

IMAGE-BASED SEXUAL ABUSE OFFENCES

DISCLAIMER: This fact sheet is intended to be used as a general guide only. You should not act on the basis of this fact sheet alone without first getting legal advice about your own particular situation.

This was updated in March 2024.

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- POSTER link: <https://youthlaw.asn.au/file-download/12110>

What is sexting?

Sexting is when someone sends a photo or video of themselves or someone else naked or posing in a sexual way using a computer, mobile phone or other mobile devices.

What is image-based sexual abuse?

Image-based sexual abuse (IBSA) involves the non-consensual creation and/or sharing of intimate images or threats to do so.

When is it illegal to take, keep or share sexual images?

It is against the law to take, keep or share sexual images by phone, email or online if:

- the image shows child abuse material (child pornography) unless you are under 18 and an exception applies (see below);
- you are 18 or over and you are “grooming” (encouraging) someone who is under 16 to engage in an illegal sex act with you;
- the image is of someone else that you’ve taken without their permission (new law effective from **30 July 2023**); or
- you share the image or threaten to share it in a way which most people would find unacceptable, unless the person in the image is 18 or over and they consent to it being shared in that way.

What does ‘intimate image’ mean?

Intimate image means an image showing:

- a person engaged in sexual activity;
- a person in a manner or context that is sexual;
- the genital or anal region of a person; or
- if a person is female, transgender or an intersex person identifying as female, the breasts of the person.

An ‘image’ includes still, moving, recorded or unrecorded (e.g. unrecorded live streams) and digitally created images by generating the image or manipulating or altering another image.

The meaning of ‘image’ will also be expanded to be able to capture ‘deepfake porn’ where an image is changed to make it look like the victim (new law effective from **30 July 2023**).

What makes something child abuse material?

Child abuse material includes any photo, video, film, publication or computer game that shows a person who is under 18 or who looks under 18 performing a sexual act or posing in an indecent sexual way.

What is ‘indecent’ depends on what most people would find indecent, so that could even include posing in underwear, for example.

What if I am under 18 and I take or keep sexual images of myself or someone else who is under 18?

If you are under 18, it is no longer illegal under **Victorian** child abuse material laws for you to take or keep sexual photos or videos of yourself or someone else who is under 18, as long as:

- nobody in the photo or video is more than 2 years younger than you;
- the photo or video does not show a crime being committed against someone else; and

- you do not share or distribute the photo or video of someone else who is under 18 or threaten to do so (even if they consent).

However, under **federal** child abuse material laws it is still illegal for under 18s to take, keep, share or send sexual images of someone under 18, including images of themselves, by phone or online. This is because in Australia there are the three levels of government work together (federal, state and local councils). Federal Parliament makes laws for the whole of Australia, states and territory parliaments make laws for their state or territory and local councils make local laws (by-laws) for their region or district. If there are any state and territory laws that are not the same with federal laws, the federal laws will overrule state laws.

What are the penalties?

If you break the law you can end up with a criminal record. The penalties for child abuse material offences, in particular, can be very serious if you are 18 or over. Besides a possible jail term, you must be registered as a sex offender.

What should I do if someone sends me an illegal photo or video?

- DO NOT keep it, forward it on or upload it
- DELETE it immediately, if you can
- BLOCK the person who sent it to you

What to do if you are worried after having sent and intimate image of yourself or someone has sent your intimate image without your consent?

- Tell a trusted person
- Get legal advice by contacting Youthlaw, Victoria Legal Aid or your local community legal centre
- Contact the Office of eSafety Commissioner: <https://www.esafety.gov.au/young-people/my-nudes-have-been-shared>

Getting legal help

Youthlaw

If you are under 25, you can get free and confidential legal advice.

Daily helpline: Mon – Fri, 9am- 5pm: 03 9113 9500

Email: legal@youthlaw.asn.au

Victoria Legal Aid – Legal Help

For legal information, referrals or appointments.

1300 792 387

www.legalaid.vic.gov.au


Youth Law Australia

Free information and legal advice for young people under 18.

(02) 9385 9588

www.yla.org.au

Where to get help and support



WHERE TO GET HELP AND SUPPORT

Name of service	What do they do	How to contact them
1800RESPECT	24-hour national sexual assault, family and domestic violence counselling line for any Australian who has experienced, or is at risk of, family and domestic violence and/or sexual assault.	1800 737 732 Webchat: https://1800respect.org.au/
Safe Steps	24/7 Victoria's state wide family violence crisis service for anyone experiencing family violence	1800 015 188 Webchat (Mon-Friday, 9am-midnight): https://www.safesteps.org.au/
Lifeline	National charity providing all Australians experiencing emotional distress with access to 24 hour crisis support and suicide prevention services.	13 11 14 Webchat: https://www.lifeline.org.au/
Kids Helpline	Free (even from a mobile), confidential 24/7 online and phone counselling service for young people aged 5 to 25.	1800 55 1800 Webchat: https://kidshelpline.com.au/
Emergency	24-hours Immediate support from Victoria Police and Ambulance	000
Centre Against Sexual Assault	There are specialist sexual assault services across Victoria that provide free and confidential counselling and advocacy support for people of all ages, as well as their family, friends and community members who have also felt impacted. You can access a sexual assault service no matter how long ago the sexual assault happened.	You can find the closest sexual assault services via: https://peak.sasvic.org.au/service-map#gsc.tab=0
Sexual Assault Crisis Line	State-wide, after-hours, confidential, telephone crisis counselling service for people who have experienced both past and recent sexual assault.	1800 806 292 (5pm weeknights through to 9am the next day and throughout weekends and public holidays)
Q Life	QLife provides anonymous and free LGBTIQ+ peer support and referral for people in Australia wanting to talk about sexuality, identity, gender, bodies, feelings or relationships.	1800 184 527 (3pm to midnight, everyday) Webchat: https://qlife.org.au/

Name of service	What do they do	How to contact them
Rainbow Door	Rainbow Door is a free specialist LGBTIQ+ (Lesbian, Gay, Bisexual, Transgender and Gender Diverse, Intersex, Queer, Asexual, BrotherBoys, SisterGirls) helpline providing information, support, and referral to all LGBTIQ+ Victorians, their friends and family.	1800 729 367 (10am–5pm, everyday) Text: 0480 017 246 Email: support@rainbowdoor.org.au
Yarning Safe'N'Strong	24/7 free and confidential counselling service for Aboriginal and Torres Strait Islander Peoples	1800 959 563
1800 My Options	For information about contraception, pregnancy options and sexual health in Victoria	1800 696 784 (9am–5pm, Monday to Friday, closed public holidays) Email: info@1800myoptions.org.au
Victim Support Agency	Official Victorian Government service offering free information and support for people affected by crime.	1800 819 817 (Victims of Crime Helpline) (8am–11pm, everyday) Text: 0427 767 891 Email: vsa@justice.vic.gov.au
eSafety Commissioner	Australia's independent regulator for online safety. eSafety can help investigate online abuse complaints and/or support for people experiencing cyberbullying, image-based abuse, illegal and harmful online content including child sexual abuse material, pro-terrorist content and content that promotes, incites or instructs in crime or violence.	Online forms General enquiries: https://www.esafety.gov.au/about-us/contact-us Report: https://www.esafety.gov.au/report/forms
Victoria Legal Aid	Free legal information and advice to Victorians.	1300 792 387 (8am–6pm, Monday to Friday) Webchat: https://www.legalaid.vic.gov.au/
Youthlaw	Free legal advice for young people in Victoria, under 25 years old.	(03) 9113 9500 (9am–5pm, Monday to Friday) Email: legal@youthlaw.asn.au

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