

TASMANIA

**SENTENCING AMENDMENT (SEXUAL
OFFENCES) BILL 2016**

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**SENTENCING AMENDMENT (SEXUAL
OFFENCES) BILL 2016**

*(Brought in by the Minister for Health, the Honourable
Michael Darrel Joseph Ferguson)*

A BILL FOR

An Act to amend the *Sentencing Act 1997*

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:

1. Short title

This Act may be cited as the *Sentencing Amendment (Sexual Offences) Act 2016*.

2. Commencement

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

3. Principal Act

In this Act, the *Sentencing Act 1997** is referred to as the Principal Act.

*No. 59 of 1997

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4. Section 11A inserted

After section 11 of the Principal Act, the following section is inserted in Part 2:

11A. Matters to be taken or not taken into account in sentencing certain sexual offenders

(1) In this section –

aggravating circumstance, in relation to a sexual offence, includes, but is not limited to, the following:

- (a) the victim being under the care, supervision or authority of the offender;
- (b) the victim being a person with a disability;
- (c) the victim being under the age of 13 years;
- (d) the offender committing the offence in whole or in part in the presence of any other person or persons, besides the victim;
- (e) the offender subjecting the victim to violence or the threat of violence;
- (f) the offender supplying the victim with alcohol or drugs with the intention of

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facilitating the
commission of the
offence;

- (g) the offender making forced or uninvited entry into the victim's home or other premises;
- (h) the offender doing, in the course of committing the sexual offence, an act likely to seriously and substantially degrade or humiliate the victim;
- (i) the offender causing any other person or persons to carry out an act referred to in paragraph (e), (f), (g) or (h) of this definition;

disability means any restriction or lack (resulting from any absence, loss or abnormality of mental, psychological, physiological or anatomical structure or function) of ability to perform an activity in a normal manner;

sexual offence means –

- (a) a crime under section 124, 125, 125A, 125B, 125C, 126, 127, 127A, 129, 130, 130A, 133 or 185 of the *Criminal Code*; or

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- (b) an attempt to commit a crime referred to in paragraph (a) of this definition.
- (2) In determining the appropriate sentence for an offender convicted of a sexual offence –
 - (a) the court is to take into account any aggravating circumstance in relation to the sexual offence; and
 - (b) the court is not to take into account the offender's good character or lack of previous convictions if the court is satisfied that the offender's alleged good character or lack of previous convictions was of assistance to the offender in the commission of the sexual offence.

5. Repeal of Act

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