

## **EDUCATOR SEXUAL MISCONDUCT: EXPOSING OR CAUSING LEARNERS TO BE EXPOSED TO CHILD PORNOGRAPHY OR PORNOGRAPHY**

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### **SUMMARY**

The law recognises that non-contact sexual offences can cause harm and several offences were created to regulate non-contact sexual child abuse offences. Several of these offences deal with the exposure or causing exposure of children to child pornography or pornography. Sexual grooming of children and the "Exposure or display of or causing exposure or display of child pornography or pornography to children" are criminalised in sections 18(2) and 19 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007. And offences in relation to exposing children to disturbing, harmful and age-inappropriate materials are criminalised in sections 24A(2) and (4) of the Films and Publications Act 65 of 1996. In this article the author considered the content of the offences of "Exposure or display of or causing exposure or display of child pornography or pornography to children" in relation to the other offences dealing with exposure of children to child pornography or pornography. Benchmarked against these criminal offences the author then conceptualised exposing learners, or causing the exposure of learners to child pornography or pornography as forms of educator misconduct. The seriousness that should be attached to these forms of misconduct was considered in light of the various criminal offences. The review of the criminal offences and the forms of educator misconduct brought the ineffectiveness of current forms of serious educator misconduct to the fore. There is no form of serious misconduct that covers the transgression of educators who expose learners to child pornography or

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pornography that can be classified as "XX". In conclusion a suggestion is made with regard to how a new form of serious misconduct could be worded so as to cover this gap, eg *An educator must be dismissed if he or she is found guilty of – (g) exposing a learner to or causing exposure of a learner to material classified as "Refused" or "XX" in terms of the Films and Publications Act 65 of 1996.*

**KEYWORDS:** child pornography, Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, Employment of Educators Act 76 of 1998, Films and Publications Act 65 of 1996, educator sexual misconduct, pornography.