



Queensland

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

**Act No. 16 of 2016**





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# Criminal Law (Domestic Violence) Amendment Act 2016

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

**Act No. 16 of 2016**

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**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]

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**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

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]

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## **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**

Part 14—

*insert—*

### **Division 12 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.



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## 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—*

**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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