

Crimes Amendment (Grooming) Act 2014

No. 7 of 2014

TABLE OF PROVISIONS

<i>Section</i>		<i>Page</i>
1	Purpose	1
2	Commencement	1
3	New section 49B inserted	2
	49B Grooming for sexual conduct with child under the age of 16 years	2
4	New section 621 inserted	4
	621 Transitional provision— Crimes Amendment (Grooming) Act 2014	4
5	Consequential amendment of other Acts	5
6	Repeal of amending Act	5

ENDNOTES	6
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Victoria

Crimes Amendment (Grooming) Act 2014[†]

No. 7 of 2014

[Assented to 25 February 2014]

The Parliament of Victoria enacts:

1 Purpose

The purpose of this Act is to amend the **Crimes Act 1958** to insert a new offence of grooming for sexual conduct with a child under the age of 16 years and to make consequential amendments to other Acts.

2 Commencement

(1) Subject to subsection (2), this Act comes into operation on a day to be proclaimed.

- (2) If this Act does not come into operation before 1 July 2014, it comes into operation on that day.

3 New section 49B inserted

See:
Act No.
6231.
Reprint No. 24
as at
1 July 2013
and
amending
Act Nos
16/2004,
27/2011,
60/2013,
70/2013 and
72/2013
LawToday:
www.
legislation.
vic.gov.au

After section 49A of the **Crimes Act 1958**
insert—

"49B Grooming for sexual conduct with child under the age of 16 years

- (1) In this section—

communication includes an electronic communication;

sexual offence means—

- (a) an offence under Subdivision (8A), (8B), (8C), (8D), (8E) or (8EAA) of Division 1 of Part I or under any corresponding previous enactment; or
 - (b) an attempt to commit an offence referred to in paragraph (a); or
 - (c) an assault with intent to commit an offence referred to in paragraph (a).
- (2) A person of or over the age of 18 years must not communicate, by words or conduct, with a child under the age of 16 years or a person under whose care, supervision or authority the child is (whether or not a response is made to the communication) with the intention of facilitating the child's engagement in or involvement in a sexual offence with that person or another person who is of or over the age of 18 years.

Penalty: Level 5 imprisonment (10 years maximum).

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- (3) For the purposes of subsection (2) and without limiting that subsection, a person who has a child under his or her care, supervision or authority includes—
- (a) the child's parent or step-parent; and
 - (b) the child's teacher; and
 - (c) the child's legal guardian; and
 - (d) a religious official or spiritual leader (however described and including a lay member) who provides religious care or religious instruction to the child; and
 - (e) the child's employer; and
 - (f) the child's youth worker; and
 - (g) the child's sports coach; and
 - (h) an out of home carer (within the meaning of section 74 of the **Children, Youth and Families Act 2005**) in relation to the child; and
 - (i) a person employed in, or providing services in, a remand centre, youth residential centre, youth justice centre or prison who is acting in the course of his or her duty in respect of the child.
- (4) For the avoidance of doubt, a person does not intend to facilitate a child's engagement in or involvement in a sexual offence with that person or another person where, if the child were to engage in or be involved in the sexual activity intended, that person or the other person would not commit a sexual offence because he or she would have a defence or satisfy an exception to that sexual offence.
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- (5) It is immaterial that some or all of the communication constituting an offence against subsection (2) occurred outside Victoria, so long as the child was in Victoria at the time at which that communication occurred.
 - (6) It is immaterial that the child was outside Victoria at the time at which some or all of the communication constituting an offence against subsection (2) occurred, so long as the accused was in Victoria at the time of sending the communication or engaging in the conduct that constitutes the communication.
 - (7) It is immaterial that both the accused and the child were outside Victoria at the time at which some or all of the communication constituting an offence against subsection (2) occurred, so long as the intended sexual offence would occur in Victoria."

4 New section 621 inserted

At the end of Part 7 of the **Crimes Act 1958**
insert—

**"621 Transitional provision—Crimes
Amendment (Grooming) Act 2014**

Section 49B as inserted by the **Crimes
Amendment (Grooming) Act 2014** applies
to an offence alleged to have been committed
on or after the commencement of that Act."

5 Consequential amendment of other Acts

- (1) In Schedule 2 to the **Sex Offenders Registration Act 2004**, after item 4 **insert**—

"4A. An offence against section 49B(2) of the **Crimes Act 1958** (grooming for sexual conduct with child under the age of 16 years).".

- (2) In Schedule 1 to the **Sentencing Act 1991**, after clause 1(a)(ix) **insert**—

"(ixa) section 49B(2) (grooming for sexual conduct with child under the age of 16 years).".

- (3) In section 3(1) of the **Victims' Charter Act 2006**, in the definition of *victim*—

(a) in paragraph (c), for "person;" **substitute** "person; or"; and

(b) after paragraph (c) **insert**—

"(d) in the case of an offence against section 49B of the **Crimes Act 1958** (grooming for sexual conduct with child under the age of 16 years), the child and a family member of that child;".

6 Repeal of amending Act

This Act is **repealed** on 1 July 2015.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

ENDNOTES

[†] *Minister's second reading speech—*

Legislative Assembly: 12 December 2013

Legislative Council: 6 February 2014

The long title for the Bill for this Act was "A Bill for an Act to amend the **Crimes Act 1958**, the **Sex Offenders Registration Act 2004**, the **Sentencing Act 1991** and the **Victims' Charter Act 2006** in relation to a new offence of grooming for sexual conduct with a child under the age of 16 years and for other purposes."