****

LEGISLATIVE ASSEMBLY FOR THE

AUSTRALIAN CAPITAL TERRITORY

2016–2017

MINUTES OF PROCEEDINGS

No 24

[**Wednesday, 16 August 2017**](http://www.hansard.act.gov.au/hansard/2017/pdfs/20170816.pdf)

|  |
| --- |
|  |
|  |
|  |

**1** The Assembly met at 10 a.m., pursuant to adjournment. The Acting Speaker (Mrs Dunne) took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 LEAVE OF ABSENCE TO MEMBER

Mr Gentleman (Manager of Government Business) moved—That leave of absence be granted to Mr Ramsay for today due to illness.

Question—put and passed.

3 LEAVE OF ABSENCE TO MEMBER

Mr Wall moved—That leave of absence be granted to Mr Doszpot from 21 August to 22 September 2017 for a personal matter.

Question—put and passed.

4 Integrated transport network

Mr Steel, pursuant to notice, moved—That this Assembly:

1. supports a fully integrated transport network for our growing city that:
   1. provides Canberrans with convenient and reliable options to leave the car at home;
   2. supports social inclusion, drives economic development, benefits our environment and reduces congestion;
   3. encourages an active and healthy community by providing opportunities to incorporate walking and cycling into the daily commute; and
   4. ensures Canberra remains one of the most liveable cities in the world, as it grows to half a million people over the next two decades;
2. notes that the ACT Government is building a fully integrated transport network by:
   1. expanding the active travel network including off-road shared paths, on‑road cycle lanes and bike parks, augmented by additional park and pedal locations;
   2. building a rapid bus network connecting major group centres, supplemented with more Park and Ride facilities, such as a new park and ride being built at Wanniassa;
   3. expanding Canberra’s community bus network to cover all regions of our city;
   4. implementing an integrated ticket system across all Transport Canberra services;
   5. introducing new technology and transport innovations such as electric buses and conducting an Autonomous Vehicle trial; and
   6. delivering a city-wide light rail network to provide a mass transit system fit for a growing city;
3. notes that, in the 2017-2018 Budget, the ACT Government is:
   1. continuing construction of Stage 1 of light rail from Gungahlin to the City;
   2. investing in the design and procurement of Stage 2 of light rail from the City to Woden;
   3. introducing new Rapid Bus Routes, particularly the expansion of the Blue Rapid to Lanyon and the introduction of the Black Rapid and Green Rapid services;
   4. procuring an integrated bus and light rail ticketing system;
   5. investing in the Community Transport Coordination Centre, incorporating the Flexible Bus Service and special needs transport;
   6. providing ongoing funding for the 182 Weston line bus service and continuation of the Free City Loop bus service; and
   7. building a range of new bus stops throughout Canberra, particularly in Gundaroo, and on Athllon Drive in Kambah and Wanniassa;
4. calls on the ACT Government to deliver Stage 2 of the city-wide light rail network to Woden; and
5. calls on all Members of the Assembly to support a city-wide light rail network for Canberra.

Debate ensued.

Question—put and passed.

5 Crimes (Intimate Image Abuse) Amendment Bill 2017

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Question—That this Bill be agreed to in principle—put and passed.

*Detail Stage*

Bill, by leave, taken as a whole—

Mr Gentleman (Manager of Government Business), on behalf of Mr Ramsay (Attorney-General), by leave, moved amendments Nos 1 to 29 together (*see* [Schedule 1](#Schedule1)).

*Paper:* Mr Gentlemanpresented a supplementary explanatory statement to the Government amendments.

Debate continued.

Amendments agreed to.

Bill, as a whole, as amended, agreed to.

Question—That this Bill, as amended, be agreed to—put and passed.

6 Governance of the Territory

Ms Lawder, pursuant to notice, moved—That this Assembly:

1. notes that the ACT Government:
   1. has shown an inconsistent and contemptuous approach to the governance of the ACT;
   2. is failing to provide the people of the ACT with transparent and consistent decision making;
   3. has made numerous decisions which are detrimental to public safety, including the:
      1. mismanagement of the accommodation at the Alexander Maconochie Centre, providing dedicated accommodation for only 29 women despite having had 45 women in the prison this year;
      2. failure to provide an environment in the dysfunctional Bimberi Centre for the staff and the detainees which is safe, with an assault taking place on average every six weeks; and
      3. ACT Policing contracts have failed to keep pace with community expectations, as funding over the past five years is below the consumer price index;
   4. has driven up the cost of living and has shown a disregard for community consultation, including the:
      1. burden of rates, land tax, and other ACT Government charges rising far above the consumer price index, which puts households under increasing financial pressure and particularly targets low income and fixed income households;
      2. failure to engage in any form of meaningful conversation with the community about its decision to take Community Facility Zoned land away from the broader community in order to build public housing on land which the Government does not pay for, but which the community is permanently deprived of; and
      3. disregard for businesses and residents operating and living near the light rail route who are severely impacted by the construction of light rail; and
   5. gives preferential treatment to causes that align with the Labor Party, including:
      1. the decision by the Chief Minister and his cabinet colleagues to no longer deal with Clubs ACT;
      2. the fact that the Labor Club did not pay any lease variation charge for its 35 unit development in Braddon; and
      3. within one week of Andrew Barr becoming Chief Minister, the ACT Government purchased the CFMEU headquarters in Dickson for $3 900 000, and is now leasing it back to the CFMEU for $1 per year; and
2. calls on the ACT Government to explain why:
   1. there are such serious shortcomings with crime prevention and rehabilitation;
   2. so many Canberrans cannot keep pace with the cost of living and are being left out of the conversation about our city’s future; and
   3. cronyism has become a defining attribute of government in the ACT.

Debate ensued.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

7 MINISTERIAL ARRANGEMENTS

Mr Barr (Chief Minister) informed the Assembly that, due to the absence of Minister Ramsay, questions without notice normally directed to Minister Ramsay could be directed to Minister Rattenbury.

8 QUESTIONS

Questions without notice were asked.

9 Act of grace payments—assessment framework—Tabling of Paper—STATEMENT BY MembeR

Mr Doszpot, by leave, in response to comments by the Treasurer, made a statement regarding the tabling of a paper on 2 August 2017 concerning act of grace payments.

10 Director of Public Prosecutions—Efficiency dividends—Statement by Member—STATEMENT BY MINISTER

Mr Hanson, by leave, made a statement regarding efficiency dividends applied to the Director of Public Prosecutions.

Mr Barr (Treasurer), by leave, also made a statement in relation to the matter.

11 Governance of the Territory

The order of the day having been read for the resumption of the debate on the motion of Ms Lawder (*see* [entry 6](#Entry6))—

Debate resumed.

Question—put and negatived.

12 Education—Importance

Ms Orr, pursuant to notice, moved—That this Assembly:

1. notes:
   1. the importance of school education as a pathway to employment, inclusion and lifelong learning for Canberrans;
   2. the contribution of school leaders, teachers and educators to the lives of young Canberrans and the broader community;
   3. the ACT Government’s record of investment in ACT education, continuing through major initiatives in the 2017 Budget;
   4. the importance of funding schools on a needs basis and supporting equity among schools and students;
   5. that quality learning environments are central to effective teaching and learning; and
   6. the need for all schools to be safe, supportive and inclusive; and
2. calls on the Government to:
   1. deliver the education commitments it has made to the Canberra community through the election campaign and the Parliamentary Agreement;
   2. continue to implement and actively advocate for needs-based school funding in line with the National Education Reform Agreement;
   3. support the ongoing development and empowerment of school leaders, teachers and educators to deliver the best quality education to our students;
   4. support greater use of schools by sporting, community and multicultural groups to grow their place as community hubs; and
   5. ensure that ACT schools are Safe Schools where support, awareness and inclusion for same-sex attracted, intersex and gender diverse students, staff and families are provided.

Mr Wall moved the following amendment: Omit all words after “That this Assembly”, substitute:

“(1) notes:

(a) the significant contribution teachers make to the quality of the ACT education system;

(b) the increase in workplace violence against teachers and school support staff;

(c) the importance of providing support and adequate professional development to teachers and support staff in all ACT schools;

(d) the ACT Auditor-General’s Report No 4/2017 which found, among other things, that ACT public schools are performing below similar schools in other jurisdictions despite expenditure on a per student basis for public schools being one of the highest in the country;

(e) the diversity that non-government education brings to the ACT in offering parents’ choice;

(f) the importance of adequate funding for all school sectors;

(g) the importance of adequate funding and resources for students with special needs; and

(h) the NSW Government’s recent decision to scrap the Safe Schools Coalition Program; and

(2) calls on the ACT Government:

(a) to ensure Canberra families have choice when it comes to selecting the best educational; and

(b) to table any analysis available to the Education Directorate that provides an accurate picture of the ACT’s academic performance when compared to similar schools in other jurisdictions.”.

Debate continued.

Amendment negatived.

Question—put and passed.

13 SUSPENSION OF STANDING ORDERS—Moving of motion

Mr Wall moved—That so much of the standing orders be suspended as would prevent Mr Wall from moving notice No 4 on the *Notice Paper*, which appeared in Mrs Jones’ name.

Question—put and passed, with the concurrence of an absolute majority.

14 Alexander Maconochie Centre—Accommodation pressures

Mr Wall, pursuant to notice, moved—That this Assembly:

1. notes:
   1. the Alexander Maconochie Centre (AMC) was officially opened in 2008, with operations beginning in 2009;
   2. at the commencement of operations, the AMC had a total capacity of 300 and operational capacity of 270, including dedicated accommodation for 25 women detainees;
   3. in 2015-16 the AMC underwent an expansion project which increased:
      1. total capacity by 169; and
      2. the dedicated women’s accommodation by 4;
   4. the AMC after the 2015-16 expansion has dedicated accommodation for 29 women;
   5. data provided by the Australia Bureau of Statistics shows that, in the March 2017 quarter, the imprisonment rate of women in the ACT is 19.9 per 100 000 adults, up from 12.0 in 2014, an increase of 65.8 percent;
   6. Justice and Community Safety Annual Reports show that from 2009-10 to 2015-16, the average daily prisoner population has increased among:
      1. sentenced non-indigenous women from 6.48 to 9.1, an increase of 40.4 percent;
      2. sentenced indigenous women from 0.91 to 3.6, an increase of 295.6 percent;
      3. unsentenced non-indigenous women from 6.64 to 7, an increase of 5.4 percent; and
      4. unsentenced indigenous women from 1.06 to 3.2, an increase of 201.8 percent;
   7. the Minister for Corrections updated the Assembly on 3 August 2017, advising that:
      1. the AMC has in 2017 held, on at least one occasion, 45 women at once;
      2. the increase in women detainee population was a development for which the Minister for Corrections did not plan;
      3. ACT Corrective Services is considering short and medium term options for women’s accommodation in the AMC; and
      4. ACT Corrective Services is undertaking a feasibility study into the future needs of the ACT’s prison population of which the needs of women detainees is the top priority; and
   8. the Minister for Corrections told the Chamber on 3 August 2017 that the use of the management unit to accommodate women detainees was “not for an indefinite period”; and
2. calls on the Government to report back to the Assembly by the first sitting of November 2017 with:
   1. an explanation of how the Minister for Corrections did not plan for the current level of population growth in women detainees;
   2. the details of the statistical modelling methodology used to forecast the likely increase in prisoners in the AMC prior to the expansion of 2015-16;
   3. details of the feasibility study into the needs of the ACT’s prison population, including the terms of reference, estimated completion date of the feasibility study and all options being considered for the women detainee accommodation and the estimated costs of such options;
   4. an exact date of when the AMC will no longer accommodate women detainees in the management unit; and
   5. a detailed plan of the specific steps, if any, that the ACT Government and ACT Corrective Services would take in the event that 50, 55 and 60 women were to be incarcerated at any given time during the next quarter.

Mr Rattenbury (Minister for Corrections) moved the following amendment: Omit all words after “(1)”, substitute:

“notes:

(a) the increasing population of detainees across Australian correctional systems;

(b) the recent increase of women detainees in particular;

(c) the ACT is leading work on behalf of Corrective Services Administrators’ Council in preparing research for the 2018 Corrective Services Ministers Conference on the increased rates of female offending and imprisonment and presenting recommendations on how to address this;

(d) that ACT Corrective Services is currently reviewing accommodation usage within the Alexander Maconochie Centre to better meet the needs of female detainees in the short to medium term;

(e) the 2017-18 Budget provided funding for a feasibility study to consider future accommodation needs. The needs of female detainees is the first priority for the feasibility study; and

(f) that the statistical modelling methodology used to inform projections are publicly available on the ACT Corrective Services website; and

(2) calls on the Minister for Corrections to continue to provide regular updates to the Assembly on these matters as required.”.

Debate continued.

Amendment agreed to.

Question—That the motion, as amended, viz:

“That this Assembly:

(1) notes:

(a) the increasing population of detainees across Australian correctional systems;

(b) the recent increase of women detainees in particular;

(c) the ACT is leading work on behalf of Corrective Services Administrators’ Council in preparing research for the 2018 Corrective Services Ministers Conference on the increased rates of female offending and imprisonment and presenting recommendations on how to address this;

(d) that ACT Corrective Services is currently reviewing accommodation usage within the Alexander Maconochie Centre to better meet the needs of female detainees in the short to medium term;

(e) the 2017-18 Budget provided funding for a feasibility study to consider future accommodation needs. The needs of female detainees is the first priority for the feasibility study; and

(f) that the statistical modelling methodology used to inform projections are publicly available on the ACT Corrective Services website; and

(2) calls on the Minister for Corrections to continue to provide regular updates to the Assembly on these matters as required.”—

be agreed to—put and passed.

15 Mobility permits

Ms Lee, pursuant to notice, moved—That this Assembly:

1. notes that:
   1. ABS statistics show that over 20 percent of Canberrans have some form of disability;
   2. the ACT also has a growing ageing population;
   3. the Territory Plan’s *Parking and Vehicular Access Code* of 2014 has a requirement that the ACT provide three percent minimum of disability parking spaces; and
   4. the 2017-2018 Budget has outlined measures to review and increase penalties for the misuse of mobility permits; and
2. calls for the ACT Government to:
   1. start the promised review of mobility permits within the first quarter of the new financial year in line with the timeframe for introduction of increased penalties;
   2. include in that review an assessment of eligibility criteria for mobility permits to ensure informed, appropriate use of disability parking spaces;
   3. increase surveillance and enforcement of illegal parking in disability parking spaces in support of the new penalties; and
   4. assess whether the minimum disabled parking provisions in the Territory Plan’s *Parking and Vehicular Access Code* for all public places for which the Government is responsible, are sufficient for the number of permit holders.

Ms Lee addressing the Assembly—

*Adjournment negatived:* It being 6 pm—The question was proposed—That the Assembly do now adjourn.

Mr Gentleman (Manager of Government Business) requiring the question to be put forthwith without debate—

Question—put and negatived.

Ms Lee continued.

Mr Gentleman (Minister for Planning and Land Management), by leave, moved the following amendments together:

(1) After paragraph (1)(d), insert:

“(e) eligibility for mobility parking permits, known as Australian Disability Parking Permits, is determined by a nationally-consistent set of standards;”.

(2) Omit paragraph (2)(b), substitute:

“(b) encourage informed, appropriate use of disability parking spaces;”.

Debate continued.

Amendments agreed to.

Question—That the motion, as amended, viz:

“That this Assembly:

1. notes that:
   1. ABS statistics show that over 20 percent of Canberrans have some form of disability;
   2. the ACT also has a growing ageing population;
   3. the Territory Plan’s *Parking and Vehicular Access Code* of 2014 has a requirement that the ACT provide three percent minimum of disability parking spaces;
   4. the 2017-2018 Budget has outlined measures to review and increase penalties for the misuse of mobility permits; and
   5. eligibility for mobility parking permits, known as Australian Disability Parking Permits, is determined by a nationally-consistent set of standards; and
2. calls for the ACT Government to:
   1. start the promised review of mobility permits within the first quarter of the new financial year in line with the timeframe for introduction of increased penalties;
   2. encourage informed, appropriate use of disability parking spaces;
   3. increase surveillance and enforcement of illegal parking in disability parking spaces in support of the new penalties; and
   4. assess whether the minimum disabled parking provisions in the Territory Plan’s *Parking and Vehicular Access Code* for all public places for which the Government is responsible, are sufficient for the number of permit holders.”—

be agreed to—put and passed.

16 ADJOURNMENT

Mr Gentleman (Manager of Government Business) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.35 pm, adjourned until tomorrow at 10 am.

**MEMBERS’ ATTENDANCE:** All Members were present at some time during the sitting, except Ms Burch\* and Mr Ramsay\*.

\*on leave

Tom Duncan

Clerk of the Legislative Assembly

**SCHEDULE OF AMENDMENTS**

**Schedule 1**

**cRIMES (iNTIMATE iMAGE aBUSE) aMENDMENT bILL 2017**

Amendments circulated by the Attorney-General

1  
Clause 4  
Section 7A, note 1, proposed new dot points  
Page 2, line 13—

omit proposed new dot points, substitute

* s 72D (Non-consensual distribution of intimate images)
* s 72DA (Distribution of intimate image of young person)
* s 72E (Threaten to capture or distribute intimate images)
* s 72H (Court may order rectification)

2   
Clause 5  
Proposed new section 72A, new definition of *breasts*  
Page 2, line 19—

insert

breasts, of a female or a transgender or intersex person who identifies as a female, means the person’s breasts whether covered by underwear or bare.

3   
Clause 5  
Proposed new section 72A, definition of *capture visual data*Page 2, line 20—

omit

4   
Clause 5  
Proposed new section 72A, definition of *engaged in a private act*, paragraphs (c) and (d)  
Page 3, line 7—

omit proposed new paragraphs (c) and (d), substitute

(c) engaged in an act of a sexual nature of a kind not ordinarily done in public.

5   
Clause 5  
Proposed new section 72A, new definition of *genital or anal region*  
Page 3, line 9—

insert

genital or anal region, of a person, means the person’s genital or anal region whether covered by underwear or bare.

6   
Clause 5  
Proposed new section 72A, definition of *image*   
Page 3, line 10—

omit

7   
Clause 5  
Proposed new section 72A, definition of *intimate image*  
Page 3, line 11—

omit the proposed new definition of **intimate image**, substitute

***intimate image***, of a person—

(a) means a still or moving image, in any form—

(i) of the person’s genital or anal region; or

(ii) for a female or a transgender or intersex person who identifies as a female—of the person’s breasts; or

(iii) of the person engaged in a private act; or

(iv) that depicts the person in a sexual manner or context; and

(b) includes an image, in any form, that has been altered to appear to show any of the things mentioned in paragraph (a).

8   
Clause 5  
Proposed new section 72A, definition of *private parts*  
Page 3, line 19—

omit

9   
Clause 5  
Proposed new section 72B (1) (a) (i)  
Page 4, line 6—

before

exhibit

insert

show,

10   
Clause 5  
Proposed new section 72B (2)   
Page 4, line 14—

omit proposed new section 72B (2), substitute

(2) A person is taken to have distributed an image whether or not another person views or accesses the image.

11   
Clause 5  
Proposed new section 72C   
Page 4, line 16—

omit

12   
Clause 5  
Proposed new section 72D (a)  
Page 5, line 23—

omit

(the ***affected person***)

13   
Clause 5  
Proposed new section 72D (b) (ii)  
Page 6, line 1—

omit

as to

substitute

about

14   
Clause 5  
Proposed new section 72DA  
Page 6, line 4—

insert

72DA Distribution of intimate image of young person

(1) A person commits an offence if—

(a) the person distributes an intimate image of another person; and

(b) the other person is under 16 years old.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

(2) It is a defence to a prosecution for an offence against this section if the defendant proves that—

(a) at the time of the offence—

(i) the defendant believed on reasonable grounds that the person against whom the offence is alleged to have been committed was at least 16 years old; or

(ii) the person against whom the offence is alleged to have been committed was—

(A) at least 10 years old; and

(B) not more than 2 years younger than the defendant; and

(b) the person against whom the offence is alleged to have been committed consented to the distribution of the intimate image.

Note The defendant has a legal burden in relation to the matters mentioned in this section (see Criminal Code, s 59).

15   
Clause 5  
Proposed new section 72E   
Page 6, line 5—

omit proposed new section 72E, substitute

72E Threaten to capture or distribute intimate images

(1) A person commits an offence if—

(a) the person threatens to capture or distribute an intimate image of another person; and

(b) the person—

(i) intends the other person to fear that the threat would be carried out; or

(ii) is reckless about whether the other person would fear that the threat would be carried out.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

(2) In a prosecution for an offence against this section—

(a) a threat may be made by any conduct whether explicit, implicit, conditional, or unconditional; and

(b) it is not necessary to prove that the other person actually feared that the threat would be carried out; and

(c) a person may be found guilty even if carrying out the threat is impossible.

Examples—par (c)

* the image does not exist
* technical limitations prevent the person from capturing or distributing the image

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) In this section:

capture intimate image—a person captures an intimate image of another person if the person captures an image of the other person, with a camera or by any other means, in such a way that—

(a) a recording is made of the image; or

(b) the image is capable of being transmitted in real time, with or without retention or storage, in a physical or electronic form; or

(c) the image is otherwise capable of being distributed.

16   
Clause 5  
Proposed new section 72EA  
Page 7, line 5—

insert

72EA Consent—pt 3A

(1) For this part, and without limiting the grounds on which it may be established that consent is negated, a person does not consent to the distribution of an intimate image of the person by another person (the ***offender***) if the consent is caused by a circumstance set out in section 67 (1) (a) to (j).

(2) Also, a person does not consent to the distribution of an intimate image of the person by the offender only because the person—

(a) consented to the offender distributing the image or another intimate image on another occasion; or

(b) consented to someone else distributing the image or another intimate image; or

(c) consented to the offender or someone else distributing the image or another intimate image in a different way to the way the offender distributed the image; or

(d) distributed the image or another intimate image to someone else.

17   
Clause 5  
Proposed new section 72F  
Page 7, line 6—

omit

18   
Clause 5  
Proposed new section 72G (1)   
Page 7, line 20—

after

section 72D

insert

or section 72DA

19   
Clause 5  
Proposed new section 72G (1)   
Page 7, line 20—

omit

or section 72E

20   
Clause 5  
Proposed new section 72G (1) (ca)  
Page 7, line 27—

insert

(ca) by a licensed security provider acting reasonably in the performance of a security activity; or

21   
Clause 5  
Proposed new section 72G (1) (e)   
Page 8, line 8—

omit proposed new section 72G (1) (e), substitute

(e) by a person in the course of reasonably protecting premises owned by the person; or

(ea) of a child or other person incapable of giving consent in circumstances in which a reasonable person would regard the distribution of the intimate image as acceptable; or

Example

sharing a photograph or movie of a naked newborn relative

22   
Clause 5  
Proposed new section 72H (1)  
Page 9, line 5—

omit proposed new section 72H (1), substitute

(1) This section applies if a person is found guilty of an offence against—

(a) section 72D (Non-consensual distribution of intimate images); or

(b) section 72DA (Distribution of intimate image of young person); or

(c) section 72E (Threaten to capture or distribute intimate images).

23   
Clause 5  
Proposed new section 72I  
Page 9, line 14—

omit

24   
Clause 6  
Proposed new dictionary definition of *breasts*  
Page 9, line 21—

insert

breasts, for part 3A (Intimate image abuse)—see section 72A.

25   
Clause 6  
Proposed new dictionary definition of *capture visual data*Page 9, line 22—

omit

26   
Clause 6  
Proposed new dictionary definition of *consent*Page 9, line 24—

omit

27   
Clause 6  
Proposed new dictionary definition of *genital or anal region*  
Page 10, line 2—

insert

genital or anal region, for part 3A (Intimate image abuse)—see section 72A.

28   
Clause 6  
Proposed new dictionary definition of *image*   
Page 10, line 3—

omit

29   
Clause 6  
Proposed new dictionary definition of *private parts*  
Page 10, line 6—

omit