

Tasmania

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**CRIMINAL CODE AMENDMENT (RAPE) BILL 2016**

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**CONTENTS**

1. Short Title
2. Commencement
3. Principal Act
4. Schedule 1 amended (*Criminal Code*)
5. Repeal of Act



# CRIMINAL CODE AMENDMENT (RAPE) BILL 2016

*(Brought in by Larissa Tahireh Giddings)*

## A BILL FOR

### An Act to amend the *Criminal Code Act 1924*

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 *Criminal Code Amendment (Rape) Act 2016*

#### 2. Commencement

This Act commences on the day on which this Act receives the Royal Assent

#### 3. Principal Act

In this Act, the *Criminal Code Act 1924* is referred to as the Principal Act

#### 4. Schedule 1 amended (*Criminal Code*)

Schedule 1 to the Principal Act is amended as follows:

(a) by inserting in Chapter 1 – Interpretation

***sexual penetration*** means –

(a) introduction (to any extent) by a person of his penis into the vagina, anus or mouth of another person, whether or not there is emission of semen; or

*Criminal Code Amendment (Rape) Act 2016*  
*Act No. Of*

s.4

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(b) introduction (to any extent) by a person of an object or a part of his or her body (other than the penis) into the vagina or anus of another person, other than in the course of a procedure carried out in good faith for medical or hygienic purposes; or

(c) to manipulate any part of the body of another person so as to cause penetration of the vagina of the offender by part of the other person's body; or

(d) to intentionally cause another person without consent to penetrate his or her anus, vagina or mouth or the anus, vagina or mouth of a third person by an object or a part of his or her body (including the penis)

(e) for the purposes of this Act, a reference to a breast, vagina, labia majora, penis or other sexual organ includes a reference to a surgically constructed or altered breast, vagina, labia majora, penis or other sexual organ

(b) by inserting after 1A new sections:

**1B. Objectives for the purposes of sections 122, 124, 125, 125AS, 125B, 125C, 125D, 126, 127, 129, 130, 130A, 130B, 130C, 130D, 130E, 137, 138, 139 and 185**

The objectives for the purposes of sections 122, 124, 125, 125AS, 125B, 125C, 125D, 126, 127, 129, 130, 130A, 130B, 130C, 130D, 130E, 137, 138, 139, 185 are -

(a) to uphold the fundamental right of every person to make decisions about his or her sexual behaviour and to choose not to engage in sexual activity;

(b) to protect children and persons with a cognitive impairment from sexual exploitation.

**1C. Guiding Principles for purposes of sections 122, 124, 125, 125AS, 125B, 125C, 125D, 126, 127, 129, 130, 130A, 130B, 130C, 130D, 130E, 137, 138, 139 and 185**

It is the intention of Parliament that in interpreting and applying sections within Chapter XIV, courts are to have regard to the fact that -

*Criminal Code Amendment (Rape) Act 2016*  
*Act No. Of*

s.4

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- (a) there is a high incidence of sexual violence within society; and
- (b) sexual offences are significantly under-reported; and
- (c) a significant number of sexual offence are committed against women, children and other vulnerable persons including persons with a cognitive impairment; and
- (d) sexual offenders are commonly known to their victims; and
- (e) sexual offences often occur in circumstances where there is unlikely to be any physical signs of an offence having occurred.

**5. Section 122 amended (Unnatural crimes)**

Section 122 is amended by omitting in section 122 Unnatural Crimes “has sexual intercourse with” and substituting “sexually penetrates”

**6. Section 125A amended (Maintaining sexual relationship with a young person)**

Section 125A is amended by omitting in section 125A. (1) Maintaining sexual relationship with young person “127A”

**7. Section 126 amended (Sexual intercourse with person with mental impairment)**

Section 126 is amended by omitting in section 126 Sexual intercourse with person with mental impairment “has sexual intercourse with” and substituting “sexually penetrates”

**8. Section 127A deleted (Aggravated sexual assault)**

Section 127A Aggravated sexual assault is deleted.

**9. Section 185(1) amended (Rape)**

Section 185(1) is amended by omitting “sexual intercourse” and substituting “sexually penetrates”

**10. Repeal of the Act**

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