

Libby's Law - Statutes Amendment (Bullying) Bill 2017

By David Knuckey

In the aftermath of the tragic suicide of 13 year-old bullying victim, Libby Bell, Australian Conservative Dennis Hood recently introduced a new anti-bullying bill into our state parliament.

The bill is largely modelled on Victoria's 'Brodie's Law' - passed by the Victorian State Government in 2011.

'For an act to constitute bullying, it must be proved that there was an intention to cause harm or recklessly cause harm; that the bullying was over a period of at least seven days or more; and that the act of bullying caused harm or serious harm to the victim.'

The bill defines 'harm' as physical or mental harm. Mental harm includes:

- psychological harm
- emotional harm
- suicidal ideation
- thoughts of self-harm and
- distress, anxiety, or fear, that is more than trivial.

The bill proposes a maximum penalty of 10 years imprisonment for serious harm. In all other cases, there is a maximum penalty of 5 years imprisonment.

Speaking to parliament, Mr. Hood was clear that imprisonment is a last resort and that 'the more likely range of penalties handed down at the judge's discretion, including fines and community service or perhaps a combination of both, depending on the seriousness of the offence'.

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'...only the very serious and prolonged attacks that actually cause harm and were intended to cause harm are captured under this legislation; making a clear distinction between bullying and simple name calling, for example.'

Under the bill, a person bullies another if they do one or more of the following:

- expressly or implicitly threatens to cause harm to the person;
- degrades, humiliates, disgraces or harasses the other person, or expressly or implicitly threatens to do so;
- uses abusive or offensive language towards the other person;
- gives or sends offensive material to the other person, or leaves offensive material where it will be found by, given to or brought to the attention of the other person;

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- publishes or transmits offensive material by means of the internet or some other form of electronic communication in such a way that the offensive material will be found by, or brought to the attention of, the other person;
- engages in any conduct that could reasonably be expected to -
degrade, humiliate, disgrace or harass the other person, or cause apprehension or fear in the other person.

In his speech to SA's parliament, Mr. Hood quoted two key pieces of research. First, was a DECD survey which cited 14% of students in our schools regard themselves as being bullied on a weekly basis - equating to about 5,000 South Australian students per week - a number Mr. Hood describes as 'extraordinary and frankly disgraceful'.

The second piece of research is SAASSO's survey on bullying, conducted in September of this year - 80.12% of over 1200 parents and educators answered yes to the question: 'Should the Weatherill Government toughen laws on bullying?'

With the bill likely to be voted on in 2018, SAASSO has written to both Jay Weatherill and Stephen Marshall - asking if they will support the bill, if elected at next year's state election. SAASSO will let you know what response we receive. ■