

Western Australia

**Community Protection (Offender Reporting)
Amendment Act 2008**

As at 01 Jul 2008

No. 27 of 2008

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Community Protection (Offender Reporting) Amendment Act 2008

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Western Australia

Community Protection (Offender Reporting) Amendment Act 2008

No. 27 of 2008

An Act to amend the *Community Protection (Offender Reporting) Act 2004* and to make consequential amendments to the *Working with Children (Criminal Record Checking) Act 2004*.

[Assented to 1 July 2008]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *Community Protection (Offender Reporting) Amendment Act 2008*.

2. Commencement

This Act comes into operation as follows:

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. The Act amended

Except as stated in section 13, the amendments in this Act are to the *Community Protection (Offender Reporting) Act 2004*.

4. Section 26 amended

(1) Section 26(1) is amended as follows:

- (a) after paragraph (d) by inserting —

“

and

- (da) any telephone number that he or she has or that he or she regularly uses; and
 - (db) any email address that he or she has or that he or she regularly uses; and
 - (dc) the name of any Internet service provider whose Internet carriage service —
 - (i) he or she is supplied with; or
 - (ii) he or she regularly uses;
- and

-
- (dd) any name (other than a name reported under paragraph (a)) that he or she uses, or by which he or she is known, when using the internet for the purposes of communication; and
- (de) any —
- (i) internet website; or
 - (ii) communication service provided by means of the internet,
- in connection with which he or she uses a name referred to in paragraph (a) or (dd) or an email address referred to in paragraph (db); and”;
- (b) after each of paragraphs (a), (b), (c), (e), (f), (g), (h), (i) and (j) by inserting —
- “ and ”;
- (c) after paragraph (f)(i) by inserting —
- “ and ”.
- (2) After section 26(1) the following subsection is inserted —
- “
- (1a) In subsection (1)(dc) —
- “Internet carriage service”** and **“Internet service provider”** have the same meanings as they have in Schedule 5 to the *Broadcasting Services Act 1992* of the Commonwealth.
- ”.

5. Section 29A inserted

After section 29 the following section is inserted —

“

29A. Intended absence from place of residence to be reported

- (1) In this section, a reference to the place where a reportable offender generally resides is a reference to —
 - (a) the premises, or each of the premises, where he or she generally resides, as determined in accordance with section 26(2)(a); or
 - (b) if he or she does not generally reside at any particular premises, the localities in which he or she can generally be found.
- (2) This section applies to a reportable offender who —
 - (a) intends to leave the place where he or she generally resides for 7 or more consecutive days; and
 - (b) does not intend to leave Western Australia.
- (3) At least 7 days before leaving the place where he or she generally resides, the reportable offender must report the intended absence to the Commissioner and must provide details of —
 - (a) the dates, or approximate dates, of the period during which he or she intends to be absent from the place where he or she generally resides; and
 - (b) each address or location within Western Australia at which he or she intends to reside (to the extent that they are known) and the dates, or approximate dates, of the periods during which he or she intends to reside at those addresses or locations.

- (4) If circumstances arise making it impracticable for a reportable offender to make the report at least 7 days before he or she leaves, it is sufficient compliance with subsection (3) if the reportable offender reports the required information to the Commissioner no later than 24 hours after leaving the place where he or she generally resides.
- (5) If the reportable offender decides not to leave the place where he or she generally resides, he or she must report his or her change of intention to the Commissioner within 7 days after deciding not to leave.
- (6) This section does not limit any requirement under this Act for a reportable offender to report a change in the place where he or she generally resides.

”.

6. Section 30 amended

Section 30(1) is repealed and the following subsection is inserted instead —

“

- (1) This section applies to a reportable offender who intends to leave Western Australia, whether to travel elsewhere in Australia or to travel out of Australia.

”.

7. Section 31 amended

- (1) Section 31(1) and (2) are repealed and the following subsections are inserted instead —

“

- (1) This section applies to a reportable offender who —
 - (a) is in Western Australia, having left the place where he or she generally resides (as described in section 29A(1)), and decides to change any

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details given to the Commissioner under section 29A; or

- (b) is out of Western Australia and decides to change any details given to the Commissioner under section 30.

- (2) As soon as is practicable after making the decision, the reportable offender must report the changed details to the Commissioner.

”.

- (2) Section 31(3) is amended by deleting “The” and inserting instead —

“ If subsection (1)(b) applies, the ”.

8. Section 32 amended

- (1) After section 32(2) the following subsection is inserted —

“

- (2a) If the reportable offender left Western Australia to travel out of Australia, he or she must, in addition to reporting under subsection (2), produce to the Commissioner within 7 days after entering Western Australia —

- (a) his or her passport; and
- (b) any other document in his or her possession that contains information indicating where he or she travelled while out of Australia.

”.

- (2) Section 32(3) is amended after “subsection (2)” by inserting —

“ or (2a) ”.

9. Section 79 amended

Section 79 is amended by deleting “30” and inserting instead —

“ 29A ”.

10. Section 115A inserted

After section 115 the following section is inserted —

“

115A. Transitional arrangements for certain offenders

- (1) A person who was sentenced for an offence against *The Criminal Code* section 204B(2) or (3) (a “**relevant offence**”) before the day on which the *Community Protection (Offender Reporting) Amendment Act 2008* section 12 came into operation (the “**relevant day**”) is taken for the purposes of this Act —
 - (a) to be a reportable offender in respect of a Class 2 offence; and
 - (b) to have been sentenced for that offence on the relevant day.
- (2) Subsection (1) does not apply to a person who was sentenced for a relevant offence before the relevant day and is subject to an offender reporting order in respect of that offence.
- (3) Nothing in this section limits the operation of this Act in respect of a person who is sentenced for a relevant offence on or after the relevant day.

”.

11. Schedule 1 amended

Schedule 1 is amended after the item relating to *The Criminal Code* section 187 by inserting —

“

- s. 278 (as read with s. 282) Wilful murder (if the person against whom the offence is committed is a child)

”.

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12. Schedule 2 amended

Schedule 2 is amended as follows:

- (a) after the item relating to *The Criminal Code* section 186 by inserting —

“

s. 204B(2) Using electronic communication to procure, or to expose to indecent matter, a child under 16

s. 204B(3) Using electronic communication to procure, or to expose to indecent matter, a child under 13

”;

- (b) after the item relating to *The Criminal Code* section 331D by inserting —

“

s. 557K(4) Child sex offender habitually consorting with another child sex offender

s. 557K(6) Child sex offender being in or near a place where children are regularly present

”.

13. Working with Children (Criminal Record Checking) Act 2004 consequentially amended

- (1) The amendments in this section are to the *Working with Children (Criminal Record Checking) Act 2004*.
- (2) After section 60 the following section is inserted —

“

60A. Certain wilful murder charges and convictions

Without limiting Part 3 Division 1, if a person was charged with or convicted of an offence against *The Criminal Code* section 278 (as read with section 282) on or after the commencement day and before the day on which the *Community Protection (Offender*

Reporting) Amendment Act 2008 section 13 came into operation (the “**relevant day**”) —

- (a) there is a relevant change in the person’s criminal record for the purposes of that Division; and
- (b) the relevant change is to be taken to have occurred on the relevant day.

”.

- (3) Schedule 2 is amended after the item relating to *The Criminal Code* section 204B by inserting —

“

s. 278 (as read with s. 282) Wilful murder

”.

- (4) Schedule 2 is amended in the item relating to *The Criminal Code* section 321A by deleting the description of offence and inserting instead —

“

Persistent sexual conduct with child under 16 (if the offence does not include a sexual act on any occasion when the child against whom the offence is committed is under 13)

”.

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