

# Criminal Law (Domestic Violence) Amendment Act 2016

Act No. 16 of 2016

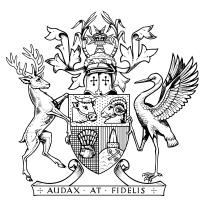


Queensland

# Criminal Law (Domestic Violence) Amendment Act 2016

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# Queensland

# **Criminal Law (Domestic Violence) Amendment Act** 2016

## Act No. 16 of 2016

An Act to amend the Criminal Code, the Penalties and Sentences Act 1992 and the Youth Justice Act 1992, for particular purposes

[Assented to 5 May 2016]

[s 1]

#### The Parliament of Queensland enacts—

# Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Criminal Law (Domestic Violence) Amendment Act 2016.* 

# Part 2 Amendment of Criminal Code

#### 2 Act amended

This part amends the Criminal Code.

#### 3 Insertion of new s 315A

After section 315—

insert—

# 315A Choking, suffocation or strangulation in a domestic setting

- (1) A person commits a crime if—
  - (a) the person unlawfully chokes, suffocates or strangles another person, without the other person's consent; and
  - (b) either—
    - (i) the person is in a domestic relationship with the other person; or
    - (ii) the choking, suffocation or strangulation is associated domestic

[s 4]

violence under the *Domestic and Family Violence Protection Act 2012.* 

Maximum penalty—7 years imprisonment.

(2) An assault is not an element of an offence against subsection (1).

## Part 3 Amendment of Penalties and Sentences Act 1992

#### 4 Act amended

This part amends the Penalties and Sentences Act 1992.

#### 5 Amendment of s 9 (Sentencing guidelines)

Section 9—

insert—

(10A) In determining the appropriate sentence for an offender convicted of a domestic violence offence, the court must treat the fact that it is a domestic violence offence as an aggravating factor, unless the court considers it is not reasonable because of the exceptional circumstances of the case.

Examples of exceptional circumstances—

- 1 the victim of the offence has previously committed an act of serious domestic violence, or several acts of domestic violence, against the offender
- 2 the offence is manslaughter under the Criminal Code, section 304B

[s 6]

#### 6 Amendment of s 15 (Information on sentence)

(1) Section 15, heading, 'on'—

omit, insert—

#### or submissions for

(2) Section 15(1), after 'section 344'—

insert-

, or a sentencing submission made by a party to the proceedings

(3) Section 15—

insert—

(3) In this section—

*sentencing submission*, made by a party, means a submission stating the sentence, or range of sentences, the party considers appropriate for the court to impose.

7 Insertion of new pt 14, div 12

**Division 12** 

Part 14—

insert—

### Transitional provision for Criminal Law (Domestic Violence) Amendment Act 2016

#### 239 Sentencing submissions

The amendments made to section 15 by the *Criminal Law (Domestic Violence) Amendment Act 2016* apply in relation to sentencing an offender even if the offence or conviction happened before the commencement.

## Part 4 Amendment of Youth Justice Act 1992

#### 8 Act amended

This part amends the Youth Justice Act 1992.

#### 9 Amendment of s 150 (Sentencing principles)

- (1) Section 150(3) *omit.*
- (2) Section 150—

insert—

- (4A) In sentencing a child for an offence, a court may receive any information, or a sentencing submission made by a party to the proceedings, it considers appropriate to enable it to impose the proper sentence or make a proper order in connection with the sentence.
- (3) Section 150—

insert—

(6) In this section—

*sentencing submission*, made by a party, means a submission stating the sentence, or range of sentences, the party considers appropriate for the court to impose.

#### 10 Insertion of new pt 11, div 12

Part 11—

insert—

[s 10]

### Division 12 Transitional provision for Criminal Law (Domestic Violence) Amendment Act 2016

#### 368 Sentencing submissions

The amendments made to section 150 by the *Criminal Law (Domestic Violence) Amendment Act 2016* apply in relation to sentencing a child even if the offence or conviction happened before the commencement.

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