

## FACT SHEET

### JUSTICE LEGISLATION AMENDMENTS (CRIMINAL RESPONSIBILITY) BILL 2020

The *Justice Legislation Amendments (Criminal Responsibility) Bill 2020* amends section 13 of the *Criminal Code* and makes an addition to the *Sentencing Act 1997*.

These amendments have been made in accordance with the Tasmanian Government's commitment to respond to "one punch" type attacks as has occurred in other jurisdictions.

#### Amendments to the *Criminal Code*

Section 13(1) provides that a person is not criminally responsible for an act "which occurs by chance". In other Code jurisdictions, the term "accident" is used. Courts have generally considered these provisions as comparable.

The Bill replaces the reference to an event occurring "by chance" with a specific explanation of what this means.

The addition of 13(1)(a) and (b) reflects the definition set down in the case of *Kaporonowski*<sup>1</sup> and which has been generally accepted by courts in the various Code jurisdictions as a just means of defining the boundaries of criminal responsibility.

In addition, the Bill introduces an additional subsection (1A). This provision enshrines the "eggshell skull principle" into the Code. This will ensure that someone cannot escape criminal responsibility for causing death or grievous bodily harm due to the fact that their victim had a defect, weakness or abnormality.

#### Amendment to the *Sentencing Act 1997*

The Bill includes the addition of section 11C to the *Sentencing Act 1997*.

The new provision specifies that the court cannot treat the self-induced intoxication of the offender as a mitigating factor when determining an appropriate sentence.

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<sup>1</sup> (1973) 133 CLR 209