering emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged; or</p> <p>(c) the child's physical development or health being significantly harmed.</p>
	<p><b>Classification (Publications, Films and Computer Games) Enforcement Act 1995</b></p>	TAS	s. 71	<p><b>'child exploitation material'</b> means material that describes or depicts, in a way that a reasonable person would regard as being, in all the circumstances, offensive, a person who is or who appears to be under the age of 18 years:</p> <p>(a) engaged in sexual activity; or</p> <p>(b) in a sexual context; or</p> <p>(c) as the subject of torture, cruelty or abuse (whether or not in a sexual context);</p>
			s. 72A	<p>A person must not:</p> <p>(a) make or reproduce child exploitation material; or</p> <p>(b) cause or permit child exploitation material to be made or reproduced; or</p> <p>(c) be in any way involved in the making or reproduction of child exploitation material.</p> <p>Penalty:</p> <p>Fine not exceeding 300 penalty units or imprisonment for a</p>

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				term not exceeding 3 years, or both.
			s. 73	<p>A person must not procure or invite or attempt to procure a child to be involved in the making of child exploitation material.</p> <p>Penalty:</p> <p>Fine not exceeding 300 penalty units or imprisonment for a term not exceeding 3 years, or both.</p>
			s. 73A	<p>(1) A person must not distribute, or do anything to facilitate the distribution of, child exploitation material.</p> <p>Penalty: Fine not exceeding 300 penalty units or imprisonment for a term not exceeding 3 years, or both.</p> <p>(2) In this section:</p> <p><b>'distribute'</b> includes:</p> <p>(a) send, sell, deal, supply, exhibit, transmit or communicate child exploitation material to another person, or enter into an agreement or arrangement to do so; and</p> <p>(b) make child exploitation material available for access by another person, or enter into an agreement or arrangement to do so.</p>
			s. 74A	A person must not:

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				<p>(a) possess child exploitation material; or</p> <p>(b) with intent, access, or attempt to access, child exploitation material.</p> <p>Penalty:</p> <p>Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.</p>
			s. 77	<p>(1) This section applies if a person is prosecuted for an offence under Part 8.</p> <p>(2) The court may, if it considers material which is the subject of a charge for an offence under Part 8 to be child exploitation material or a bestiality product, order that the material be forfeited to the Crown.</p> <p>(3) The court may make an order under subsection (2) whether or not the person is convicted of the offence to which the child exploitation material or bestiality product relates.</p> <p>(4) If the person is convicted of an offence under Part 8, the court may also order that anything used to commit the offence be forfeited to the Crown.</p> <p>(5) The court may also make any order that it considers appropriate to enforce the forfeiture.</p> <p>(6) This section does not limit the court's powers under the <i>Crime (Confiscation of Profits) Act 1993</i> or any other law.</p>

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				(7) When any material or thing is forfeited to the Crown, the material or thing becomes the Crown's property and may be disposed of or destroyed in such manner as the Attorney-General may direct.
	<b>Family Violence Act 2004</b>	TAS	s. 39	<p>A person who (whether voluntarily or as required by section 38) informs a police officer that he or she believes, reasonably suspects or knows that family violence involving the use of a weapon, sexual violence or physical violence, or where a child is affected, has occurred or is likely to occur, or who provides any further information to a police officer in respect of such belief, suspicion or knowledge:</p> <p>(a) cannot, by virtue of doing so, be held to have breached any code of professional etiquette or ethics, or to have departed from any accepted form of professional conduct; and</p> <p>(b) insofar as he or she has acted in good faith, incurs no civil or criminal liability in respect of:</p> <p>(i) so informing a police officer; or</p> <p>(ii) the provision of further information.</p>
	<b>Sex Industry Offences Act 2005</b>	TAS	s. 9	<p>(1) A person must not procure, or otherwise cause or permit, a child to provide sexual services in a sexual services business.</p> <p>Penalty: Imprisonment for a term not exceeding 15 years.</p> <p>(2) A person must not receive a fee or reward that he or she</p>

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				<p>knows, or must reasonably be expected to know, is derived, directly or indirectly, from sexual services provided by a child in a sexual services business.</p> <p>Penalty: Imprisonment for a term not exceeding 15 years.</p> <p>(3) Subsection (2) does not apply to a fee or reward received in the ordinary course of a business that is not a sexual services business.</p> <p>(4) In a proceeding for an offence against subsection (1), it is a defence to the charge for the accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused believed on reasonable grounds, at the time the offence is alleged to have been committed, that the person concerned was of or over the age of 18 years.</p>



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				<p>years is guilty of an offence punishable, on conviction, by imprisonment for 14 years.</p> <p>There are defences to a prosecution for an offence against subsection (2) if the defendant establishes that:</p> <p>(a) he or she believed on reasonable grounds that the person on whom the offence is alleged to have been committed was of or above the age of 16 years; or</p> <p>(b) at the time of the alleged offence:</p> <p>(i) the person on whom the offence is alleged to have been committed was of or above the age of 10 years; and</p> <p>(ii) the defendant was not more than 2 years older;</p> <p>and that that person consented to the sexual intercourse.</p>
			Part 3, s. 56	<p>In this section '<b>sexual act</b>' means an act that constitutes an offence against this part, but does not include an act referred to in section 55 (2) or 61 (2) if the person who committed the act establishes the matters referred to in section 55 (3) or 61 (3), as the case may be, that would be a defence if the person had been charged with an offence against section 55 (2) or 61 (2), as the case may be.</p> <p><b>'Young person'</b> means a person who is under the age of 16 years.</p> <p>Under subsection (2) A person who, being an adult, maintains a sexual relationship with a young person is guilty of an</p>

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				<p>offence.</p> <p>For subsection (2), an adult shall be taken to have maintained a sexual relationship with a young person if the adult has engaged in a sexual act in relation to the young person on 3 or more occasions.</p> <p>Subject to subsection (6), a person who is convicted of an offence against subsection (2) is liable to imprisonment for 7 years.</p> <p>Subsection (6) provides that, if a person convicted under subsection (2) is found, during the course of the relationship, to have committed another offence against this part in relation to the young person (whether or not the person has been convicted of that offence), the offence against subsection (2) is punishable by imprisonment:</p> <p>(a) if the other offence is punishable by imprisonment for less than 14 years - for 14 years; or</p> <p>(b) if the other offence is punishable by imprisonment for a period of 14 years or more - for life.</p>
			Part 3, s. 61	<p>A person who commits an act of indecency on, or in the presence of, another person who is under the age of 10 years is guilty of an offence punishable, on conviction, by imprisonment for 12 years.</p> <p>Subsection (2) provides that a person who commits an act of indecency on, or in the presence of, another person who is under the age of 16 years is guilty of an offence punishable, on</p>

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				<p>conviction, by imprisonment for 10 years.</p> <p>It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes that:</p> <p>(a) he or she believed on reasonable grounds that the person on whom the offence is alleged to have been committed was of or above the age of 16 years; or</p> <p>(b) at the time of the alleged offence:</p> <p>(i) the person on whom the offence is alleged to have been committed was of or above the age of 10 years; and</p> <p>(ii) the defendant was not more than 2 years older;</p> <p>and that that person consented to the committing of the act of indecency.</p>
			Part 3, s. 62	<p>A person who engages in sexual intercourse with another person, being a person who is under the age of 10 years and who is, to the knowledge of the first mentioned person, his or her lineal descendant, sister, half-sister, brother, half-brother or stepchild, is guilty of an offence punishable, on conviction, by imprisonment for 20 years.</p> <p>A person who engages in sexual intercourse with another person, being a person who is under the age of 16 years and who is, to the knowledge of the first mentioned person, his or her lineal descendant, sister, half-sister, brother, half-brother or stepchild, is guilty of an offence punishable, on conviction, by</p>

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				<p>imprisonment for 15 years.</p> <p>A person who engages in sexual intercourse with another person, being a person who is of or above the age of 16 years and who is, to the knowledge of the first mentioned person, his or her lineal ancestor, lineal descendant, sister, half-sister, brother or half-brother, is guilty of an offence punishable, on conviction, by imprisonment for 10 years.</p> <p>A person charged with an offence against this section shall, unless there is evidence to the contrary, be presumed to have known at the time of the alleged offence that he or she and the person with whom the offence is alleged to have been committed were related in the way charged.</p> <p>In this section:</p> <p><b>stepchild</b>, in relation to a person, means a person in relation to whom the first mentioned person stands in place of a parent.</p>
			Part 3, s. 64	<p>Subsection (1) provides that a person commits an offence if:</p> <p>(a) the person uses, offers or procures a child:</p> <p>(i) for the production of child pornography; or</p> <p>(ii) for a pornographic performance; and</p> <p>(b) the child is under 12 years old.</p> <p>Penalty: 1 500 penalty units, imprisonment for 15 years or</p>

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				<p>both.</p> <p>Absolute liability applies to subsection (1) (b).</p> <p>Subsection (3) provides that a person commits an offence if:</p> <ul style="list-style-type: none"> <li>(a) the person uses, offers or procures a child:               <ul style="list-style-type: none"> <li>(i) for the production of child pornography; or</li> <li>(ii) for a pornographic performance; and</li> </ul> </li> <li>(b) the child is 12 years old or older.</li> </ul> <p>Penalty: 1 000 penalty units, imprisonment for 10 years or both.</p> <p>Strict liability applies to subsection (3) (b).</p> <p>In this section:</p> <p><b>'child pornography'</b> means anything that represents:</p> <ul style="list-style-type: none"> <li>(a) the sexual parts of a child; or</li> <li>(b) a child engaged in an activity of a sexual nature; or</li> <li>(c) someone else engaged in an activity of a sexual nature in the presence of a child;</li> </ul> <p>substantially for the sexual arousal or sexual gratification of someone other than the child.</p>

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				<p><b>'pornographic performance'</b> means:</p> <p>(a) a performance by a child engaged in an activity of a sexual nature; or</p> <p>(b) a performance by someone else engaged in an activity of a sexual nature in the presence of a child;</p> <p>substantially for the sexual arousal or sexual gratification of someone other than the child.</p> <p><b>'represent'</b> means depict or otherwise represent on or in a film, photograph, drawing, audiotape, videotape, computer game, the internet or anything else.</p>
			Part 3, s. 64A	<p>A person commits an offence if the person produces, publishes, offers or sells child pornography.</p> <p>Penalty: 1 200 penalty units, imprisonment for 12 years or both.</p>
			Part 3, s. 65	<p>Subsection (1) provides that a person commits an offence if:</p> <p>(a) the person intentionally possesses pornography; and</p> <p>(b) the pornography is child pornography.</p> <p>Penalty: 700 penalty units, imprisonment for 7 years or both.</p> <p>Absolute liability applies to subsection (1) (b).</p> <p>It is a defence to a prosecution for an offence against this</p>

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				<p>section if the defendant proves that the defendant had no reasonable grounds for suspecting that the pornography concerned was child pornography.</p>
			<p>Part 3, s. 66</p>	<p>A person must not, using electronic means, suggest to a young person that the young person commit or take part in, or watch someone else committing or taking part in, an act of a sexual nature. The maximum penalty is:</p> <p>(a) for a 1st offence - imprisonment for 7 years; or</p> <p>(b) for a 2nd or subsequent offence - imprisonment for 10 years.</p> <p>Subsection (2) provides that a person must not, using electronic means, send or make available pornographic material to a young person.</p> <p>Penalty: 700 penalty units, imprisonment for 7 years or both.</p> <p>It is a defence to a prosecution for an offence against subsection (2) if the defendant:</p> <p>(a) is an Internet service provider; and</p> <p>(b) had no knowledge that the defendant's facilities were used to commit the offence.</p> <p>It is not a defence to a prosecution for an offence against this section that the young person had consented to:</p>

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				<p>(a) the suggestion being made; or</p> <p>(b) the material being sent or made available.</p> <p>However, it is a defence to a prosecution for an offence against this section if the defendant proves that the defendant believed on reasonable grounds that the young person to whom the suggestion was made, or the material was sent or made available, was at least 16 years old.</p> <p>In this section:</p> <p><b>'act of a sexual nature'</b> means sexual intercourse or an act of indecency.</p> <p><b>'classified'</b> - see the <i>Classification (Publications, Films and Computer Games) (Enforcement) Act 1995</i>, dictionary.</p> <p><b>'pornographic material'</b> means:</p> <p>(a) material of a sexual nature that has been, or is likely to be, classified R 18+, RC, category 1 restricted or category 2 restricted; or</p> <p>(b) material that has been, or is likely to be, classified X 18+.</p> <p><b>'using electronic'</b> means using email, Internet chat rooms, SMS messages and real time audio/video.</p> <p><b>'young person'</b> means a person under 16 years old.</p>

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			Part 3, s. 70(5)	<p>If, on the trial of a person for an offence against section 55 (1), 61 (1) or 62 (1), the jury:</p> <p>(a) is not satisfied that the person in relation to whom the offence is alleged to have been committed was under 10 years of age when the offence is alleged to have been committed; but</p> <p>(b) is satisfied that the accused is guilty of an offence against section 55 (2), 61 (2) or 62 (2), respectively;</p> <p>the jury may find the accused not guilty of the offence charged but guilty of an offence against section 55 (2), 61 (2) or 62 (2), respectively.</p>
			Part 5, s. 78	<p>In this Part 5:</p> <p><b>'sexual services'</b> means the commercial use or display of the body of the person providing the service for the sexual gratification of others.</p> <p><b>'sexual servitude'</b> is the condition of a person who provides sexual services and who, because of the use of force or a threat, is not free:</p> <p>(a) to stop providing sexual services; or</p> <p>(b) to leave the place or area where the person provides sexual services.</p>
			Part 5, s. 81	Section 81 provides for increased penalties for aggravated offences.

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				<p>An offence against section 79 or 80 is an <b>aggravated offence</b> if the offence was committed against a person younger than 18 years old.</p>
			Part 5, s. 79	<p>Section 79 refers to sexual servitude offences and provides that a person commits an offence if:</p> <ul style="list-style-type: none"> <li>(a) the person's conduct causes someone else to enter into or remain in sexual servitude; and</li> <li>(b) the person intends to cause, or is reckless about causing, someone else to enter into or remain in sexual servitude.</li> </ul> <p>The maximum penalty for an <b>aggravated offence</b> is imprisonment for 19 years</p> <p>Under subsection (2) a person commits an offence if the person:</p> <ul style="list-style-type: none"> <li>(a) conducts a business that involves the sexual servitude of others; and</li> <li>(b) knows that, or is reckless about whether, the business involves the sexual servitude of others.</li> </ul> <p>The maximum penalty for an <b>aggravated offence</b> is imprisonment for 19 years.</p> <p>In this section:</p> <p><b>'conducts a business'</b> includes:</p>

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				<p>(a) taking part in the management of the business; or</p> <p>(b) exercising control or direction over the business; or</p> <p>(c) providing finance for the business.</p>
			Part 5, s. 80	<p>Section 80 refers to deceptive recruiting for sexual services.</p> <p>A person commits an offence under section 80 if the person, with the intention of inducing someone else to enter into an engagement to provide sexual services, deceives the other person about the fact that the engagement will involve the provision of sexual services. The maximum penalty for an <b>aggravated offence</b> is imprisonment for 9 years.</p>
	<b>Prostitution Act 1992</b>	ACT	Part 3, s. 19	<p>Subsection (2) provides that a person shall not, for the purpose of offering or procuring commercial sexual services, accost a child in a public place.</p> <p>The maximum penalty is imprisonment for 3 years.</p>
			Part 3, s. 20	<p>A person commits an offence if:</p> <p>(a) the person causes, permits, offers or procures a child to provide commercial sexual services; and</p> <p>(b) the child is under 12 years old.</p> <p>Penalty is 1 500 penalty units, imprisonment for 15 years or both.</p>

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				<p>Absolute liability applies to subsection (b).</p> <p>A person commits an offence if:</p> <p>(a) the person causes, permits, offers or procures a child to provide commercial sexual services; and</p> <p>(b) the child is 12 years old or older.</p> <p>Penalty is 1 000 penalty units, imprisonment for 10 years or both.</p> <p>Strict liability applies to subsection (b).</p>
			Part 3, s. 21	<p>A person shall not receive a payment that he or she knows, or could reasonably be expected to have known, is derived, directly or indirectly, from commercial sexual services provided by a child.</p> <p>The maximum penalty is imprisonment for 7 years.</p> <p>This section does not apply in relation to a payment received in the ordinary course of a business other than prostitution.</p>
			Part 3, s. 22	<p>It is a defence to a prosecution under section 19 (2) or 20 if it is established that the defendant:</p> <p>(a) took reasonable steps to ascertain the age of the child concerned; and</p> <p>(b) believed on reasonable grounds that the child had attained</p>

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				18 years of age.
	<p><b>Crimes (Child Sex Offenders) Act 2005</b></p>	ACT	Chapter 1, s. 6	<p>Section 6(2) provides an outline of the Act, which is to:</p> <ul style="list-style-type: none"> <li>(a) provide for the establishment of a child sex offenders register; and</li> <li>(b) require certain offenders who are sentenced for registrable offences to report particular personal details for inclusion in the child sex offenders register; and</li> <li>(c) allow the sentencing court to order young offenders to comply with the reporting obligations of the Act; and</li> <li>(d) requires the offenders to keep their details up to date, to report their details annually and to also report certain travel details; and</li> <li>(e) imposes the reporting obligations for a period of between 4 years and life, depending on the number, severity and timing of the offences committed, and the age of the offender when an offence was committed; and</li> <li>(f) allows for the recognition of the period of reporting obligations imposed under laws of foreign jurisdictions; and</li> <li>(g) makes it an offence for registrable offenders to work in child-related employment; and</li> <li>(ga) allows the chief police officer to apply to the Magistrates Court for orders prohibiting registrable offenders from engaging in conduct that poses a risk to the lives or sexual</li> </ul>

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				<p>safety of children; and</p> <p>(h) authorises the ombudsman to monitor compliance with chapter 4 (Child sex offenders register).</p>
			<p>Chapter 2, ss. 8 and 10</p>	<p>A person is a <b>registrable offender</b> if the person:</p> <ul style="list-style-type: none"> <li>(a) is sentenced by a court for a registrable offence; or</li> <li>(b) is the subject of a child sex offender registration order; or</li> <li>(c) is a prescribed corresponding offender.</li> </ul> <p>A person is also a '<b>registrable offender</b>' if:</p> <ul style="list-style-type: none"> <li>(a) the person has been sentenced by a court for a registrable offence before the commencement of this Act; and</li> <li>(b) the person is:               <ul style="list-style-type: none"> <li>(i) a prescribed corresponding offender; or</li> <li>(ii) a person who, because of a sentence for a registrable offence, was under the supervision of a supervising authority immediately before the commencement of this Act.</li> </ul> </li> </ul> <p>Section 10 defines Class 1 and Class 2 offences.</p> <p>A <b>class 1 offence</b> is the most serious type of offence, including murder. All of the Class 1 offences are set out in schedule 1, part 1.1 or part 1.2, column 2, committed in the circumstances (if any) mentioned in column 4 for the offence.</p>

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				<p>A <b>class 2 offence</b> is an offence mentioned in schedule 2, part 2.1 or part 2.2, column 2, committed in the circumstances (if any) mentioned in column 4 for the offence.</p>
			Chapter 4, s. 117	<p>The chief police officer must establish a register of sex offenders (the <b>child sex offenders register</b>), or arrange for another entity to establish the child sex offenders register.</p> <p>The child sex offenders register must contain the following information about each registrable offender (to the extent that it is known by the chief police officer):</p> <ul style="list-style-type: none"> <li>(a) the offender’s name and other identifying particulars;</li> <li>(b) details of each class 1 and class 2 offence of which the offender has been found guilty or with which the offender has been charged;</li> <li>(c) details of each offence of which the offender has been found guilty that resulted in the making of a child sex offender registration order;</li> <li>(d) the date the offender was sentenced for each registrable offence;</li> <li>(e) the date the offender ceased to be in government custody for a registrable offence, or entered or ceased to be in government custody for an offence during the offender’s reporting period;</li> <li>(f) any information reported for the offender.</li> </ul>

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				The child sex offenders register may also contain any other information that the chief police officer considers appropriate.
			Chapter 5, ss. 124, 126, 127, 128 and 130	<p>In this chapter '<b>child-related employment</b>' is employment that involves contact with a child in relation to any of the following:</p> <ul style="list-style-type: none"> <li>(a) child protection services;</li> <li>(b) preschools, kindergartens or child-care centres;</li> <li>(c) family day care schemes;</li> <li>(d) educational institutions for children;</li> <li>(e) detention places under the <i>Children and Young People Act 2008</i>;</li> <li>(f) refuges or other residential facilities used by children;</li> <li>(g) wards of public or private hospitals where children are ordinarily patients;</li> <li>(h) clubs, associations or movements (including of a cultural, recreational or sporting nature) with significant child membership or involvement (including involvement of a voluntary nature);</li> <li>(i) religious organisations;</li> <li>(j) babysitting or child-minding services arranged by a</li> </ul>

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				<p>commercial agency;</p> <p>(k) fostering children;</p> <p>(l) providing public or private transport services for the transport of children;</p> <p>(m) private tuition services of any kind for children arranged by a commercial agency;</p> <p>(n) counselling or other support services for children;</p> <p>(o) overnight camps, irrespective of the kind of accommodation or of how many children are involved;</p> <p>(p) school-crossing services;</p> <p>(q) before and after school care programs;</p> <p>(r) school holiday vacation programs;</p> <p>(s) work-related training contracts under the <i>Training and Tertiary Education Act 2003</i>;</p> <p>(t) anything else prescribed by regulation for this section.</p> <p>Under subsection 126 a registrable offender commits an offence if the offender:</p> <p>(a) applies for child-related employment; and</p> <p>(b) is reckless about whether the employment is child-related</p>

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				<p>employment.</p> <p>Penalty: 200 penalty units, imprisonment for 2 years or both.</p> <p>Under subsection 127 a registrable offender commits an offence if the offender engages in child-related employment.</p> <p>Penalty: 200 penalty units, imprisonment for 2 years or both.</p> <p>Under subsection 128 a person commits an offence if the person:</p> <ul style="list-style-type: none"> <li>(a) is engaged in child-related employment; and</li> <li>(b) is charged with a registrable offence; and</li> <li>(c) does not disclose the charge to the person's employer within 7 days after the day the person is charged with the registrable offence.</li> </ul> <p>Penalty: 50 penalty units.</p> <p>Under subsection 130 a person commits an offence if:</p> <ul style="list-style-type: none"> <li>(a) a charge is pending against the person for a registrable offence; and</li> <li>(b) the person applies for child-related employment; and</li> <li>(c) the person does not disclose the charge to the person's prospective employer when making the application.</li> </ul>

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				<p>Penalty: 50 penalty units.</p> <p>Also under subsection 130, a person commits an offence if:</p> <ul style="list-style-type: none"> <li>(a) the person has applied for child-related employment; and</li> <li>(b) the person is charged with a registrable offence while the application is still current; and</li> <li>(c) the person does not disclose the charge to the person's prospective employer within 7 days after the day the person is charged with the registrable offence.</li> </ul> <p>Penalty: 50 penalty units.</p>
	<p><b>Children and Young People Act 2008</b></p>	<p>ACT</p>	<p>Division 11.1.2, ss. 154 to 161</p>	<p>These provisions require mandated reporters to report to the director general where they believe on reasonable grounds that a child or young person has experienced, or is experiencing sexual abuse.</p> <p>A failure to report could result in a penalty of 50 penalty units, imprisonment for 6 months or both.</p> <p>Each of the following people is a <b>mandated reporter</b>:</p> <ul style="list-style-type: none"> <li>(a) a doctor;</li> <li>(b) a dentist;</li> <li>(c) a nurse;</li> <li>(d) an enrolled nurse;</li> </ul>

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				<p>(e) a midwife;</p> <p>(f) a teacher at a school;</p> <p>(g) a person authorised to inspect education programs, materials or other records used for home education of a child or young person under the <i>Education Act 2004</i>;</p> <p>(h) a police officer;</p> <p>(i) a person employed to counsel children or young people at a school;</p> <p>(j) a person caring for a child at a childcare centre;</p> <p>(k) a person coordinating or monitoring home-based care for a family day care scheme proprietor;</p> <p>(l) a public servant who, in the course of employment as a public servant, works with, or provides services personally to, children and young people or families;</p> <p>(m) the public advocate;</p> <p>(n) an official visitor;</p> <p>(o) a person who, in the course of the person's employment, has contact with or provides services to children, young people and their families and is prescribed by regulation.</p> <p>If the director-general receives a child concern report about a</p>

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				<p>child or young person. The director-general must:</p> <ul style="list-style-type: none"> <li>(a) consider the report; and</li> <li>(b) carry out an initial assessment of the matters raised in the report to decide if the child or young person may be in need of care and protection; and</li> <li>(c) take the action that the director-general considers appropriate in relation to the initial assessment.</li> </ul>
	<p><b>Domestic Violence and Protection Orders Act 2008</b></p>	<p>ACT</p>	<p>s. 6</p>	<p>This Act provides for the protection of people from domestic violence offences. Domestic violence offences include many of the offences referred to above in relation to the Crimes Act 1900</p> <p>The objects of this Act include:</p> <ul style="list-style-type: none"> <li>(a) to prevent violence between family members and others who are in a domestic relationship, recognising that domestic violence is a particular form of interpersonal violence that needs a greater level of protective response; and</li> <li>(b) to facilitate the safety and protection of people who fear or experience violence by: <ul style="list-style-type: none"> <li>(i) providing a legally enforceable mechanism to prevent violent conduct; and</li> <li>(ii) allowing for the resolution of conflict without the need to resort to adjudication.</li> </ul> </li> </ul>

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	<b>Children and Young People Act 2008</b>	ACT	s. 161	<p>(1) The youth detention officer conducting a strip search of a young detainee must conduct the strip search:</p> <p>(a) in a way that:</p> <p>(i) provides reasonable privacy for the young detainee; and</p> <p>(ii) is appropriate, having regard as far as practicable, to the young detainee’s sexuality and any known impairment, condition or history; and</p> <p>(b) as quickly as practicable.</p> <p>(2) The strip search must be conducted in a private area or an area that provides reasonable privacy for the young detainee.</p> <p>(3) The strip search must not be conducted:</p> <p>(a) in the presence of someone of the opposite sex to the young detainee, other than:</p> <p>(i) a person present under section 254 (2) or (3) (Strip searches on admission to detention place) or section 255 (Strip searches of young detainees under 18 years old: no-one with parental responsibility available); or</p> <p>(ii) another youth detention officer present under section 260 (4); or</p> <p>(b) in the presence or sight of someone else whose presence is not necessary for the search or for the safety of anyone</p>

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				<p>present.</p> <p>(4) Subject to part 7.8 (Searches—use of force), the strip search must not involve any touching of the young detainee’s body by a youth detention officer.</p>
			s. 342	<p>In this Act:</p> <p><b>abuse</b>, of a child or young person, means:</p> <p>(a) physical abuse; or</p> <p>(b) sexual abuse; or</p> <p>(c) emotional abuse (including psychological abuse) if the child or young person has experienced the abuse or is experiencing the abuse in a way that has caused or is causing significant harm to his or her wellbeing or development; or</p> <p>(d) emotional abuse (including psychological abuse) if:</p> <p>(i) the child or young person has seen or heard the physical, sexual or psychological abuse of a person with whom the child or young person has a domestic relationship, the exposure to which has caused or is causing significant harm to the wellbeing or development of the child or young person; or</p> <p>(ii) if the child or young person has been put at risk of seeing or hearing abuse mentioned in subparagraph (i), the exposure to which would cause significant harm to the wellbeing or development of the child or young person.</p>

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			s. 344	For the care and protection chapters, a child or young person is <b>at risk of abuse or neglect</b> if, on the balance of probabilities, there is a significant risk of the child or young person being abused or neglected.
			s. 345	<p>(1) For the care and protection chapters, a child or young person is <b>in need of care and protection</b> if:</p> <p>(a) the child or young person:</p> <p>(i) has been abused or neglected; or</p> <p>(ii) is being abused or neglected; or</p> <p>(iii) is at risk of abuse or neglect; and</p> <p>(b) no-one with parental responsibility for the child or young person is willing and able to protect the child or young person from the abuse or neglect or the risk of abuse or neglect.</p> <p>(2) Without limiting subsection (1), a child or young person is in need of care and protection if:</p> <p>(a) there is a serious or persistent conflict between the child or young person and the people with parental responsibility for him or her (other than the director-general) to the extent that the care arrangements for the child or young person are, or are likely to be, seriously disrupted; or</p> <p>(b) the people with parental responsibility for the child or young person are dead, have abandoned the child or young</p>

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				<p>person or cannot be found after reasonable inquiry; or</p> <p>(c) the people with parental responsibility for the child or young person are sexually or financially exploiting the child or young person or not willing and able to keep him or her from being sexually or financially exploited.</p>
			s. 346	<p>(1) This section applies if a person believes that a child or young person is in need of care and protection under section 345 because the child or young person:</p> <p>(a) has been abused or neglected; or</p> <p>(b) is being abused or neglected; or</p> <p>(c) is at risk of abuse or neglect.</p> <p>(2) It does not matter whether conduct giving rise to the belief happened completely or partly outside the ACT.</p>
			s. 349	<p>(1) For the care and protection chapters, in deciding what is in the best interests of a child or young person, a decision-maker must consider each of the following matters that are relevant to the child or young person:</p> <p>(a) the need to ensure that the child or young person is not at risk of abuse or neglect;</p> <p>(b) any views or wishes expressed by the child or young person;</p> <p>(c) the nature of the child's or young person's relationship</p>

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				<p>with each parent and anyone else;</p> <p>(d) the likely effect on the child or young person of changes to the child's or young person's circumstances, including separation from a parent or anyone else with whom the child has been living;</p> <p>(e) the practicalities of the child or young person maintaining contact with each parent and anyone else with whom the child or young person has been living or with whom the child or young person has been having substantial contact;</p> <p>(f) the capacity of the child's or young person's parents, or anyone else, to provide for the child's or young person's needs including emotional and intellectual needs;</p> <p>(g) for an Aboriginal or Torres Strait Islander child or young person - that it is a high priority to protect and promote the child's or young person's cultural and spiritual identity and development by, wherever possible, maintaining and building the child's or young person's connections to family, community and culture;</p> <p>(h) that it is important for the child or young person to have settled, stable and permanent living arrangements;</p> <p>(i) for decisions about placement of a child or young person - the need to ensure that the earliest possible decisions are made about a safe, supportive and stable placement;</p> <p>(j) the attitude to the child or young person, and to parental responsibilities, demonstrated by each of the child's or young</p>

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				<p>person's parents or anyone else;</p> <p>(k) any abuse or neglect of the child or young person, or a family member of the child or young person;</p> <p>(l) any court order that applies to the child or young person, or a family member of the child or young person.</p> <p>(2) For the care and protection chapters, in deciding what is in the best interests of a child or young person, a decision-maker may also consider any other fact or circumstance the decision-maker considers relevant.</p>
			s. 354	<p>(1) This section applies if a person believes or suspects that a child or young person:</p> <p>(a) is being abused; or</p> <p>(b) is being neglected; or</p> <p>(c) is at risk of abuse or neglect.</p> <p>(2) The person may report (a '<b>voluntary report</b>') the belief or suspicion, and the reasons for the belief or suspicion, to the director-general.</p>
			s. 356	<p>(1) A person commits an offence if:</p> <p>(a) the person is a mandated reporter; and</p> <p>(b) the person is an adult; and</p>

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				<p>(c) the person believes on reasonable grounds that a child or young person has experienced, or is experiencing:</p> <ul style="list-style-type: none"> <li>(i) sexual abuse; or</li> <li>(ii) non-accidental physical injury; and</li> </ul> <p>(d) the person's reasons for the belief arise from information obtained by the person during the course of, or because of, the person's work (whether paid or unpaid); and</p> <p>(e) the person does not, as soon as practicable after forming the belief, report (a <b>'mandatory report'</b>) to the director-general:</p> <ul style="list-style-type: none"> <li>(i) the child's or young person's name or description; and</li> <li>(ii) the reasons for the person's belief.</li> </ul> <p>Maximum penalty: 50 penalty units, imprisonment for 6 months or both.</p> <p><i>Note 1 A person who gives information honestly and without recklessness under this section does not breach professional ethics and is protected from civil liability (see s 874).</i></p> <p><i>Note 2 Giving false or misleading information to the director-general is an offence (see Criminal Code, s 338).</i></p> <p>(2) In this section:</p> <p><b>'mandated reporter'</b>: each of the following people is a</p>

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				<p>mandated reporter:</p> <ul style="list-style-type: none"> <li>(a) a doctor;</li> <li>(b) a dentist;</li> <li>(c) a nurse;</li> <li>(d) an enrolled nurse;</li> <li>(e) a midwife;</li> </ul> <p><i>Note Doctor, dentist, nurse, enrolled nurse and midwife are defined in the Legislation Act, dict, pt 1.</i></p> <ul style="list-style-type: none"> <li>(f) a teacher at a school;</li> <li>(g) a person authorised to inspect education programs, materials or other records used for home education of a child or young person under the <i>Education Act 2004</i>;</li> <li>(h) a police officer;</li> <li>(i) a person employed to counsel children or young people at a school;</li> <li>(j) a person caring for a child at a childcare centre;</li> <li>(k) a person coordinating or monitoring home-based care for a family day care scheme proprietor;</li> <li>(l) a public servant who, in the course of employment as a public servant, works with, or provides services personally to,</li> </ul>

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				<p>children and young people or families;</p> <p>(m) the public advocate;</p> <p>(n) an official visitor;</p> <p>(o) a person who, in the course of the person's employment, has contact with or provides services to children, young people and their families and is prescribed by regulation.</p> <p><b>'person caring for a child at a childcare centre'</b> includes a childcare assistant or aide caring for a child at the childcare centre if the assistant or aide is in paid employment at the childcare centre, but does not include anyone caring for a child as an unpaid volunteer.</p> <p><b>'teacher'</b>, at a school, includes a teacher's assistant or aide if the assistant or aide is in paid employment at the school.</p>
			s. 359	<p>(1) This section applies if:</p> <p>(a) a person believes or suspects that a child or young person:</p> <p>(i) is being abused; or</p> <p>(ii) is being neglected; or</p> <p>(iii) is at risk of abuse or neglect; and</p> <p>(b) the person reports the belief or suspicion, and the reasons for the belief or suspicion, to the public advocate.</p>

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				<p>(2) The public advocate must give the director-general a copy of the report.</p> <p>(3) The report is taken to be a voluntary report.</p> <p>(4) The person who made the report to the public advocate is taken to have made a voluntary report.</p> <p><i>Note 1 There are limits on how the report may be used in evidence (see pt 25.5).</i></p> <p><i>Note 2 If a person gives information honestly and without recklessness to the public advocate, the giving of the information is not a breach of confidence or a breach of professional etiquette or ethics or a breach of a rule of professional conduct. Also, civil or criminal liability is not incurred only because of the giving of the information (see Public Advocate Act 2005, s 15).</i></p> <p><i>Note 3 Giving false or misleading information</i></p>
			s. 362	<p>(1) This section applies if, during a pregnancy, a person believes or suspects that a child who may be born as a result of the pregnancy may be in need of care and protection.</p> <p>(2) The person may report (a <b>prenatal report</b>) the belief or suspicion, and the reasons for the belief or suspicion, to the director-general.</p> <p>(3) The director-general may, with the consent of the pregnant woman, take the action the director-general considers</p>

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				<p>appropriate in relation to the report.</p> <p>(4) Without limiting subsection (3), the director-general may do any of the following with the consent of the pregnant woman:</p> <p>(a) provide a voluntary assessment of whether the child is likely to be in need of care and protection after the child is born;</p> <p>(b) provide or arrange voluntary support services for the pregnant woman, and any family member who may be involved in caring for the child;</p> <p>(c) refer the matters raised in the report to a government or community-based service for advice and support services for the pregnant woman and any family member who may be involved in caring for the child.</p> <p>(5) The director-general may also, without the consent of the pregnant woman, give advice to the person who made the report about appropriate assistance for the pregnant woman that the person may consider.</p> <p>(6) The director-general may also ask the pregnant woman to consent to the director-general doing either or both of the following:</p> <p>(a) giving prenatal information to a prenatal information sharing entity;</p> <p>(b) asking a prenatal information sharing entity for prenatal</p>

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				<p>information.</p> <p>(7) If the pregnant woman does not consent under subsection (6), the director-general may give the prenatal information to the prenatal information sharing entity, or ask the prenatal information sharing entity for the prenatal information, only if the director-general suspects on reasonable grounds that the child may be in need of care and protection after the child is born.</p> <p>(8) The director-general is not required to act in relation to a report under this section.</p> <p>(9) The director-general must ensure, as far as practicable, that any action taken because of this section is appropriate and consistent with the pregnant woman’s human rights.</p> <p><i>Note 1 A person who gives information honestly and without recklessness under this section does not breach professional ethics etc and is protected from civil liability (see s 874).</i></p> <p><i>Note 2 Giving false or misleading information to the director-general is an offence (see Criminal Code, s 338).</i></p> <p>(10) In this section:</p> <p><b>'prenatal information'</b> means information that is relevant to the safety, wellbeing and development of a child after the child is born.</p> <p><b>'prenatal information sharing entity'</b> means any of the</p>

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				<p>following:</p> <ul style="list-style-type: none"> <li>(a) a person who would be involved in the care of the child after the child’s birth;</li> <li>(b) a Minister;</li> <li>(c) a health facility;</li> <li>(d) a police officer or a member of a police service or force of a State;</li> <li>(e) an entity established under a law of a State or the Commonwealth;</li> <li>(f) the holder of a position established under a law of a State or the Commonwealth;</li> <li>(g) any of the following entities that would, after the child’s birth, provide a service to, or have contact with, the child or a person who would be involved in the care of the child: <ul style="list-style-type: none"> <li>(i) an administrative unit;</li> <li>(ii) a territory authority (other than the legal aid commission);</li> <li>(iii) a territory instrumentality;</li> <li>(iv) a public employee (other than a judge or magistrate);</li> <li>(v) a community-based service.</li> </ul> </li> </ul>

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			s. 370	<p>(1) This section applies if the director-general proposes to carry out a care and protection appraisal of a child or young person and the director-general suspects on reasonable grounds that seeking the agreement of a parent or other person who has daily care responsibility for the child or young person would be likely to:</p> <p>(a) put the child or young person at significant risk of abuse or neglect; or</p> <p>(b) jeopardise a criminal investigation.</p> <p>(2) The director-general need not seek the agreement of a parent or other person who has daily care responsibility for the child or young person.</p>
	<p><b>Working with Vulnerable People (Background Checking) Act 2011</b></p>	ACT	s. 7	<p>In this Act: '<b>vulnerable person</b>' means:</p> <p>(a) a child; or</p> <p>(b) an adult who is:</p> <p>(i) disadvantaged; and</p> <p>(ii) accessing a regulated activity in relation to the disadvantage.</p>
			s. 40	<p>(1) The commissioner must refuse to register a person:</p> <p>(a) if:</p> <p>(i) the commissioner conducts a revised risk assessment for a</p>

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				<p>person; and</p> <p>(ii) the commissioner is satisfied that the person poses an unacceptable risk of harm to a vulnerable person; or</p> <p>(b) if the commissioner gives the person a proposed negative notice and:</p> <p>(i) the person does not tell the commissioner that the person intends to ask the commissioner to reconsider the decision under section 38 (1) (a); or</p> <p>(ii) the person:</p> <p>(A) tells the commissioner that the person intends to ask the commissioner to reconsider the decision under section 38 (1) (a); but</p> <p>(B) does not ask the commissioner to reconsider the decision under section 38 (1) (b).</p> <p>(2) If the commissioner refuses to register a person, the commissioner must:</p> <p>(a) tell the person in writing (a <b>negative notice</b>) that the commissioner refuses to register the person and the reasons for the refusal; and</p> <p><i>Note The commissioner must also give the person a reviewable decision notice in relation to the decision (see s 62).</i></p> <p>(b) tell the named employer (if any) in writing that a negative</p>

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				<p>notice has been given to the person.</p> <p>(3) For subsection (2) (b), the commissioner must not tell a named employer the reasons for giving the person the negative notice.</p>
			s. 41	<p>(1) This section applies if the commissioner:</p> <p>(a) conducts a risk assessment or a revised risk assessment for a person; and</p> <p>(b) is satisfied that the person poses no risk or an acceptable risk of harm to a vulnerable person (a <b>positive risk assessment</b>).</p> <p>(2) The commissioner must:</p> <p>(a) register the person; and</p> <p>(b) tell the person in writing of the positive risk assessment and that the person has been registered; and</p> <p>(c) tell the named employer (if any) in writing that the person has been registered.</p> <p>(3) Registration must be for not longer than 3 years.</p>