

TASMANIA

**SENTENCING AMENDMENT (AGGRAVATING
FACTORS) BILL 2025**

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SENTENCING AMENDMENT (AGGRAVATING FACTORS) BILL 2025

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

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 (Aggravating Factors) Act 2025*.

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 11B substituted

Section 11B of the Principal Act is repealed and the following sections are substituted:

11B. Certain aggravating circumstances to be taken into account when sentencing offenders

- (1) In determining the appropriate sentence for an offender, the court is to take into account, as an aggravating circumstance in relation to the offence, whether the offender was motivated to commit the offence, in whole or in part –
 - (a) as a result of hatred for, or prejudice against, any victim of the offence, due to that victim having a relevant attribute; or
 - (b) as a result of –
 - (i) hatred for, or prejudice against, a person or group of persons due to that person or group having a relevant attribute; and
 - (ii) the offender believing, at the relevant time, that a victim of the offence had the relevant attribute or was associated with the person or group referred to in subparagraph (i).

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- (2) For the purposes of this section, a person is taken to be motivated to commit an offence as a result of hatred for, or prejudice against, a person or group due to a relevant attribute if, at the time of committing the offence or immediately before or immediately after committing the offence, the person demonstrated, or expressed, hostility, malice or ill-will in respect of that attribute.
- (3) For the purposes of this section, a relevant attribute of a person or group may include, but is not limited to, one or more of the following attributes or characteristics:
 - (a) the race, ethnicity or nationality of the person or one or more group members;
 - (b) the age of the person or one or more group members;
 - (c) the religious belief or affiliation of the person or one or more group members;
 - (d) the language used to communicate by the person or one or more group members;
 - (e) the gender, or gender identity, of the person or one or more group members;

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- (f) the sexual orientation of the person or one or more group members;
 - (g) the sex characteristics of the person or one or more group members;
 - (h) a disability of the person or one or more group members including, but not limited to, physical, mental, cognitive, intellectual or sensory impairments, whether temporary or long-term;
 - (i) any other prescribed attribute, or prescribed characteristic, of the person or one or more group members.
- (4) This section does not apply in relation to an offence that was committed before the day on which this section commences.

11BA. Vulnerability of victims to be taken into account when sentencing offenders

- (1) In determining a sentence for an offence in accordance with this Act, a court must take into account whether the offender selected the victim due to the vulnerability or personal circumstances of the victim, whether actual or as perceived by the offender, including, but not limited to –

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- (a) the race, ethnicity or nationality of the victim; and
 - (b) the age of the victim; and
 - (c) the religious belief or affiliation of the victim; and
 - (d) the language used to communicate by the victim; and
 - (e) the gender, or gender identity, of the victim; and
 - (f) the sexual orientation of the victim; and
 - (g) the sex characteristics of the victim; and
 - (h) a disability of the victim including, but not limited to, physical, mental, cognitive, intellectual or sensory impairments, whether temporary or long-term; and
 - (i) the personal relationship between the victim and the offender; and
 - (j) any other prescribed attribute, or prescribed characteristic, of the victim.
- (2) If, in determining a sentence for an offence, a court is satisfied that the offender selected a victim due to the vulnerability or personal circumstances

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of the victim, whether actual or as perceived by the offender, the court is to consider that selection as an aggravating circumstance in relation to the offence.

- (3) This section does not apply in relation to an offence that was committed before the day on which this section commences.

5. Section 104AE inserted

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

104AE. Review of operation of sections inserted by *Sentencing Amendment (Aggravating Factors) Act 2025*

- (1) The Minister is to cause a review of the operation of sections 11B and 11BA, as inserted by the *Sentencing Amendment (Aggravating Factors) Act 2025* and as amended from time to time, to be undertaken as soon as practicable after the fifth anniversary of the commencement of that Act.
- (2) The person who undertakes a review under subsection (1) must provide the Minister with a written report on the review, as soon as practicable after the review is completed.
- (3) The Minister is to cause the written report of the review to be laid before each House of Parliament within 10

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sitting-days after the report is provided to the Minister under subsection (2).

6. Repeal of Act

This Act is repealed on the first anniversary of its commencement.