

TASMANIA

---

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

---

**CONTENTS**

1. Short title
2. Commencement
3. Principal Act
4. Section 11A inserted
  - 11A. Matters to be taken or not taken into account in sentencing certain sexual offenders
5. Repeal of Act



# **SENTENCING AMENDMENT (SEXUAL OFFENCES) 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*  
25 August 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.

*Sentencing Amendment (Sexual Offences) Act 2016*  
*Act No. of*

s. 3

---

**3. Principal Act**

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

**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;

---

\*No. 59 of 1997

*Sentencing Amendment (Sexual Offences) Act 2016*  
*Act No. of*

s. 4

---

- (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 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;

*Sentencing Amendment (Sexual Offences) Act 2016*  
*Act No. of*

s. 4

---

*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
  - (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.

*Sentencing Amendment (Sexual Offences) Act 2016*  
*Act No. of*

s. 5

---

**5. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.