

A BILL

i n t i t u l e d

An Act to amend the Penal Code.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Penal Code (Amendment) (No. 2) Act 2024.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

New sections 507B, 507C, 507D, 507E, 507F and 507G

2. The Penal Code [*Act 574*] is amended by inserting after section 507A the following sections:

“Causing harassment, distress, fear or alarm

507B. Whoever, in any manner or by any means, uses or makes any threatening, abusive or insulting words or communication, or engages in any threatening, abusive or insulting act, with intent to cause, or knowing or ought to know that the

words, communication or act are likely to cause harassment, distress, fear or alarm to a person, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

Causing harassment, distress, fear or alarm to a person likely to feel harassed, distress, fear or alarmed

507c. (1) Whoever, in any manner or by any means, uses or makes any threatening, abusive or insulting words or communication, or engages in any threatening, abusive or insulting act, and such words, communication or act are heard, seen or otherwise perceived by a person who is likely to feel harassed, distressed, fear or alarmed by such words, communication or act, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

(2) It shall be a defence to a charge against a person under this section if it is proved that he had no reasonable grounds to believe that the words or communication used or made by him, or his act, would be heard, seen or otherwise perceived by a person who was likely to feel harassed, distressed, fear or alarmed by such words, communication or act.

Causing a person to believe that harm will be caused

507d. (1) Whoever, in any manner or by any means, uses or makes any threatening, abusive or insulting words or communication against any person, or engages in any threatening, abusive or insulting act towards any person, with intent to cause, or knowing or ought to know that the words, communication or act will cause the person to believe that harm will be caused to himself or to any other person, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

(2) Whoever, in any manner or by any means, uses or makes any threatening, abusive or insulting words or communication against any person, or engages in any threatening, abusive or insulting act towards any person, with intent to provoke the person to cause harm to himself or to any other person, or knowing or ought to know that the words, communication or act are likely to provoke the person to cause harm to himself or to any other person, shall be punished with imprisonment for a term which may extend to one year or with fine or with both; and if the person so provoked attempts to commit suicide or commits suicide as a result of such provocation, be punished with imprisonment for a term which may extend to ten years or with fine or with both.

Publishing, etc., any identity information to cause harassment, distress, fear or alarm

507E. Whoever, in any manner or by any means, publishes, circulates or makes available or causes to be published, circulated or made available, any identity information of a person with intent to cause, or knowing or ought to know that the publication, circulation or availability is likely to cause harassment, distress, fear or alarm to the person, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

ILLUSTRATION

A, feeling upset after ending his relationship with Z who cheated on him, decides to take revenge on Z by posting online, without Z's consent, intimate photos of Z. Z is likely to feel distressed. A has committed the offence defined in this section.

Publishing, etc., any identity information to cause a person to believe that harm will be caused

507F. (1) Whoever, in any manner or by any means, publishes, circulates or makes available or causes to be published, circulated or made available, any identity information of a person with intent to cause, or knowing or ought to know that the

publication, circulation or availability will cause the person to believe that harm will be caused to him or to his related person, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

(2) Whoever, in any manner or by any means, publishes, circulates or makes available or causes to be published, circulated or made available, any identity information of a person with intent to facilitate, or knowing or ought to know that the publication, circulation or availability is likely to facilitate, the causing of harm to the person or to his related person, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

ILLUSTRATIONS

(a) A puts up posters in Z's neighbourhood with Z's photo saying that Z is a scammer and someone should teach Z a lesson. Z believes that he will be harmed. A has committed the offence defined in this section.

(b) Z owes a sum of money from a loan shark and goes missing with his family. A knows about Z's loan with the loan shark. A also knows about Z and his family's whereabouts. A posts about Z's whereabouts on Z's social media account. A does this knowing that he will facilitate the causing of harm to Z or his family by the loan shark. A has committed the offence defined in this section.

Definitions of “harm”, “identity information” and “related person”

507G. (1) For the purposes of sections 507D and 507F, “harm” means harm to a person's body, mind, reputation or property, including psychological harm.

(2) For the purposes of sections 507E and 507F, “identity information” means any information that identifies or purports to identify a person.

(3) For the purposes of section 507F, “related person” means, in relation to a person, any person whose safety or well-being would reasonably be expected to be of concern of the first-mentioned person.”.

EXPLANATORY STATEMENT

The Penal Code (Amendment) (No. 2) Bill 2024 seeks to amend the Penal Code (“Act 574”) to specifically deal with issues on bully committed in any manner or by any means including online. The proposed Act will therefore provide for bully related offences which are, among others, offences of causing harassment, distress, fear or alarm, and offences of publishing identity information which causes harassment, distress, fear or alarm to a person.

2. *Clause 1* contains the short title and provision on the commencement of the proposed Act.

3. *Clause 2* seeks to introduce the new sections 507B, 507C, 507D, 507E, 507F and 507G into Act 574.

The proposed new section 507B seeks to make it an offence for any person who, in any manner or by any means, uses or makes any threatening, abusive or insulting words or communication, or engages in any threatening, abusive or insulting act, with intent to cause, or knowing or ought to know that the words, communication or act are likely to cause harassment, distress, fear or alarm to a person. The punishment for the proposed offence is imprisonment for a term which may extend to three years or fine or both.

The proposed new section 507C seeks to make it an offence for any person who, in any manner or by any means, uses or makes any threatening, abusive or insulting words or communication, or engages in any threatening, abusive or insulting act, and such words, communication or act are heard, seen or otherwise perceived by a person who is likely to feel harassed, distressed, fear or alarmed by such words, communication or act. The punishment for the proposed offence is imprisonment for a term which may extend to one year or fine or both.

The proposed new subsection 507D(1) seeks to make it an offence for any person who, in any manner or by any means, uses or makes any threatening, abusive or insulting words or communication against any person, or engages in any threatening, abusive or insulting act towards any person, with intent to cause, or knowing or ought to know that the words, communication or act will cause the person to believe that harm will be caused to himself or to any other person. The punishment for the proposed offence is imprisonment for a term which may extend to one year or fine or both.

The proposed new subsection 507D(2) seeks to make it an offence for any person who, in any manner or by any means, uses or makes any threatening, abusive or insulting words or communication against any person, or engages in any threatening, abusive or insulting act towards any person, with intent to provoke the person to cause harm to himself or to any other person, or knowing or ought to know that the words, communication, or act are likely to

provoke the person to cause harm to himself or to any other person. The punishment for the proposed offence is imprisonment for a term which may extend to one year or fine or both. This subsection also provides that if the person so provoked attempts to commit suicide or commits suicide as a result of such provocation, the punishment for the proposed offence is imprisonment for a term which may extend to ten years or fine or both.

The proposed new section 507E seeks to make it an offence for any person who, in any manner or by any means, publishes, circulates or makes available or causes to be published, circulated or made available, any identity information of a person with intent to cause, or knowing or ought to know that the publication, circulation or availability is likely to cause harassment, distress, fear or alarm to the person. The punishment for the proposed offence is imprisonment for a term which may extend to three years or fine or both.

The proposed new subsection 507F(1) seeks to make it an offence for any person who, in any manner or by any means, publishes, circulates or makes available or causes to be published, circulated or made available, any identity information of a person with intent to cause, or knowing or ought to know that the publication, circulation or availability will cause the person to believe that harm will be caused to him or to his related person. The punishment for the proposed offence is imprisonment for a term which may extend to one year or fine or both.

The proposed new subsection 507F(2) seeks to make it an offence for any person who, in any manner or by any means, publishes, circulates or makes available or causes to be published, circulated or made available, any identity information of a person with intent to facilitate, or knowing or ought to know that the publication, circulation or availability is likely to facilitate, the causing of harm to the person or to his related person. The punishment for the proposed offence is imprisonment for a term which may extend to one year or fine or both.

The proposed new section 507G seeks to provide for the definition of “harm” for the purposes of the new sections 507D and 507F of Act 574 which means harm to a person’s body, mind, reputation or property, including psychological harm. This new section also provides for the definition of “identity information” for the purposes of new sections 507E and 507F of Act 574. “Identity information” is defined as any information that identifies a person or purports to identify a person. This section further provides for the definition of “related person” for the purposes of new section 507F of Act 574. “Related person” is defined, in relation to a person, as any person whose safety or well-being would reasonably be expected to be of concern of the first-mentioned person.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

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