

TASMANIA

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**FAMILY VIOLENCE REFORMS BILL 2016**

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# **FAMILY VIOLENCE REFORMS BILL 2016**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*  
14 March 2017

*(Brought in by the Premier, the Honourable William Edward  
Felix Hodgman)*

## **A BILL FOR**

**An Act to amend the *Corrections Act 1997*, *Evidence (Children and Special Witnesses) Act 2001*, *Family Violence Act 2004* and *Police Offences Act 1935***

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

## **PART 1 – PRELIMINARY**

### **1. Short title**

This Act may be cited as the *Family Violence Reforms Act 2016*.

### **2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

*Family Violence Reforms Act 2016*  
*Act No. of*

s. 3

Part 2 – Corrections Act 1997 Amended

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**PART 2 – CORRECTIONS ACT 1997 AMENDED**

**3. Principal Act**

In this Part, the *Corrections Act 1997*\* is referred to as the Principal Act.

**4. Section 87A amended (Eligible persons register)**

Section 87A of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, family violence offence” after “for a violent offence”;
- (b) by inserting the following paragraph after paragraph (a) in subsection (1):
  - (ab) a family violence order; or
- (c) by inserting in subsection (1) “, family violence offence” after “of a violent offence”;
- (d) by omitting from subsection (2)(a) “offence” and substituting “violent offence, family violence offence or sexual offence”;
- (e) by omitting the definition of *sexual offence* from subsection (7) and substituting the following definitions:

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\*No. 51 of 1997

*Family Violence Reforms Act 2016*  
*Act No. of*

Part 2 – Corrections Act 1997 Amended

s. 4

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***family violence offence*** means family violence offence within the meaning of the *Family Violence Act 2004*;

***family violence order*** means the following orders:

- (a) an FVO within the meaning of the *Family Violence Act 2004*;
- (b) an interim FVO within the meaning of the *Family Violence Act 2004*;
- (c) an external family violence order within the meaning of the *Family Violence Act 2004*;
- (d) a PFVO within the meaning of the *Family Violence Act 2004*;

***sexual offence*** has the same meaning as in the *Evidence Act 2001*;

*Family Violence Reforms Act 2016*  
*Act No. of*

s. 5

Part 3 – Evidence (Children and Special Witnesses) Act 2001 Amended

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**PART 3 – EVIDENCE (CHILDREN AND SPECIAL  
WITNESSES) ACT 2001 AMENDED**

**5. Principal Act**

In this Part, the *Evidence (Children and Special Witnesses) Act 2001\** is referred to as the Principal Act.

**6. Section 8 amended (Special witness)**

Section 8 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “The order” and substituting “An order made under subsection (1)”;
- (b) by inserting the following subsections after subsection (2):
  - (2A) If a person, who is an alleged victim of a family violence offence, is giving or is to give evidence in a proceeding in which a person has been charged with a family violence offence, a judge –
    - (a) must consider whether or not he or she should make an order under paragraph (b); and

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\*No. 79 of 2001

*Family Violence Reforms Act 2016*  
*Act No. of*

(b) may make an order declaring that the person, who is the alleged victim of the family violence offence, is a special witness.

(2B) An order made under subsection (2A) may include any one or more of the orders referred to in subsection (2)(b).

(c) by omitting from subsection (4) “the order” and substituting “an order made under this section”;

(d) by omitting from subsection (5) “subsection (1)” and substituting “this section”;

(e) by inserting the following subsection after subsection (6):

(7) In this section –

*family violence offence* has the same meaning as in the *Family Violence Act 2004*.

*Family Violence Reforms Act 2016*  
*Act No. of*

s. 7

Part 4 – Family Violence Act 2004 Amended

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**PART 4 – FAMILY VIOLENCE ACT 2004 AMENDED**

**7. Principal Act**

In this Part, the *Family Violence Act 2004*\* is referred to as the Principal Act.

**8. Section 13A inserted**

After section 13 of the Principal Act, the following section is inserted in Part 2:

**13A. Recording of family violence offences**

- (1) If a person pleads guilty to an offence, or is found guilty of an offence, and the court is satisfied that the offence was a family violence offence, the court is to direct that the offence be recorded on the person's criminal record as a family violence offence.
- (2) A court that directs a recording to be made under this section may, on application or on its own motion, direct that the record be corrected if it considers that there is an error in the record.
- (3) A record, or a correction of a record, under this section is to be made in the manner, and within the time, determined by the court.
- (4) In this section –

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\*No. 67 of 2004

*Family Violence Reforms Act 2016*  
*Act No. of*

Part 4 – Family Violence Act 2004 Amended

s. 8

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***criminal record*** means a record, containing information about the outcome of criminal proceedings, kept by –

- (a) a court of this State; or
- (b) a Government department or State authority within the meaning of the *State Service Act 2000*; or
- (c) a council.

*Family Violence Reforms Act 2016*  
*Act No. of*

s. 9

Part 5 – Police Offences Act 1935 Amended

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**PART 5 – POLICE OFFENCES ACT 1935 AMENDED**

**9. Principal Act**

In this Part, the *Police Offences Act 1935\** is referred to as the Principal Act.

**10. Section 35 amended (Common assault and aggravated assault)**

Section 35 of the Principal Act is amended as follows:

(a) by inserting the following subsection after subsection (1A):

(1B) If an offence against this section is committed in circumstances of aggravation, the offender is liable to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 2 years.

(b) by inserting the following subsection after subsection (5):

(6) In this section –

*circumstances of aggravation*,  
in relation to an offence against this section, means the offender committed the offence knowing that the victim of

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\*No. 44 of 1935

*Family Violence Reforms Act 2016*  
*Act No. of*

Part 5 – Police Offences Act 1935 Amended

**s. 10**

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the offence was, at the  
time of the offence,  
pregnant.

*Family Violence Reforms Act 2016*  
*Act No. of*

s. 11

Part 6 – Repeal of Act

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**PART 6 – REPEAL OF ACT**

**11. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.