



19 February 2010

C62, 69.9
RM;rp

Ms Julie Dennett
Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100 Parliament House
CANBERRA ACT 2600

Dear Ms Dennett

Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2010

I refer to your letter of 9 February 2010 (received via email) in which you invited comments on the above Bill which is the subject of a parliamentary inquiry by the Senate Legal and Constitutional Affairs Committee.

The Bill was referred to the Society's Criminal Law Committee. We provide the following comments

- the existing Criminal Code arguably provides a reasonable measure of protection for minors in respect of the activities of adults seeking sexual relationships with them. It recognises that an unlawful relationship can occur between parties that doesn't involve a physical meeting or physical contact. In this regard see ss474.26 & 474.27 which creates offences for, amongst other things, doing something with the intention of procuring sexual activity. Section 474.28 defines "sexual activity" as activity that need not involve physical contact between people.
- the proposed s474.40(2)(c) is therefore inconsistent with these other provisions of the Code & unduly narrows the offence to physical contact only. The word "physically" should be deleted from proposed s474.40(2)(c).
- proposed ss474(6) & (7) are confusing, particularly when read with the offence provisions. S474.40 appears somewhat artificial when read with s474(6). It might be sufficient, to alleviate or avoid confusion and uncertainty, if s474(7) was expressed to be subject to s474(6).

I trust this response is of assistance to you.

Yours sincerely

Richard Mellows
PRESIDENT