



## Be Alert to New Bullying Laws

*On 31 May 2011, the Victorian Parliament passed the Crimes Amendment (Bullying) Bill 2011, known to many as “Brodie’s law”. The Bill was drafted and introduced to the Victorian Parliament following the tragic death in 2006 of teenager Brodie Panlock, who took her own life after enduring relentless workplace bullying. Employers and employees alike will need be aware of the new laws and organisations will be required to implement these changes into existing bullying and harassment policies, as well as providing adequate staff training and education.*

### ▶ What is “Brodie’s Law”?

Brodie’s law will be implemented into the stalking provisions of the *Crimes Act 1958* (Vic) (“**the Act**”). The stalking provisions are located at section 21A of the Act and impose a maximum penalty of 10 years imprisonment. Prior to the new changes, to be convicted of stalking the offender must have intended to cause physical or mental harm to the victim. The amendment now extends this course of conduct to include behaviour that could reasonably be expected to cause the victim *to engage in self-harm*, with mental harm being defined to include psychological harm and suicidal thoughts. Whilst the new law does not define “bullying” or “serious bullying”, it is quite clear that behaviour such as making threats to the victim, using abusive or offensive words towards the victim and performing abusive or offensive acts in the presence of the victim, may be punishable under the stalking provisions.

The new laws will also be implemented into the *Stalking Intervention Orders Act 2008* (Vic) and the *Personal Safety Intervention Orders Act 2010* (Vic), allowing victims to apply for intervention orders against their alleged perpetrators. This poses significant problems for employers, who may be required to accommodate for an intervention order taken out by one employee against another. Further, employers may be subject to unfair dismissal claims if an employee is terminated due to an intervention order being applied against them.

### ▶ What does this mean for employers and employees?

Whilst the *Occupational Health & Safety Act 2004* (Vic) continues to impose obligations on employers to provide a safe workplace and employees to take reasonable care for the safety of themselves and others, Brodie’s law will impose criminal sanctions on those who engage in conduct that is seen to constitute serious bullying.

Employers will be required to educate their employees on the breadth of conduct now considered to be a criminal act. Due to the publicity surrounding these changes, it is likely that many employees already the subject of bullying behaviour, will begin coming forward and making complaints to employers.

We recommend that employers move quickly to implement these changes into their existing policies and provide comprehensive training and education to all employees.

Should you require any assistance to review your organisation’s safe workplace policies and in implementing appropriate training programs please contact one of the following practitioners at Madgwicks:

**David Galbally QC** | Partner

T +61 3 9242 4771

E david.galbally@madgwicks.com.au

**Tim Greenall** | Special Counsel

T +61 3 9242 4721

E tim.greenall@madgwicks.com.au

**Francine Clancy** | Lawyer

T +61 3 9242 4708

E francine.clancy@madgwicks.com.au

▶ For information on Madgwicks’ Workplace Relations Group, please click [here](#)