



**Children's Court  
Victoria**

**MEDIA WARNING**

**SECTION 534, CHILDREN, YOUTH AND FAMILIES ACT 2005**

This warning is issued to all media outlets by the President of the Children's Court, Judge Amanda Chambers, regarding the operation of s534(1)(a) and (b) of the *Children, Youth and Families Act 2005* ('the Act').

Section 534(1) of the Act prohibits the publication of relevant particulars and images, unless the President has given permission for the publication.<sup>1</sup> If a media organisation is seeking to publish information that falls, or may fall, within the scope of s534(1), the media organisation should make an application to the Children's Court in relation to proposed publication.

**Section 534(1)(a) of the Act**

Section 534(1)(a) prohibits a person publishing or causing to be published a report of a proceeding in the Children's Court (or a proceeding in any other court arising out of a proceeding in the Children's Court) that contains any particulars likely to lead to the identification of:

- (i) a venue of the Children's Court, in which the proceeding was heard; or
- (ii) a child or other party to the proceeding; or
- (iii) a witness in the proceeding.

Recently, various news reports have published particulars such as the names, ages and occupations of victims. Section 534(1)(a) prohibits the publication of a report containing any particulars likely to lead to the identification of a witness in the proceeding. For the purposes of s534(1)(a) of the Act, a 'witness' may be a victim of an alleged offender.

**Section 534(1)(b) of the Act**

Section 534(1)(b) of the Act prohibits the publication of a picture as being or including a picture of a child or other party to, or witness in, a proceeding referred to in s534(1)(a).

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<sup>1</sup> See s534(1), (5) of the Act. Section 534(1A) also provides that, on application to the Court, a Magistrate may grant permission for the publication if the Magistrate is satisfied that the circumstances giving rise to the request are an emergency, and publication is reasonably necessary for the safety of the child, other party, or witness referred to in s534(1), or any other person or the community.

Recently, television news reports have published images and CCTV footage with the faces of child accused pixelated. Some journalists have conducted interviews with victims clearly being identified on camera, or with victims' faces pixelated or distorted.

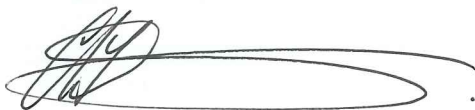
The Director of Public Prosecutions has recently confirmed his advice regarding the scope of s534(1)(b) of the Act. The section may be breached by publication of pixelated or distorted or partial images.<sup>2</sup> Further, the prohibition on the publication of images is broader than the prohibition on publication of particulars. Publication of images as being or including a child or other party or witness to a relevant proceeding is prohibited even if those images are not likely to lead to the identification of the person/s shown in those images.

### **Compliance with the prohibition on publication**

The Children's Court emphasises the utmost importance of compliance with s534 of the Act, and the obligations of media organisations to ensure that they do not breach the non-publication provision. Section 534 is aimed at avoiding the dissemination of information which would or could identify, embarrass or stigmatise a child, or his or her family, in relevant court proceedings.<sup>3</sup>

Currently, the maximum penalty for breach of s534, in the case of a body corporate, is a maximum fine of up to \$79,285. In the case of an individual, the maximum penalty is a fine up to \$15,857 or two years' imprisonment. Clearly, these are serious penalties.<sup>4</sup>

Any future breaches of s534 of the Act will be referred to the Director of Public Prosecutions, and may result in prosecution.



**Judge Amanda Chambers**

President

Children's Court of Victoria

Dated: 1 August 2017

[This warning updates an earlier media warning issued on 28 May 2009 by a former President of the Children's Court, Judge Paul Grant, about the interpretation of s534(1)(b) of the Act.]

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<sup>2</sup> See *HWT v DM & Ors* [2016] VChC 3 at [15], referring to the construction of s534(1)(b) articulated by a former President of the Children's Court, Judge Couzens, in *Australian Broadcasting Association v Department of Human Services & others* [2014] VChC 1.

<sup>3</sup> See also the decision of Judge Grant in *HWT v AB* [2008] VChC 3, where His Honour outlined the legislative background and rationale for s534 and its predecessor provisions.

<sup>4</sup> These maximum fine amounts are based on the current value of a penalty unit for the financial year commencing 1 July, 2017.