

TASMANIA

**SENTENCING AMENDMENT (PRESUMPTIVE
SENTENCING FOR ASSAULTS ON FRONTLINE
WORKERS) BILL 2024**

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**SENTENCING AMENDMENT (PRESUMPTIVE
SENTENCING FOR ASSAULTS ON FRONTLINE
WORKERS) BILL 2024**

*(Brought in by the Minister for Justice, the Honourable Guy
Barnett)*

A BILL FOR

**An Act to amend the *Sentencing Act 1997* to provide for a
presumption of minimum sentencing in relation to offences
causing serious bodily harm to certain frontline workers**

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 (Presumptive Sentencing for
Assaults on Frontline Workers) Act 2024*.

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 16B inserted

After section 16A of the Principal Act, the following section is inserted in Division 1:

16B. Presumption of mandatory imprisonment for offence causing serious bodily harm to frontline worker

(1) In this section –

child safety officer means a person who is a State Service officer, or a State Service employee, employed or appointed under the *Children, Young Persons and Their Families Act 1997* to provide services related to the protection of children;

correctional services officer means –

- (a) a correctional officer, within the meaning of the *Corrections Act 1997*; and
- (b) a probation officer; and
- (c) a person who is a State Service officer, or a State Service employee, and who administers or provides all or part of a program that is –

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- (i) a community corrections program referred to in section 88 of the *Corrections Act 1997*; or
 - (ii) provided for the purposes of this Act to persons who are subject to community correction orders; and
- (d) a person who is a State Service officer, or a State Service employee, and whose duties include one or more of the following:
- (i) monitoring persons who are subject to home detention orders;
 - (ii) having regular contact with persons who are subject to home detention orders;
 - (iii) supervising persons who have the duties referred

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to in
subparagraph (i)
or (ii); and

- (e) a person who is a State Service officer, or a State Service employee, and who, pursuant to section 66(2) of the *Corrections Act 1997*, is made available to, and serves, the Parole Board; and
- (f) any other person who is appointed or employed for the purposes of the *Corrections Act 1997*;

emergency service officer means –

- (a) a person employed or appointed under the *Fire Service Act 1979*; or
- (b) a person employed or appointed under the *Ambulance Service Act 1982*; or
- (c) an emergency management worker referred to in paragraph (a), (b), (c) or (d) of the definition of *emergency management worker* in section 3 of the

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*Emergency Management
Act 2006* who is not a
police officer; or

(d) an emergency
management worker
referred to in paragraph
(e) of the definition of
*emergency management
worker* in section 3 of the
*Emergency Management
Act 2006* in relation to –

(i) an authorised use
of emergency
powers under
section 40 of the
*Emergency
Management Act
2006*; or

(ii) a declared state of
emergency under
section 42 of the
*Emergency
Management Act
2006*;

frontline worker means –

- (a) a child safety officer; and
- (b) a correctional services
officer; and

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- (c) a health and safety officer; and
- (d) a public officer; and
- (e) a retail or hospitality worker; and
- (f) a security officer; and
- (g) a transport worker;

health and safety officer means the following persons:

- (a) an emergency service officer;
- (b) a health worker;
- (c) an inspector appointed under Part 9 of the *Work Health and Safety Act 2012*;

health worker means the following persons:

- (a) a person who is a registered health practitioner or student within the meaning of the Health Practitioner Regulation National Law (Tasmania);

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(b) a person employed or engaged by a hospital –

(i) as a hospital attendant; or

(ii) as a medical orderly;

hospital means –

(a) a private hospital within the meaning of the *Health Service Establishments Act 2006*; and

(b) a State-funded hospital;

passenger transport service driver means a driver undertaking the provision of one or more of the following services within the meaning of the *Passenger Transport Services Act 2011*:

(a) an on-demand passenger transport service;

(b) a regular passenger service;

premises includes land, and any part of any premises or land, private premises and a public place;

private premises means premises that are not a public place;

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public officer includes any person, who is not a police officer, acting in good faith in the execution, or intended execution, of an Act, or a public duty or authority, who, in so acting, enters onto premises;

public place has the same meaning as in the *Police Offences Act 1935*;

retail or hospitality worker means a person whose duties, in respect of the employment of the person, primarily involve working in an area, to which the public have access, of –

(a) a shop; or

(b) a food business, within the meaning of the *Food Act 2003*, of a commercial nature;

security officer means a person who is a crowd control agent, crowd controller, security agent or security guard within the meaning of the *Security and Investigations Agents Act 2002*;

shop means the whole or part of a building, place, stall, structure, tent, vehicle or yard in or on which goods are sold, or offered

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or exposed for sale, by retail,
including by auction;

transport worker means the following
persons:

- (a) a passenger transport
service driver;
- (b) a driver undertaking the
provision of one or more
of the following services
within the meaning of the
*Taxi and Hire Vehicle
Industries Act 2008*:
 - (i) a luxury hire car
service;
 - (ii) a restricted hire
vehicle service;
- (c) a master or pilot of a
domestic commercial
vessel, used in connection
with a commercial or
governmental activity,
within the meaning of the
Commonwealth domestic
commercial vessel
national law, as applied
by the *Marine Safety
(Domestic Commercial
Vessel National Law
Application) Act 2013*.

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(2) In determining whether a person is a health worker, retail or hospitality worker or transport worker for the purposes of this section, it does not matter whether or not the person is an agent, bailee or employee in respect of that role.

(3) Despite section 7, if –

(a) a person is convicted of an offence, against a provision of an Act, committed in relation to a frontline worker while the frontline worker was working as a frontline worker; and

(b) the frontline worker suffered serious bodily harm caused by, or arising from, the offence –

the court that convicts the person of, or imposes on the person a sentence upon the conviction for, the offence is to order the person to serve a term of imprisonment of not less than 6 months in respect of the offence, unless subsection (5) applies.

(4) For the purposes of this section, an offence is to be taken to have been committed in relation to a frontline worker only if the person who committed the offence knew, or ought reasonably be expected to have known, that bodily

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harm to a frontline worker may be caused by, or arise from, the offence.

- (5) Despite subsection (3), the court must not impose a term of imprisonment, in accordance with that subsection, on an offender if –
- (a) the offender had not attained the age of 18 years at the time at which the offence was committed; or
 - (b) the offender has impaired mental functioning that is causally linked to the offence and that –
 - (i) ought to be regarded as reducing the offender’s culpability for the offence; or
 - (ii) is likely to result in the imprisonment of the offender being more difficult for the offender, or more of a risk to the health or wellbeing of the offender, than would be the case for an offender who did not have such impaired mental functioning; or
 - (c) in the opinion of the court, the imposition of such a sentence

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would be unjust when considering the circumstances of the offence or the offender.

(6) Subsection (3) applies in relation to an offence against a provision of an Act even if the Act –

(a) does not indicate that the offence is punishable by imprisonment; or

(b) indicates that the offence is punishable by imprisonment for a term of less than 6 months –

but, in either such case, the term of imprisonment that is, in accordance with subsection (3), to be imposed in respect of the offence is to be 6 months.

(7) Nothing in this section is to be taken to prevent the application of section 11 in relation to an offence to which subsection (3) applies, including if –

(a) the sentence for the offence is a term of imprisonment of not less than 6 months; and

(b) in accordance with section 11, that sentence also applies to another offence which may, or may not, be an offence to which subsection (3) applies.

(8) For the avoidance of doubt –

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- (a) subsection (3) does not provide for a mandatory penalty on conviction, in respect of an offence to which that subsection applies, for the purposes of section 10(2)(b)(v); and
- (b) nothing in this section prevents a court from making, in respect of an offence to which subsection (3) applies, any order (including an order imposing a penalty) that is in addition to an order imposing a term of imprisonment in respect of the offence.

5. Section 104AD inserted

After section 104AC of the Principal Act, the following section is inserted in Part 12:

104AD. Review of provisions inserted by *Sentencing Amendment (Presumptive Sentencing for Assaults on Frontline Workers) Act 2024*

- (1) The Minister is to cause an independent review of the operation of the provisions inserted into this Act by the *Sentencing Amendment (Presumptive Sentencing for Assaults on Frontline Workers) Act 2024* to be carried out as soon as practicable after the fifth anniversary of the commencement of those provisions.

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- (2) The persons who carry out the review are to give the Minister a written report on its outcome within 12 months after the commencement of the review.
- (3) The Minister is to cause a copy of the report to be tabled in each House of Parliament within 10 sitting-days of that House after it is given to the Minister.
- (4) In this section –

independent review means a review carried out by persons who –

- (a) in the Minister’s opinion, are appropriately qualified for that task; and
- (b) include one or more persons who are not employees of the State or of any agency of the State.

6. Repeal of Act

This Act is repealed on the first anniversary of the day on which it commenced.