

FACT SHEET

Family Violence Reforms Bill 2018

The Family Violence Reforms Bill 2018 (the Bill) makes amendments to the *Criminal Code Act 1924* and *Evidence (Children and Special Witnesses) Act 2001*.

This Bill implements the Government's commitment to create a new offence of persistent family violence in the *Criminal Code* at section 170A. Section 125A of the *Criminal Code* is amended in relation to recommendations contained in the Criminal Justice Report of the Royal Commission into Institutional Responses to Child Sexual Abuse and as a result of the High Court's decision in *Chiro v The Queen* [2017] HCA 37.

This Bill amends the *Criminal Code* to provide:

- That the members of a jury are not required to agree on which unlawful sexual acts constitute the unlawful sexual relationship with a young person.
- That in sentencing a person for an offence under section 125A(2), the sentencing judge is to make her or his own findings as to the nature and character of the unlawful sexual relationship and sentence the accused accordingly. In doing so, the judge does not need to ask the jury which of the unlawful sexual acts the jury agreed were proved for the maintenance of the sexual relationship.
- A new crime of persistent family violence at section 170A. A person is guilty of the offence of persistent family violence if the accused person committed an unlawful family violence act in relation to his or her spouse or partner (including an ex-spouse or partner) on at least three occasions. The new offence provides that:
 - the dates on which, or the exact circumstances in which, any of the unlawful family violence acts were committed do not have to be proved; and
 - the unlawful family violence acts do not need to be the same acts on each or any of the occasions; and
 - each member of the jury does not have to agree on the same unlawful family violence acts that constitute persistent family violence for an offence.

An indictment for this new crime is to specify the period during which it is alleged the unlawful family violence acts were committed between the accused in relation to his or her spouse or partner and the indictment is not to include a separate charge for an unlawful family violence act during that period.

Family violence committed outside Tasmania between the accused and his or her spouse or partner may be an unlawful family violence act for the purpose of section 170A.

In sentencing a person for an offence against s170A the sentencing judge is to make her or his own findings as to the nature and character of the unlawful family violence acts and sentence the accused accordingly. In doing so, the judge does not need to ask the jury which of the unlawful family violence acts the jury agreed were proved for the maintenance of the persistent family violence between the accused and his or her spouse or partner.

In addition, the authority of the Director of Public Prosecutions is required to commence a prosecution for this offence.

- section 337A to provide for several alternative convictions available on a charge of persistent family violence (section 170A).

This Bill amends the *Evidence (Children and Special Witnesses) Act 2001* to provide that a self-represented defendant is not able to cross-examine a victim of family violence in an application under parts 3 or 4 of the *Family Violence Act 2004* or where an order for bail is made under the *Bail Act 1994*, *Criminal Code Act 1924*, or *Justices Act 1959*.