

2022

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Family Violence Legislation Amendment Bill 2022

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2022

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Family Violence Legislation Amendment Bill 2022

A Bill for

An Act to amend legislation about family violence, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2021-852

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Family Violence Legislation Amendment Act 2022*.

4 **2 Commencement**

5 This Act commences on the 7th day after its notification day.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see [Legislation Act](#), s 75 (1)).

8 **3 Legislation amended**

9 This Act amends the following legislation:

- 10 • *Crimes Act 1900*
- 11 • *Crimes (Sentencing) Act 2005*
- 12 • *Evidence (Miscellaneous Provisions) Act 1991*
- 13 • *Family Violence Act 2016*
- 14 • *Working With Vulnerable People (Background Checking)*
- 15 *Act 2011.*

16 *Note* This Act also amends other legislation (see sch 1).

1 **Part 2** **Crimes Act 1900**

2 **4** **New section 9A**

3 *in part 2, insert*

4 **9A** **Meaning of *aggravated offence*—pt 2**

5 In this part:

6 *aggravated offence*—

- 7 (a) for an offence committed against a pregnant woman—see
8 section 48A (2); and
9 (b) for an offence involving family violence—see section 48C (2).

10 **5** **Sections 15 (3), 19 (2), 20 (2), 21 (2), 23 (2) and 24 (2), note**

11 *substitute*

12 *Note* Section 48A (Aggravated offences—pt 2 offences against pregnant
13 women) and s 48C (Aggravated offences—pt 2 offences involving family
14 violence) make provision in relation to an aggravated offence against this
15 section.

16 **6** **Common assault**
17 **New section 26 (2)**

18 *insert*

- 19 (2) However, for an aggravated offence against this section, the
20 maximum penalty is imprisonment for 3 years.

21 *Note* Section 48C (Aggravated offences—pt 2 offences involving family
22 violence) makes provision in relation to an aggravated offence against
23 this section.

1 **7 Acts endangering life etc**
2 **Section 27 (3)**

3 *omit everything after paragraph (h), substitute*

4 is guilty of an offence punishable, on conviction, by imprisonment
5 for—

6 (i) in the case of an aggravated offence against this section—
7 13 years; or

8 (j) in any other case—10 years.

9 *Note* Section 48C (Aggravated offences—pt 2 offences involving family
10 violence) makes provision in relation to an aggravated offence against
11 this section.

12 **8 Acts endangering health etc**
13 **Section 28 (2)**

14 *omit everything after paragraph (e), substitute*

15 is guilty of an offence punishable, on conviction, by imprisonment
16 for—

17 (f) in the case of an aggravated offence against this section—
18 7 years; or

19 (g) in any other case—5 years.

20 *Note* Section 48C (Aggravated offences—pt 2 offences involving family
21 violence) makes provision in relation to an aggravated offence against
22 this section.

23 **9 Culpable driving of motor vehicle**
24 **Section 29 (3), note**

25 *substitute*

26 *Note* Section 48A (Aggravated offences—pt 2 offences against pregnant
27 women) and s 48C (Aggravated offences—pt 2 offences involving family
28 violence) make provision in relation to an aggravated offence against this
29 section.

1 **10 Threat to kill**
2 **Section 30 (b)**

3 *omit everything after paragraph (b), substitute*

4 the firstmentioned person is guilty of an offence punishable, on
5 conviction, by imprisonment for—

6 (c) in the case of an aggravated offence against this section—
7 13 years; or

8 (d) in any other case—10 years.

9 *Note* Section 48C (Aggravated offences—pt 2 offences involving family
10 violence) makes provision in relation to an aggravated offence against
11 this section.

12 **11 Threat to inflict grievous bodily harm**
13 **Section 31 (b)**

14 *omit everything after paragraph (b), substitute*

15 the firstmentioned person is guilty of an offence punishable, on
16 conviction, by imprisonment for—

17 (c) in the case of an aggravated offence against this section—
18 7 years; or

19 (d) in any other case—5 years.

20 *Note* Section 48C (Aggravated offences—pt 2 offences involving family
21 violence) makes provision in relation to an aggravated offence against
22 this section.

- 1 **12 Demands accompanied by threats**
2 **Section 32 (1)**
- 3 *omit*
4 for 20 years.
- 5 *substitute*
6 for—
7 (d) in the case of an aggravated offence against this section—
8 25 years; or
9 (e) in any other case—20 years.
- 10 **13 Section 32 (2)**
- 11 *omit*
12 for 10 years.
- 13 *substitute*
14 for—
15 (d) in the case of an aggravated offence against this section—
16 13 years; or
17 (e) in any other case—10 years.
- 18 *Note* Section 48C (Aggravated offences—pt 2 offences involving family
19 violence) makes provision in relation to an aggravated offence against
20 this section.

1 **14 Stalking**
2 **Section 35 (1), penalty**

3 *substitute*

4 Maximum penalty:

5 (a) for an aggravated offence against this section—

6 (i) imprisonment for 7 years if—

7 (A) the offence involved a contravention of an injunction
8 or other order made by a court; or

9 (B) the offender was in possession of an offensive
10 weapon; or

11 (ii) in any other case—imprisonment for 3 years; or

12 (b) for an offence against this section other than an aggravated
13 offence—

14 (i) imprisonment for 5 years if—

15 (A) the offence involved a contravention of an injunction
16 or other order made by a court; or

17 (B) the offender was in possession of an offensive
18 weapon; or

19 (ii) in any other case—imprisonment for 2 years.

20 *Note* Section 48C (Aggravated offences—pt 2 offences involving family
21 violence) makes provision in relation to an aggravated offence against
22 this section.

23 **15 Section 48A heading**

24 *substitute*

25 **48A Aggravated offences—pt 2 offences against pregnant**
26 **women**

1 **16 Section 48A (6), definition of *applied provisions***

2 *omit*

3 **17 Section 48B heading**

4 *substitute*

5 **48B Alternative verdicts for aggravated offences—pt 2**
6 **offences against pregnant women**

7 **18 Section 48B (1)**

8 *substitute*

9 (1) This section applies if, in a prosecution for an aggravated offence
10 mentioned in column 2 of an item in table 48B, the trier of fact—

11 (a) is not satisfied that the defendant committed the aggravated
12 offence; but

13 (b) is satisfied beyond reasonable doubt that the defendant
14 committed an offence mentioned in column 3 of the item (the
15 *alternative offence*).

16 (1A) The trier of fact may find the defendant guilty of the alternative
17 offence but only if the defendant has been given procedural fairness
18 in relation to the finding of guilt.

19 **19 Table 48B, item 4, column 3, 6th dot point**

20 *substitute*

- 21
 - section 26 (Common assault), simple offence

20 Table 48B, new items 4A and 4B

1

insert

4A	section 23 (Inflicting actual bodily harm)—aggravated offence	<ul style="list-style-type: none"> • section 23, simple offence
4B	section 24 (Assault occasioning actual bodily harm)—aggravated offence	<ul style="list-style-type: none"> • section 24, simple offence • section 26 (Common assault), aggravated offence • section 26, simple offence

2

21 Section 48B (2)

3

omit

4

22 New sections 48C and 48D

5

insert

6

48C Aggravated offences—pt 2 offences involving family violence

7

8

(1) This section applies to an offence against any of the following provisions:

9

(a) section 15 (Manslaughter);

10

(b) section 19 (Intentionally inflicting grievous bodily harm);

11

(c) section 20 (Recklessly inflicting grievous bodily harm);

12

(d) section 21 (Wounding);

13

(e) section 23 (Inflicting actual bodily harm);

14

(f) section 24 (Assault occasioning actual bodily harm);

15

(g) section 26 (Common assault);

16

(h) section 27 (Acts endangering life etc);

17

(i) section 28 (Acts endangering health etc);

- 1 (j) section 29 (Culpable driving of motor vehicle);
- 2 (k) section 30 (Threat to kill);
- 3 (l) section 31 (Threat to inflict grievous bodily harm);
- 4 (m) section 32 (Demands accompanied by threats);
- 5 (n) section 35 (Stalking).
- 6 (2) The offence is an ***aggravated offence*** if the offence involves family
- 7 violence.
- 8 (3) If the prosecution intends to prove that the offence is an aggravated
- 9 offence, the factors of aggravation must be stated in the charge.
- 10 (4) To remove any doubt—
- 11 (a) it is not necessary for the prosecution to prove that the defendant
- 12 had a fault element in relation to any factor of aggravation; and
- 13 (b) the [Criminal Code](#), chapter 2 (other than the applied provisions)
- 14 does not apply to an offence mentioned in subsection (1),
- 15 whether or not it is an aggravated offence.
- 16 (5) In this section:
- 17 ***factor of aggravation*** means the matter mentioned in subsection (2).
- 18 *Note* The following sections also provide that particular offences involving
- 19 family violence are aggravated offences:
- 20 (a) s 72AA (Aggravated offences—pt 3 offences involving family
- 21 violence);
- 22 (b) s 72EA (Aggravated offences—pt 3A offences involving family
- 23 violence);
- 24 (c) s 116 (Destroying or damaging property).

- 1 **48D Alternative verdicts for aggravated offences—offences**
 2 **involving family violence**
- 3 (1) This section applies if, in a prosecution for an aggravated offence
 4 mentioned in column 2 of an item in table 48D, the trier of fact—
- 5 (a) is not satisfied that the defendant committed the aggravated
 6 offence; but
- 7 (b) is satisfied beyond reasonable doubt that the defendant
 8 committed an offence mentioned in column 3 of the item (the
 9 *alternative offence*).
- 10 (2) The trier of fact may find the defendant guilty of the alternative
 11 offence but only if the defendant has been given procedural fairness
 12 in relation to that finding of guilt.

13 **Table 48D**

column 1 item	column 2 aggravated offence	column 3 alternative offences
1	section 15 (Manslaughter), aggravated offence	<ul style="list-style-type: none"> • section 15, simple offence • section 17 (1) (Suicide—aiding etc) • section 17 (2) • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 29 (2) (Culpable driving of motor vehicle—causing death), aggravated offence • section 29 (2), simple offence

Section 22

column 1 item	column 2 aggravated offence	column 3 alternative offences
2	section 19 (Intentionally inflicting grievous bodily harm), aggravated offence	<ul style="list-style-type: none"> • section 19, simple offence • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 21 (Wounding), aggravated offence • section 21, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence • section 43 (Childbirth—grievous bodily harm), simple offence
3	section 20 (Recklessly inflicting grievous bodily harm), aggravated offence	<ul style="list-style-type: none"> • section 20, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence • section 29 (4) (Culpable driving of motor vehicle—causing grievous bodily harm), aggravated offence • section 29 (4), simple offence
4	section 21 (Wounding), aggravated offence	<ul style="list-style-type: none"> • section 21, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence • section 24 (Assault occasioning actual bodily harm), aggravated offence • section 24, simple offence • section 26 (Common assault), aggravated offence • section 26, simple offence
5	section 23 (Inflicting actual bodily harm), aggravated offence	<ul style="list-style-type: none"> • section 23, simple offence

column 1 item	column 2 aggravated offence	column 3 alternative offences
6	section 24 (Assault occasioning actual bodily harm), aggravated offence	<ul style="list-style-type: none"> • section 24, simple offence • section 26 (Common assault), aggravated offence • section 26, simple offence
7	section 26 (Common assault), aggravated offence	<ul style="list-style-type: none"> • section 26, simple offence
8	section 27 (3) (a) (Acts endangering life etc—choking etc rendering person unconscious etc), aggravated offence	<ul style="list-style-type: none"> • section 27 (3) (a), simple offence • section 28 (2) (a) (Choking, suffocating or strangling)
9	section 27 (3) (b) (Acts endangering life etc—administering drugs etc endangering life etc), aggravated offence	<ul style="list-style-type: none"> • section 27 (3) (b), simple offence • section 28 (2) (b) (administering poison etc with intent to injure etc)
10	section 27 (3) (e) (Acts endangering life etc—causing explosions etc endangering life etc), aggravated offence	<ul style="list-style-type: none"> • section 27 (3) (e), simple offence • section 28 (2) (c) (Causing explosions etc endangering health etc)
11	section 27 (3) (f) (Acts endangering life etc—setting traps endangering life etc, aggravated offence	<ul style="list-style-type: none"> • section 27 (3) (f), simple offence • section 28 (2) (d) (Setting traps endangering health etc)
12	section 27 (3) (g) (Acts endangering life etc—interfering with conveyances and endangering life etc), aggravated offence	<ul style="list-style-type: none"> • section 27 (3) (g), simple offence • section 28 (2) (e) (Interfering with conveyances and endangering health etc)

Section 22

column 1 item	column 2 aggravated offence	column 3 alternative offences
13	section 27 (4) (Acts endangering life etc—intending to commit indictable offence/prevent or hinder apprehension/police officer), aggravated offence	<ul style="list-style-type: none"> • section 27 (3) (Acts endangering life etc), aggravated offence • section 27 (3), simple offence
14	section 28 (2) (a) (Acts endangering health etc—choking, suffocating or strangling), aggravated offence	<ul style="list-style-type: none"> • section 28 (2) (a), simple offence • section 26 (Common assault)
15	section 28 (2) (b) (Acts endangering health etc—administering poisons etc with intent to injure etc), aggravated offence	<ul style="list-style-type: none"> • section 28 (2) (b), simple offence
16	section 28 (2) (c) (Acts endangering health etc—causing explosions etc endangering health etc), aggravated offence	<ul style="list-style-type: none"> • section 28 (2) (c), simple offence
17	section 28 (2) (d) (Acts endangering health etc—setting traps endangering health etc), aggravated offence	<ul style="list-style-type: none"> • section 28 (2) (d), simple offence
18	section 28 (2) (e) (Acts endangering health etc—interfering with conveyances and endangering health etc), aggravated offence	<ul style="list-style-type: none"> • section 28 (2) (e), simple offence

column 1 item	column 2 aggravated offence	column 3 alternative offences
19	section 29 (2) (Culpable driving of motor vehicle—causing death), aggravated offence	<ul style="list-style-type: none"> section 29 (2), simple offence <i>Road Transport (Safety and Traffic Management) Act 1999</i>, section 6 (1), penalty, paragraph (a) (Negligent driving—causing death)
20	section 29 (4) (Culpable driving of motor vehicle—causing grievous bodily harm), aggravated offence	<ul style="list-style-type: none"> section 29 (4), simple offence <i>Road Transport (Safety and Traffic Management) Act 1999</i>, section 6 (1), penalty, paragraph (b) (Negligent driving—causing grievous bodily harm)
21	section 30 (Threat to kill), aggravated offence	<ul style="list-style-type: none"> section 30, simple offence
22	section 31 (Threat to inflict grievous bodily harm), aggravated offence	<ul style="list-style-type: none"> section 31, simple offence
23	section 32 (Demands accompanied by threats), aggravated offence	<ul style="list-style-type: none"> section 32, simple offence
24	section 35 (Stalking), aggravated offence	<ul style="list-style-type: none"> section 35, simple offence

23 Alternative verdicts for certain other offences against the person
Table 49

substitute

Table 49

column 1 Item	column 2 offence charged	column 3 alternative offences
1	section 12 (2) (Murder)	<ul style="list-style-type: none"> • section 15 (2) (Manslaughter) • section 17 (1) (Suicide—aiding etc) • section 17 (2) • section 42 (Child destruction) • section 47 (1) (Concealment of birth)
2	section 15 (1) (Manslaughter)	<ul style="list-style-type: none"> • section 17 (1) (Suicide—aiding etc) • section 17 (2) • section 20 (Recklessly inflicting grievous bodily harm), simple offence • section 25 (Causing grievous bodily harm) • section 29 (2) (Culpable driving of motor vehicle) • section 42 (Child destruction) • section 47 (1) (Concealment of birth)

column 1 Item	column 2 offence charged	column 3 alternative offences
3	section 19 (Intentionally inflicting grievous bodily harm)	<ul style="list-style-type: none"> • section 20 (Recklessly inflicting grievous bodily harm), simple offence • section 21 (Wounding), simple offence • section 23 (Inflicting actual bodily harm), simple offence • section 43 (Childbirth—grievous bodily harm)
4	section 20 (Recklessly inflicting grievous bodily harm)	<ul style="list-style-type: none"> • section 23 (Inflicting actual bodily harm), simple offence • section 25 (Causing grievous bodily harm) • section 29 (4) (Culpable driving of motor vehicle) • section 43 (Childbirth—grievous bodily harm)
5	section 21 (Wounding)	<ul style="list-style-type: none"> • section 23 (Inflicting actual bodily harm), simple offence • section 24 (Assault occasioning actual bodily harm), simple offence • section 26 (Common assault), simple offence
6	section 22 (Assault with intent to commit other offence)	<ul style="list-style-type: none"> • section 26 (Common assault), simple offence
7	section 24 (Assault occasioning actual bodily harm)	<ul style="list-style-type: none"> • section 26 (Common assault), simple offence

Section 23

column 1 Item	column 2 offence charged	column 3 alternative offences
8	section 27 (3) (a) (Acts endangering life etc—choking etc rendering person unconscious etc)	<ul style="list-style-type: none"> section 28 (2) (a) (Acts endangering health etc), simple offence
9	section 27 (3) (b) (Acts endangering life etc—administering drugs etc endangering life etc)	<ul style="list-style-type: none"> section 28 (2) (b) (Acts endangering health etc), simple offence
10	section 27 (3) (e) (Acts endangering life etc—causing explosions etc endangering life etc)	<ul style="list-style-type: none"> section 28 (2) (c) (Acts endangering health etc), simple offence
11	section 27 (3) (f) (Acts endangering life etc—setting traps endangering life etc)	<ul style="list-style-type: none"> section 28 (2) (d) (Acts endangering health etc), simple offence
12	section 27 (3) (g) (Acts endangering life etc—interfering with conveyances and endangering life etc)	<ul style="list-style-type: none"> section 28 (2) (e) (Acts endangering health etc), simple offence
13	section 28 (2) (a) (Acts endangering health etc—choking, suffocating or strangling)	<ul style="list-style-type: none"> section 26 (Common assault), simple offence
14	section 29 (2) (Culpable driving of motor vehicle)—causing death	<ul style="list-style-type: none"> <i>Road Transport (Safety and Traffic Management) Act 1999</i>, section 6 (1), penalty, paragraph (a) (Negligent driving)—causing death
15	section 29 (4) (Culpable driving of motor vehicle)—causing grievous bodily harm	<ul style="list-style-type: none"> <i>Road Transport (Safety and Traffic Management) Act 1999</i>, section 6 (1), penalty, paragraph (b) (Negligent driving)—causing grievous bodily harm

1 **24 Section 50 heading**

2 *substitute*

3 **50 Definitions—pt 3**

4 **25 Section 50 (1), new definition of *aggravated offence***

5 *insert*

6 *aggravated offence*, for an offence involving family violence—see
7 section 72AA (2).

8 **26 Sexual assault in the first degree**
9 **New section 51 (1A)**

10 *insert*

11 (1A) However, for an aggravated offence against subsection (1), the
12 maximum penalty is imprisonment for 21 years.

13 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
14 violence) makes provision in relation to an aggravated offence against
15 this section.

16 **27 New section 51 (3)**

17 *insert*

18 (3) However, for an aggravated offence against subsection (2), the
19 maximum penalty is imprisonment for 25 years.

1 **28 Sexual assault in the second degree**
2 **New section 52 (1A)**

3 *insert*

4 (1A) However, for an aggravated offence against subsection (1), the
5 maximum penalty is imprisonment for 18 years.

6 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
7 violence) makes provision in relation to an aggravated offence against
8 this section.

9 **29 New section 52 (3)**

10 *insert*

11 (3) However, for an aggravated offence against subsection (2), the
12 maximum penalty is imprisonment for 21 years.

13 **30 Sexual assault in the third degree**
14 **New section 53 (1A)**

15 *insert*

16 (1A) However, for an aggravated offence against subsection (1), the
17 maximum penalty is imprisonment for 15 years.

18 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
19 violence) makes provision in relation to an aggravated offence against
20 this section.

21 **31 New section 53 (3)**

22 *insert*

23 (3) However, for an aggravated offence against subsection (2), the
24 maximum penalty is imprisonment for 18 years.

1 **32 Sexual intercourse without consent**
2 **New section 54 (1A)**

3 *insert*

4 (1A) However, for an aggravated offence against subsection (1), the
5 maximum penalty is imprisonment for 15 years.

6 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
7 violence) makes provision in relation to an aggravated offence against
8 this section.

9 **33 New section 54 (2A)**

10 *insert*

11 (2A) However, for an aggravated offence against subsection (2), the
12 maximum penalty is imprisonment for 18 years.

13 **34 Sexual intercourse with young person**
14 **New section 55 (1A)**

15 *insert*

16 (1A) However, for an aggravated offence against subsection (1), the
17 maximum penalty is imprisonment for 21 years.

18 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
19 violence) makes provision in relation to an aggravated offence against
20 this section.

21 **35 New section 55 (2A)**

22 *insert*

23 (2A) However, for an aggravated offence against subsection (2), the
24 maximum penalty is imprisonment for 18 years.

1 **36 Section 56 heading**

2 *substitute*

3 **56 Persistent sexual abuse of child or young person under**
4 **special care**

5 **37 Act of indecency in the first degree**
6 **New section 57 (2)**

7 *insert*

8 (2) However, for an aggravated offence against subsection (1), the
9 maximum penalty is imprisonment for 19 years.

10 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
11 violence) makes provision in relation to an aggravated offence against
12 this section.

13 **38 Act of indecency in the second degree**
14 **New section 58 (2)**

15 *insert*

16 (2) However, for an aggravated offence against subsection (1), the
17 maximum penalty is imprisonment for 15 years.

18 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
19 violence) makes provision in relation to an aggravated offence against
20 this section.

21 **39 Act of indecency in the third degree**
22 **New section 59 (2)**

23 *insert*

24 (2) However, for an aggravated offence against subsection (1), the
25 maximum penalty is imprisonment for 13 years.

26 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
27 violence) makes provision in relation to an aggravated offence against
28 this section.

1 **40 Act of indecency without consent**
2 **New section 60 (1A)**

3 *insert*

4 (1A) However, for an aggravated offence against subsection (1), the
5 maximum penalty is imprisonment for 9 years.

6 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
7 violence) makes provision in relation to an aggravated offence against
8 this section.

9 **41 New section 60 (2A)**

10 *insert*

11 (2A) However, for an aggravated offence against subsection (2), the
12 maximum penalty is imprisonment for 11 years.

13 **42 Acts of indecency with young people**
14 **New section 61 (1A)**

15 *insert*

16 (1A) However, for an aggravated offence against subsection (1), the
17 maximum penalty is imprisonment for 15 years.

18 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
19 violence) makes provision in relation to an aggravated offence against
20 this section.

21 **43 New section 61 (2A)**

22 *insert*

23 (2A) However, for an aggravated offence against subsection (2), the
24 maximum penalty is imprisonment for 13 years.

1 **44 Intimate observations or capturing visual data etc**
2 **Section 61B (1), penalty**

3 *substitute*

4 Maximum penalty:

- 5 (a) for an aggravated offence—250 penalty units, imprisonment for
6 3 years or both; or
- 7 (b) in any other case—200 penalty units, imprisonment for 2 years
8 or both.

9 **45 Section 61B (5), penalty**

10 *substitute*

11 Maximum penalty:

- 12 (a) for an aggravated offence—250 penalty units, imprisonment for
13 3 years or both; or
- 14 (b) in any other case—200 penalty units, imprisonment for 2 years
15 or both.

16 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
17 violence) makes provision in relation to an aggravated offence against
18 this section.

19 **46 Abduction**
20 **New section 63 (2)**

21 *insert*

- 22 (2) However, for an aggravated offence against subsection (1), the
23 maximum penalty is imprisonment for 13 years.

24 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
25 violence) makes provision in relation to an aggravated offence against
26 this section.

1 **47 Using child for production of child exploitation material**
2 **etc**
3 **Section 64 (1), penalty**

4 *substitute*

5 Maximum penalty:

- 6 (a) for an aggravated offence—1 900 penalty units, imprisonment
7 for 19 years or both; or
- 8 (b) in any other case—1 500 penalty units, imprisonment for
9 15 years or both.

10 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
11 violence) makes provision in relation to an aggravated offence against
12 this section.

13 **48 Section 64 (3), penalty**

14 *substitute*

15 Maximum penalty:

- 16 (a) for an aggravated offence—1 300 penalty units, imprisonment
17 for 13 years or both; or
- 18 (b) in any other case—1 000 penalty units, imprisonment for
19 10 years or both.

20 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
21 violence) makes provision in relation to an aggravated offence against
22 this section.

23 **49 Trading in child exploitation material**
24 **Section 64A (1), penalty**

25 *substitute*

26 Maximum penalty:

- 27 (a) for an aggravated offence—1 500 penalty units, imprisonment
28 for 15 years or both; or

1 (b) in any other case—1 200 penalty units, imprisonment for
2 12 years or both.

3 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
4 violence) makes provision in relation to an aggravated offence against
5 this section.

6 **50 Possessing child exploitation material**
7 **Section 65 (1), penalty**

8 *substitute*

9 Maximum penalty:

10 (a) for an aggravated offence—900 penalty units, imprisonment for
11 9 years or both; or

12 (b) in any other case—700 penalty units, imprisonment for 7 years
13 or both.

14 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
15 violence) makes provision in relation to an aggravated offence against
16 this section.

17 **51 Grooming and depraving young people**
18 **Section 66 (1), penalty**

19 *substitute*

20 Maximum penalty:

21 (a) for a 1st offence against a person under 10 years—

22 (i) for an aggravated offence—imprisonment for 11 years; or

23 (ii) in any other case—imprisonment for 9 years; or

24 (b) for a 1st offence against a young person 10 years or older—

25 (i) for an aggravated offence—imprisonment for 9 years; or

26 (ii) in any other case—imprisonment for 7 years; or

- 1 (c) for a 2nd or subsequent offence against a person under
2 10 years—
- 3 (i) for an aggravated offence—imprisonment for 15 years; or
4 (ii) in any other case—imprisonment for 12 years; or
- 5 (d) for a 2nd or subsequent offence against a young person 10 years
6 or older—
- 7 (i) for an aggravated offence—imprisonment for 13 years; or
8 (ii) in any other case—imprisonment for 10 years.
- 9 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
10 violence) makes provision in relation to an aggravated offence against
11 this section.

12 **52 Section 66 (3), penalty**

13 *substitute*

14 Maximum penalty:

- 15 (a) for an aggravated offence—900 penalty units, imprisonment for
16 9 years or both; or
- 17 (b) in any other case—700 penalty units, imprisonment for 7 years
18 or both.

19 **53 Failure to report child sexual offence**
20 **Section 66AA (8), definition of *applied provisions***

21 *omit*

- 1 **54 Making false report about child sexual offence**
2 **Section 66AB (1), penalty**
- 3 *substitute*
- 4 Maximum penalty:
- 5 (a) for an aggravated offence—125 penalty units, imprisonment for
6 16 months or both; or
- 7 (b) in any other case—100 penalty units, imprisonment for
8 12 months or both.
- 9 *Note* Section 72AA (Aggravated offences—pt 3 offences involving family
10 violence) makes provision in relation to an aggravated offence against
11 this section.
- 12 **55 Failure by person in authority to protect child or young**
13 **person from sexual offence**
14 **Section 66A (5), definition of *applied provisions***
- 15 *omit*
- 16 **56 New sections 72AA and 72AB**
- 17 *in part 3, insert*
- 18 **72AA Aggravated offences—pt 3 offences involving family**
19 **violence**
- 20 (1) This section applies to an offence against any of the following
21 provisions:
- 22 (a) section 51 (Sexual assault in the first degree);
- 23 (b) section 52 (Sexual assault in the second degree);
- 24 (c) section 53 (Sexual assault in the third degree);
- 25 (d) section 54 (Sexual intercourse without consent);
- 26 (e) section 55 (Sexual intercourse with young person);

- 1 (f) section 57 (Act of indecency in the first degree);
- 2 (g) section 58 (Act of indecency in the second degree);
- 3 (h) section 59 (Act of indecency in the third degree);
- 4 (i) section 60 (Act of indecency without consent);
- 5 (j) section 61 (Acts of indecency with young people);
- 6 (k) section 61B (Intimate observations or capturing visual data etc);
- 7 (l) section 63 (Abduction);
- 8 (m) section 64 (Using child for production of child exploitation
- 9 material etc);
- 10 (n) section 64A (Trading in child exploitation material);
- 11 (o) section 65 (Possessing child exploitation material);
- 12 (p) section 66 (Grooming and depraving young people);
- 13 (q) section 66AB (Making false report about child sexual offence).
- 14 (2) The offence is an *aggravated offence* if the offence involves family
- 15 violence.
- 16 (3) If the prosecution intends to prove that the offence is an aggravated
- 17 offence, the factors of aggravation must be stated in the charge.
- 18 (4) To remove any doubt—
- 19 (a) it is not necessary for the prosecution to prove that the defendant
- 20 had a fault element in relation to any factor of aggravation; and
- 21 (b) the [Criminal Code](#), chapter 2 (other than the applied provisions)
- 22 does not apply to an offence mentioned in subsection (1),
- 23 whether or not it is an aggravated offence, unless the chapter
- 24 applied to the offence before the commencement of this section.
- 25 *Note* The [Criminal Code](#) does not apply to offences against this part that
- 26 were offences in force before 1 January 2003 unless the offence is
- 27 omitted and remade (see [Criminal Code](#), s 8).

1 (5) In this section:

2 ***factor of aggravation*** means the matter mentioned in subsection (2).

3 *Note* The following sections also provide that particular offences involving
4 family violence are aggravated offences:

5 (a) s 48C (Aggravated offences—pt 2 offences involving family
6 violence);

7 (b) s 72EA (Aggravated offences—pt 3A offences involving family
8 violence);

9 (c) s 116 (Destroying or damaging property).

10 **72AB Alternative verdicts for aggravated offences—offences**
11 **involving family violence**

12 (1) This section applies if, in a prosecution for an aggravated offence
13 mentioned in column 2 of an item in table 72AB, the trier of fact—

14 (a) is not satisfied that the defendant committed the aggravated
15 offence; but

16 (b) is satisfied beyond reasonable doubt that the defendant
17 committed an offence mentioned in column 3 of the item (the
18 ***alternative offence***).

19 (2) The trier of fact may find the defendant guilty of the alternative
20 offence but only if the defendant has been given procedural fairness
21 in relation to that finding of guilt.

Table 72AB

column 1 item	column 2 aggravated offence	column 3 alternative offences
1	section 51 (Sexual assault in the first degree), aggravated offence	<ul style="list-style-type: none"> • section 19 (Intentionally inflicting grievous bodily harm), aggravated offence • section 19, simple offence • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 25 (Causing grievous bodily harm) • section 51, simple offence • section 52 (Sexual assault in the second degree), aggravated offence • section 52, simple offence • section 53 (Sexual assault in the third degree), aggravated offence • section 53, simple offence • section 54 (Sexual intercourse without consent), aggravated offence • section 54, simple offence
2	section 52 (Sexual assault in the second degree), aggravated offence	<ul style="list-style-type: none"> • section 24 (Assault occasioning actual bodily harm), aggravated offence • section 24, simple offence • section 52, simple offence • section 53 (Sexual assault in the third degree), aggravated offence • section 53, simple offence • section 54 (Sexual intercourse without consent), aggravated offence • section 54, simple offence
3	section 53 (Sexual assault in the third degree), aggravated offence	<ul style="list-style-type: none"> • section 53, simple offence • section 54 (Sexual intercourse without consent), aggravated offence • section 54, simple offence

Section 56

column 1 item	column 2 aggravated offence	column 3 alternative offences
4	section 54 (Sexual intercourse without consent), aggravated offence	<ul style="list-style-type: none"> • section 54, simple offence
5	section 55 (Sexual intercourse with young person), aggravated offence	<ul style="list-style-type: none"> • section 55, simple offence
6	section 57 (Act of indecency in the first degree), aggravated offence	<ul style="list-style-type: none"> • section 19 (Intentionally inflicting grievous bodily harm), aggravated offence • section 19, simple offence • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 25 (Causing grievous bodily harm) • section 57, simple offence • section 58 (Act of indecency in the second degree), aggravated offence • section 58, simple offence
7	section 58 (Act of indecency in the second degree), aggravated offence	<ul style="list-style-type: none"> • section 24 (Assault occasioning actual bodily harm), aggravated offence • section 24, simple offence • section 58, simple offence
8	section 59 (Act of indecency in the third degree), aggravated offence	<ul style="list-style-type: none"> • section 59, simple offence
9	section 60 (Act of indecency without consent), aggravated offence	<ul style="list-style-type: none"> • section 60, simple offence

column 1 item	column 2 aggravated offence	column 3 alternative offences
10	section 61 (Acts of indecency with young people), aggravated offence	<ul style="list-style-type: none"> • section 61, simple offence
11	section 61B (1) (Intimate observations or capturing visual data etc), aggravated offence	<ul style="list-style-type: none"> • section 61B (1), simple offence
12	section 61B (5) (Intimate observations or capturing visual data etc), aggravated offence	<ul style="list-style-type: none"> • section 61B (5), simple offence
13	section 63 (Abduction), aggravated offence	<ul style="list-style-type: none"> • section 63, simple offence
14	section 64 (Using child for production of child exploitation material etc), aggravated offence	<ul style="list-style-type: none"> • section 64, simple offence
15	section 64A (Trading in child exploitation material), aggravated offence	<ul style="list-style-type: none"> • section 64A, simple offence
16	section 65 (Possessing child exploitation material), aggravated offence	<ul style="list-style-type: none"> • section 65, simple offence
17	section 66 (Grooming and depraving young people), aggravated offence	<ul style="list-style-type: none"> • section 66, simple offence
18	section 66AB (Making false report about child sexual offence), aggravated offence	<ul style="list-style-type: none"> • section 66AB, simple offence

- 1 **57** **Definitions—pt 3A**
2 **Section 72A, new definition of *aggravated offence***
- 3 *insert*
- 4 *aggravated offence*, for an offence involving family violence—see
5 section 72EA (2).
- 6 **58** **Non-consensual distribution of intimate images**
7 **Section 72C, penalty**
- 8 *substitute*
- 9 Maximum penalty:
- 10 (a) for an aggravated offence—400 penalty units, imprisonment for
11 4 years or both; or
- 12 (b) in any other case—300 penalty units, imprisonment for 3 years
13 or both.
- 14 *Note* Section 72EA (Aggravated offences—pt 3A offences involving family
15 violence) makes provision in relation to an aggravated offence against
16 this section.
- 17 **59** **Distribution of intimate image of young person**
18 **Section 72D (1), penalty**
- 19 *substitute*
- 20 Maximum penalty:
- 21 (a) for an aggravated offence—600 penalty units, imprisonment for
22 6 years or both; or
- 23 (b) in any other case—500 penalty units, imprisonment for 5 years
24 or both.
- 25 *Note* Section 72EA (Aggravated offences—pt 3A offences involving family
26 violence) makes provision in relation to an aggravated offence against
27 this section.

1 **60 Threaten to capture or distribute intimate images**
2 **Section 72E (1), penalty**

3 *substitute*

4 Maximum penalty:

- 5 (a) for an aggravated offence—400 penalty units, imprisonment for
6 4 years or both; or
7 (b) in any other case—300 penalty units, imprisonment for 3 years
8 or both.

9 *Note* Section 72EA (Aggravated offences—pt 3A offences involving family
10 violence) makes provision in relation to an aggravated offence against
11 this section.

12 **61 New sections 72EA and 72EB**

13 *insert*

14 **72EA Aggravated offences—pt 3A offences involving family**
15 **violence**

- 16 (1) This section applies to an offence against any of the following
17 provisions:
18 (a) section 72C (Non-consensual distribution of intimate images);
19 (b) section 72D (Distribution of intimate image of young person);
20 (c) section 72E (Threaten to capture or distribute intimate images).
21 (2) The offence is an *aggravated offence* if the offence involves family
22 violence.
23 (3) If the prosecution intends to prove that the offence is an aggravated
24 offence, the factors of aggravation must be stated in the charge.

1 (4) To remove any doubt, it is not necessary for the prosecution to prove
2 that the defendant had a fault element in relation to any factor of
3 aggravation.

4 (5) In this section:

5 ***factor of aggravation*** means the matter mentioned in subsection (2).

6 *Note* The following sections also provide that particular offences involving
7 family violence are aggravated offences:

8 (a) s 48C (Aggravated offences—pt 2 offences involving family
9 violence);

10 (b) s 72AA (Aggravated offences—pt 3 offences involving family
11 violence);

12 (c) s 116 (Destroying or damaging property).

13 **72EB Alternative verdicts for aggravated offences—offences**
14 **involving family violence**

15 (1) This section applies if, in a prosecution for an aggravated offence
16 mentioned in column 2 of an item in table 72EB, the trier of fact—

17 (a) is not satisfied that the defendant committed the aggravated
18 offence; but

19 (b) is satisfied beyond reasonable doubt that the defendant
20 committed an offence mentioned in column 3 of the item (the
21 ***alternative offence***).

22 (2) The trier of fact may find the defendant guilty of the alternative
23 offence but only if the defendant has been given procedural fairness
24 in relation to the finding of guilt.

Table 72EB

column 1 item	column 2 aggravated offence	column 3 alternative offences
1	section 72C (Non-consensual distribution of intimate images), aggravated offence	<ul style="list-style-type: none"> section 72C, simple offence
2	section 72D (Distribution of intimate image of young person), aggravated offence	<ul style="list-style-type: none"> section 72D, simple offence
3	section 72E (Threaten to capture or distribute intimate images), aggravated offence	<ul style="list-style-type: none"> section 72E, simple offence

62 Sexual servitude offences**Section 79 (1), penalty and note***substitute*

Maximum penalty:

- (a) if a person who enters or remains in sexual servitude is younger than 18 years—imprisonment for 19 years; or
- (b) in any other case—imprisonment for 15 years.

63 Section 79 (2), penalty and note*substitute*

Maximum penalty:

- (a) if a person in sexual servitude involved with the business is younger than 18 years—imprisonment for 19 years; or
- (b) in any other case—imprisonment for 15 years.

- 1 **64 Deceptive recruiting for sexual services**
2 **Section 80, penalty and note**
- 3 *substitute*
- 4 Maximum penalty:
- 5 (a) if the deceived person is younger than 18 years old—
6 imprisonment for 9 years; or
- 7 (b) in any other case—imprisonment for 7 years.
- 8 **65 Sections 81 and 82**
- 9 *substitute*
- 10 **81 Sexual servitude offence etc against person younger than**
11 **18 years—charges and proof**
- 12 In a prosecution for an offence against this part, if the prosecution
13 intends to prove that the offence was committed against a person
14 younger than 18 years old—
- 15 (a) the allegation that the offence was committed against a person
16 younger than 18 years old must be stated in the charge; and
- 17 (b) the prosecution must prove that the defendant intended to
18 commit, or was reckless about committing, the offence against
19 a person younger than 18 years old.
- 20 **82 Alternative verdicts—sexual servitude offence etc**
- 21 (1) This section applies if, in a prosecution for an offence against
22 section 79 or section 80, the trier of fact—
- 23 (a) is not satisfied that the defendant committed the offence; but
- 24 (b) is satisfied beyond reasonable doubt that the defendant
25 committed another offence against the section carrying a lesser
26 penalty than the offence charged.

- 1 (2) The trier of fact may find the defendant guilty of the other offence but
2 only if the defendant has been given procedural fairness in relation to
3 the finding of guilt.

4 **66 Destroying or damaging property**
5 **Section 116 (1), penalty**

6 *substitute*

7 Maximum penalty:

- 8 (a) for an aggravated offence—imprisonment for 25 years; or
9 (b) in any other case—imprisonment for 20 years.

10 **67 Section 116 (2), penalty**

11 *substitute*

12 Maximum penalty:

- 13 (a) for an aggravated offence—380 penalty units, imprisonment for
14 19 years or both; or
15 (b) in any other case—300 penalty units, imprisonment for 15 years
16 or both.

17 **68 Section 116 (3), penalty**

18 *substitute*

19 Maximum penalty:

- 20 (a) for an aggravated offence—60 penalty units, imprisonment for
21 3 years or both; or
22 (b) in any other case—50 penalty units, imprisonment for 2 years or
23 both.

- 1 **69 New section 116 (4) to (7)**
- 2 *insert*
- 3 (4) An offence against this section is an ***aggravated offence*** if the offence
4 involves family violence.
- 5 (5) If the prosecution intends to prove that the offence is an aggravated
6 offence, the factor of aggravation must be stated in the charge.
- 7 (6) To remove any doubt—
- 8 (a) it is not necessary for the prosecution to prove that the defendant
9 had a fault element in relation to any factor of aggravation; and
- 10 (b) the **Criminal Code**, chapter 2 (other than the applied provisions)
11 does not apply to an offence against this section, whether or not
12 it is an aggravated offence.
- 13 (7) In this section:
- 14 ***factor of aggravation*** means the matter mentioned in subsection (4).
- 15 *Note* The following sections also provide that particular offences involving
16 family violence are aggravated offences:
- 17 (a) s 48C (Aggravated offences—pt 2 offences involving family
18 violence);
- 19 (b) s 72AA (Aggravated offences—pt 3 offences involving family
20 violence);
- 21 (c) s 72EA (Aggravated offences—pt 3A offences involving family
22 violence).

- 1 **70 Section 123**
- 2 *substitute*
- 3 **123 Alternative verdicts—criminal damage to property**
- 4 **offences**
- 5 (1) This section applies if, in a prosecution for an offence against this
- 6 division, the trier of fact—
- 7 (a) is not satisfied that the defendant committed the offence; but
- 8 (b) is satisfied beyond reasonable doubt that the defendant
- 9 committed another offence against this division carrying a lesser
- 10 penalty than the offence charged.
- 11 (2) The trier of fact may find the defendant guilty of the other offence but
- 12 only if the defendant has been given procedural fairness in relation to
- 13 the finding of guilt.
- 14 **71 Interviewing children and young people about offences**
- 15 **Section 252G (3), new definition of *family member***
- 16 *insert*
- 17 *family member*—see the *Family Violence Act 2016*, section 9.
- 18 **72 Summary disposal of certain cases at prosecutor’s**
- 19 **election**
- 20 **New section 374 (1A)**
- 21 *insert*
- 22 (1A) For subsection (1) (a), the penalty of imprisonment for an offence
- 23 charged as an aggravated offence because it involves family violence
- 24 is the penalty for the simple offence.

73 New section 374 (6A)

2 *insert*

3 (6A) In sentencing or otherwise dealing with a defendant in relation to an
4 offence that is an aggravated offence because it involves family
5 violence, the court must treat the family violence as an aggravating
6 factor for the offence, subject to the limitation on the penalty under
7 subsection (7).

8 Example

9 A defendant is charged with aggravated assault occasioning actual bodily harm
10 under s 24 because the offence involves family violence. The prosecutor makes an
11 election to have the case disposed of summarily, based on the maximum penalty of
12 5 years imprisonment for the simple offence. The court convicts the defendant and
13 must impose a sentence or otherwise deal with the defendant in a way that, subject
14 to the limitation on penalty in s (7), acknowledges the objective seriousness of
15 family violence.

74 New section 434C

17 *insert*

**18 434C Aggravated offence may allege more than 1 factor of
19 aggravation**

20 (1) A charge for an offence against this Act that the prosecution intends
21 to prove is an aggravated offence may state more than 1 relevant
22 factor of aggravation for the offence

23 Example

24 A defendant is charged with 1 count of assault occasioning actual bodily harm
25 under s 24. The complainant is a pregnant woman and also a family member of the
26 offender. The prosecution intends to prove the offence is an aggravated offence,
27 relying on s 48A and s 72AA. The charge under s 24 may state the relevant factors
28 of aggravation as an assault against a pregnant woman and an assault involving
29 family violence.

- 1 (2) In this section:
- 2 *relevant factor of aggravation*—
- 3 (a) for an offence mentioned in section 48A (1) (Aggravated
4 offences—pt 2 offences against pregnant women)—see
5 section 48A (6); and
- 6 (b) for an offence mentioned in section 48C (1) (Aggravated
7 offences—pt 2 offences involving family violence)—see
8 section 48C (5); and
- 9 (c) for an offence mentioned in section 72AA (1) (Aggravated
10 offences—pt 3 offences involving family violence)—see
11 section 72AA (5); and
- 12 (d) for an offence mentioned in section 72EA (1) (Aggravated
13 offences—pt 3A offences involving family violence)—see
14 section 72EA (5); and
- 15 (e) for an offence against section 116 (Destroying or damaging
16 property)—see section 116 (7).

17 **75 Dictionary, definitions of aggravated offence and**
18 **alternative offence**

- 19 *substitute*
- 20 *aggravated offence*—
- 21 (a) for part 2 (Offences against the person)—
- 22 (i) for an offence committed against a pregnant woman—see
23 section 48A (2); and
- 24 (ii) for an offence involving family violence—see
25 section 48C (2); and
- 26 (b) for part 3 (Sexual offences)—see section 72AA (2); and
- 27 (c) for part 3A (Intimate image abuse)—see section 72EA (2).

1 *alternative offence*, for part 13 (Unfitness to plead and mental
2 impairment)—see section 300 (1).

3 **76 Dictionary, new definitions**

4 *insert*

5 *applied provisions*—see the [Criminal Code](#), section 10 (1).

6 *family violence*—see the [Family Violence Act 2016](#), section 8.

7 *fault element*—see the [Criminal Code](#), section 17.

8 *simple offence*, in relation to a provision, means an offence against
9 the provision that is not an aggravated offence against the provision.

1 **Part 3** **Crimes (Sentencing) Act 2005**

2 **77** **New section 51A**

3 **51A** **Victim impact statements—adjournment of proceeding to**
4 **allow preparation**

5 (1) If the prosecution in a sentencing proceeding for a serious offence
6 requests an adjournment for the preparation of a victim impact
7 statement, the court must grant the adjournment for a reasonable
8 period to allow the statement's preparation.

9 (2) However, the court must not adjourn the proceeding if satisfied that
10 special circumstances justify refusing the adjournment.

11 (3) In this section:

12 *serious offence* means an offence punishable by imprisonment for
13 longer than 5 years.

14 **78** **Victim impact statements—effect**
15 **Section 53 (3) and (4)**

16 *substitute*

17 *Note* The *Evidence (Miscellaneous Provisions) Act 1991*, ch 6A deals with
18 cross-examination of the maker of a victim impact statement.

1 **Part 4** **Evidence (Miscellaneous**
2 **Provisions) Act 1991**

3 **79 Section 38 (2)**

4 *substitute*

5 **38A Meaning of *family violence offence*—ch 4**

6 In this chapter:

7 *family violence offence*—see the [Family Violence Act 2016](#),
8 dictionary.

9 **80 Special requirements—particular proceedings**
10 **Section 43**

11 *omit*

12 A provision mentioned in column 3 of a table for a proceeding

13 *substitute*

14 A provision mentioned in column 3 of a table in this section, for a
15 particular proceeding,

16 **81 Table 43.1, item 1, column 3**

17 *after 3rd dot point, insert*

- 18 • div 4.4.3 (Sexual and family violence offence proceedings—protection of
19 counselling communications)

1 **82 Part 4.4 heading**

2 *substitute*

3 **Part 4.4 Special requirements—sexual**
4 **offence and family violence**
5 **offence proceedings**

6 **83 Division 4.4.3 heading**

7 *substitute*

8 **Division 4.4.3 Sexual and family violence offence**
9 **proceedings—protection of**
10 **counselling communications**

11 **84 Meaning of *protected confidence*—div 4.4.3**
12 **Section 79A (1)**

13 *after*

14 sexual offence

15 *insert*

16 or family violence offence

17 **85 Section 79A (2)**

18 *substitute*

- 19 (2) A counselling communication is a protected confidence even if—
- 20 (a) it is made before the happening, or alleged happening, of the acts
- 21 constituting the sexual offence or family violence offence; or
- 22 (b) it is not made in relation to—
- 23 (i) the sexual offence or any sexual offence; or

- 1 (ii) a condition arising from the sexual offence or any sexual
2 offence; or
- 3 (iii) the family violence offence or any family violence
4 offence; or
- 5 (iv) a condition arising from the family violence offence or any
6 family violence offence.

7 **86 Section 79A (5), new definition of *family violence offence***

8 *insert*

9 *family violence offence* includes alleged family violence offence.

10 **87 No protected confidence immunity for medical**
11 **information**
12 **Section 79K (a)**

13 *after*

14 sexual offence

15 *insert*

16 or family violence offence

17 **88 No protected confidence immunity for communications**
18 **for criminal investigations and proceedings**
19 **Section 79L**

20 *after*

21 sexual offence

22 *insert*

23 or family violence offence

89 **New chapter 6A***insert***Chapter 6A** **Victim impact statements****95** **Definitions—ch 6**

In this chapter—

principal proceeding, for a victim impact statement, means the proceeding for which the statement was made.*victim impact statement*—see the *Crimes (Sentencing) Act 2005*, section 47.**96** **Victim impact statements—cross-examination in principal proceeding**

- (1) The court must not allow the defence to cross-examine the maker of a victim impact statement about the contents of the statement before a finding of guilt has been made in the principal proceeding, unless the court is satisfied that the statement has substantial probative value to justify allowing the cross-examination.
- (2) The court must not allow the defence to cross-examine the maker about the contents of the statement after a finding of guilt has been made in the principal proceeding unless—
 - (a) a lawyer representing the offender applies for leave to conduct the cross-examination, or if the offender is not legally represented the offender indicates to the court the nature of the proposed cross-examination; and
 - (b) the court is satisfied that the cross-examination would materially affect the likely sentence to be imposed on an offender; and
 - (c) the court gives the defence leave to cross-examine the maker.

- 1 (3) In this section:
2 *defence* means—
3 (a) any lawyer representing a defendant or offender; or
4 (b) if the defendant or offender is not legally represented—the
5 defendant or offender.

6 **97 Victim impact statements—use in other proceeding**

- 7 (1) A victim impact statement must not be used in a proceeding other
8 than the principal proceeding unless—
9 (a) a finding of guilt has been made in the principal proceeding; or
10 (b) the court hearing the principal proceeding—
11 (i) is satisfied, on application by a party seeking to use the
12 statement in another proceeding, that the statement has
13 substantial probative value to justify the party's use of the
14 statement; and
15 (ii) makes an order allowing the statement to be used.
16 (2) An order under subsection (1) (b) (ii) may include any conditions the
17 court considers appropriate having regard to the nature of the alleged
18 offence and the circumstances of the maker of the statement.

19 **90 Dictionary, definition of *family member***

20 *substitute*

21 *family member*, for part 4.2 (What special requirements apply to
22 particular proceedings)—see the [Family Violence Act 2016](#),
23 section 9.

91 Dictionary, new definitions

1 *insert*

2
3 *family violence offence*, for chapter 4 (Sexual, violent and family
4 violence offence proceedings)—see the *Family Violence Act 2016*,
5 dictionary.

6 *principal proceeding*, for chapter 6A (Victim impact statements)—
7 see section 95.

8 *victim impact statement*, for chapter 6A (Victim impact
9 statements)—see the *Crimes (Sentencing) Act 2005*, section 47.

92 Further amendments, mentions of division 4.4.3 (Sexual offence proceedings—protection of counselling communications)

10 *omit*

11 division 4.4.3 (Sexual offence proceedings—protection of
12 counselling communications)

13 *substitute*

14 division 4.4.3 (Sexual and family violence offence proceedings—
15 protection of counselling communications)

16 *in*

17 dictionary, definitions of

18 *civil proceeding*

19 *counselling*

20 *counsellor*

21 *criminal proceeding*, paragraph (b)

22 *document recording a protected confidence*

23 *harm*

- 1 *preliminary criminal proceeding*
- 2 *proceeding*, paragraph (d)
- 3 *protected confidence*
- 4 *protected confidence evidence*

Part 5 Family Violence Act 2016

93 Meaning of *family violence*

New section 8 (2) (f)

insert

(f) harmful use of, or interference with, technology.

Examples—par (f)

- 1 use of an electronic device to publish intimate images of a family member without the member's consent
- 2 causing a computer system to deny access to a family member who is an authorised user of the system
- 3 using an electronic messaging system to send abusive or threatening messages or images to a family member
- 4 using software to track a family member's whereabouts or computer use
- 5 creating a false social media account to disseminate adverse information about a family member
- 6 using social media to publish intimate images of a person without the person's consent

94 New section 156

in division 10.2, insert

156 Review of Act

- (1) The Minister must—
 - (a) review the operation and effectiveness of this Act as soon as practicable after the end of 3 years after this section commences; and
 - (b) present a report of the review to the Legislative Assembly before the end of 4 years after this section commences.
- (2) This section expires 5 years after the day it commences.

1 **95 Dictionary, definition of *family violence offence***

2 *substitute*

3 *family violence offence*—an offence is a *family violence offence* if
4 the conduct making up the offence is family violence.

Part 6 Working with Vulnerable People (Background Checking) Act 2011

96 Disqualifying offences Schedule 3, parts 3.2 and 3.3

substitute

Part 3.2 Class A disqualifying offences

Note An offence mentioned in this part is a class B disqualifying offence for a person engaged, or seeking registration to engage, in a kinship care activity (see s 11B).

column 1 item	column 2 offence	column 3 short description	column 4 condition
Homicide and related offences			
1	Crimes Act , s 12	murder	
2	Criminal Code , s 44	attempt	to commit murder
3	Crimes Act , s 29 (2)	culpable driving of motor vehicle, causing death	intent to cause death
4	Crimes Act , s 29 (2) and s 48A (2)	culpable driving of motor vehicle, causing death (aggravated offence—against pregnant woman)	intent to cause death
5	Crimes Act , s 29 (2) and s 48C (2)	culpable driving of motor vehicle, causing death (aggravated offence—involving family violence)	intent to cause death

column 1 item	column 2 offence	column 3 short description	column 4 condition
Acts intended to cause injury			
6	Crimes Act , s 19	intentionally inflict grievous bodily harm	offence against vulnerable person
7	Crimes Act , s 19 and s 48A (2)	intentionally inflict grievous bodily harm (aggravated offence—against pregnant woman)	offence against vulnerable person
8	Crimes Act , s 19 and s 48C (2)	intentionally inflict grievous bodily harm (aggravated offence— involving family violence)	offence against vulnerable person
9	Crimes Act , s 20	recklessly inflict grievous bodily harm	offence against vulnerable person
10	Crimes Act , s 20 and s 48A (2)	recklessly inflict grievous bodily harm (aggravated offence—against pregnant woman)	offence against vulnerable person
11	Crimes Act , s 20 and s 48C (2)	recklessly inflict grievous bodily harm (aggravated offence— involving family violence)	offence against vulnerable person
12	Crimes Act , s 21	wounding	offence against vulnerable person
13	Crimes Act , s 21 and s 48A (2)s	wounding (aggravated offence—against pregnant woman)	offence against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
14	Crimes Act , s 21 and s 48C (2)	wounding (aggravated offence— involving family violence)	offence against vulnerable person
15	Crimes Act , s 22	assault with intent to commit other offence	offence against vulnerable person
16	Crimes Act , s 23	inflict actual bodily harm	offence against vulnerable person
17	Crimes Act , s 23 and s 48A (2)	inflict actual bodily harm (aggravated offence— against pregnant woman)	offence against vulnerable person
18	Crimes Act , s 23 and s 48C (2)	inflict actual bodily harm (aggravated offence— involving family violence)	offence against vulnerable person
19	Crimes Act , s 24	assault occasioning actual bodily harm	offence against vulnerable person
20	Crimes Act , s 24 and s 48A (2)	assault occasioning actual bodily harm (aggravated offence— against pregnant woman)	offence against vulnerable person
21	Crimes Act , s 24 and s 48C (2)	assault occasioning actual bodily harm (aggravated offence— involving family violence)	offence against vulnerable person
22	Crimes Act , s 25	cause grievous bodily harm	offence against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
23	Crimes Act, s 27 (3) (a)	acts endangering life— chokes, suffocates or strangles	offence against vulnerable person
24	Crimes Act, s 27 (3) (a) and s 48C (2)	acts endangering life— chokes, suffocates or strangles (aggravated offence— involving family violence)	offence against vulnerable person
25	Crimes Act, s 27 (3) (b)	acts endangering life— administer stupefying or overpowering drug	offence against vulnerable person
26	Crimes Act, s 27 (3) (b) and s 48C (2)	acts endangering life— administer stupefying or overpowering drug (aggravated offence— involving family violence)	offence against vulnerable person
27	Crimes Act, s 27 (3) (c)	acts endangering life— use offensive weapon	offence against vulnerable person
28	Crimes Act, s 27 (3) (c) and s 48C (2)	acts endangering life— use offensive weapon (aggravated offence— involving family violence)	offence against vulnerable person
29	Crimes Act, s 27 (3) (e)	acts endangering life— cause explosion etc	offence against vulnerable person
30	Crimes Act, s 27 (3) (e) and s 48C (2)	acts endangering life— cause explosion etc (aggravated offence— involving family violence)	offence against vulnerable person
31	Crimes Act, s 27 (3) (f)	acts endangering life— set trap	offence against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
32	Crimes Act , s 27 (3) (f) and s 48C (2)	acts endangering life— set trap (aggravated offence— involving family violence)	offence against vulnerable person
33	Crimes Act , s 27 (3) (g)	acts endangering life— interfere with conveyance, transport facility or public utility service	offence against vulnerable person
34	Crimes Act , s 27 (3) (g) and s 48C (2)	acts endangering life— interfere with conveyance, transport facility or public utility service (aggravated offence— involving family violence)	offence against vulnerable person
35	Crimes Act , s 36	torture	offence against vulnerable person
36	Crimes Act , s 43	childbirth—grievous bodily harm with intent	offence against vulnerable person
37	Crimes Act , s 74	prohibition of female genital mutilation	offence against vulnerable person
38	Crimes Act , s 75	remove child from ACT for genital mutilation	
Sexual assault and related offences			
39	Crimes Act , s 51	sexual assault in first degree	offence against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
40	Crimes Act , s 51 and s 72AA (2)	sexual assault in first degree (aggravated offence— involving family violence)	offence against vulnerable person
41	Crimes Act , s 52	sexual assault in second degree	offence against vulnerable person
42	Crimes Act , s 52 and s 72AA (2)	sexual assault in second degree (aggravated offence— involving family violence)	offence against vulnerable person
43	Crimes Act , s 53	sexual assault in third degree	offence against vulnerable person
44	Crimes Act , s 53 and s 72AA (2)	sexual assault in third degree (aggravated offence— involving family violence)	offence against vulnerable person
45	Crimes Act , s 54	sexual intercourse without consent	offence against vulnerable person
46	Crimes Act , s 54 and s 72AA (2)	sexual assault without consent (aggravated offence— involving family violence)	offence against vulnerable person
47	Crimes Act , s 55 (1)	sexual intercourse with young person (under 10 years old)	

column 1 item	column 2 offence	column 3 short description	column 4 condition
48	Crimes Act , s 55 (1) and s 72AA (2)	sexual intercourse with young person (under 10 years old) (aggravated offence— involving family violence)	
49	Crimes Act , s 55 (2)	sexual intercourse with young person (under 16 years old)	offence other than within young adult relationship
50	Crimes Act , s 55 (2) and s 72AA (2)	sexual intercourse with young person (under 16 years old) (aggravated offence— involving family violence)	offence other than within young adult relationship
51	Crimes Act , s 55A	sexual intercourse with young person under special care	
52	Crimes Act , s 56	maintain sexual relationship with young person or person under special care	
53	Crimes Act , s 57	act of indecency in first degree	offence against vulnerable person
54	Crimes Act , s 57 and s 72AA (2)	act of indecency in first degree (aggravated offence— involving family violence)	offence against vulnerable person
55	Crimes Act , s 58	act of indecency in second degree	offence against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
56	Crimes Act , s 58 and s 72AA (2)	act of indecency in second degree (aggravated offence— involving family violence)	offence against vulnerable person
57	Crimes Act , s 59	act of indecency in third degree	offence against vulnerable person
58	Crimes Act , s 59 and s 72AA (2)	act of indecency in third degree (aggravated offence— involving family violence)	offence against vulnerable person
59	Crimes Act , s 60	act of indecency without consent	offence against vulnerable person
60	Crimes Act , s 60 and s 72AA (2)	act of indecency without consent (aggravated offence— involving family violence)	offence against vulnerable person
61	Crimes Act , s 61 (1)	act of indecency without consent (child under 10 years old)	
62	Crimes Act , s 61 (1) and s 72AA (2)	act of indecency without consent (child under 10 years old) (aggravated offence— involving family violence)	
63	Crimes Act , s 61 (2)	act of indecency without consent (child under 16 years)	offence other than within young adult relationship

column 1 item	column 2 offence	column 3 short description	column 4 condition
64	Crimes Act , s 61 (2) and s 72AA (2)	act of indecency without consent (child under 16 years) (aggravated offence— involving family violence)	offence other than within young adult relationship
65	Crimes Act , s 61A	act of indecency with young person under special care	
66	Crimes Act , s 62 (1)	incest (under 10 years)	
67	Crimes Act , s 62 (2)	incest (under 16 years)	offence against child under 13 years
68	Crimes Act , s 64 (1)	use etc child under 12 years for production of child exploitation material	
69	Crimes Act , s 64 (1) and s 72AA (2)	use etc child under 12 years for production of child exploitation material (aggravated offence— involving family violence)	
70	Crimes Act , s 64 (3)	use etc child 12 years or older for production of child exploitation material	
71	Crimes Act , s 64 (3) and s 72AA (2)	use etc child 12 years or older for production of child exploitation material (aggravated offence— involving family violence)	

column 1 item	column 2 offence	column 3 short description	column 4 condition
72	Crimes Act , s 64A	trade in child exploitation material	
73	Crimes Act , s 64A and s 72AA (2)	trade in child exploitation material (aggravated offence— involving family violence)	
74	Crimes Act , s 65	possess child exploitation material	
75	Crimes Act , s 65 and s 72AA (2)	possess child exploitation material (aggravated offence— involving family violence)	
76	Crimes Act , s 66 (1) (a)	grooming—encourage young person to commit etc act of sexual nature	
77	Crimes Act , s 66 (1) (a) and s 72AA (2)	grooming—encourage young person to commit etc act of sexual nature (aggravated offence— involving family violence)	
78	Crimes Act , s 66 (1) (b)	grooming—engage in conduct with intention of encouraging young person to commit etc act of sexual nature	

column 1 item	column 2 offence	column 3 short description	column 4 condition
79	Crimes Act , s 66 (1) (b) and s 72AA (2)	grooming—engage in conduct with intention of encouraging young person to commit etc act of sexual nature (aggravated offence— involving family violence)	
80	Crimes Act , s 66 (1) (c)	grooming—engage in conduct with person who has relationship with young person with intention of encouraging young person to commit etc act of sexual nature	
81	Crimes Act , s 66 (1) (c) and s 72AA (2)	grooming—engage in conduct with person who has relationship with young person with intention of encouraging young person to commit etc act of sexual nature (aggravated offence— involving family violence)	
82	Crimes Act , s 79 (1)	sexual servitude— cause person to enter or remain in	offence against vulnerable person
83	Crimes Act , s 79 (2)	sexual servitude— conduct business involving	offence against vulnerable person
84	Crimes Act , s 80	deceptive recruiting for sexual services	offence against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
85	Sex Work Act , s 20	cause child to provide commercial sexual services etc	
Abduction, harassment and related offences			
86	Crimes Act , s 37	abduction of young person	offence against child other than family member
87	Crimes Act , s 38	kidnapping	offence against child other than family member
88	Crimes Act , s 40	unlawfully take child etc	offence against child other than family member
89	Crimes Act , s 63	abduction	offence against vulnerable person
Public order offences			
90	Crimes Act , s 63A	bestiality	

Part 3.3 Class B disqualifying offences

column 1 item	column 2 offence	column 3 short description	column 4 condition
Homicide and related offences			
1	Crimes Act , s 15	manslaughter	
2	Crimes Act , s 15 and s 48A (2)	manslaughter (aggravated offence—against pregnant woman)	
3	Crimes Act , s 15 and s 48C (2)	manslaughter (aggravated offence—involved family violence)	
4	Crimes Act , s 17 (1)	suicide—aids or abets	

column 1 item	column 2 offence	column 3 short description	column 4 condition
5	Crimes Act , s 17 (2)	suicide—incites or counsels	
6	Crimes Act , s 29 (2)	culpable driving of motor vehicle—cause death	without intent to cause death
7	Crimes Act , s 29 (2) and s 48A (2)	culpable driving of motor vehicle—cause death (aggravated offence—against pregnant woman)	without intent to cause death
8	Crimes Act , s 29 (2) and s 48C (2)	culpable driving of motor vehicle—cause death (aggravated offence—involving family violence)	without intent to cause death
9	Crimes Act , s 42	child destruction	
10	Road Transport (Safety and Traffic Management) Act , s 6 (1)	drive motor vehicle negligently	causes death
Acts intended to cause injury			
11	Crimes Act , s 19	intentionally inflict grievous bodily harm	offence other than against vulnerable person
12	Crimes Act , s 19 and s 48A (2)	intentionally inflict grievous bodily harm (aggravated offence—against pregnant woman)	offence other than against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
13	Crimes Act , s 19 and s 48C (2)	intentionally inflict grievous bodily harm (aggravated offence— involving family violence)	offence other than against vulnerable person
14	Crimes Act , s 20	recklessly inflict grievous bodily harm	offence other than against vulnerable person
15	Crimes Act , s 20 and s 48A (2)	recklessly inflict grievous bodily harm (aggravated offence— against pregnant woman)	offence other than against vulnerable person
16	Crimes Act , s 20 and s 48C (2)	recklessly inflict grievous bodily harm (aggravated offence— involving family violence)	offence other than against vulnerable person
17	Crimes Act , s 21	wounding	offence other than against vulnerable person
18	Crimes Act , s 21 and s 48A (2)	wounding (aggravated offence— against pregnant woman)	offence other than against vulnerable person
19	Crimes Act , s 21 and s 48C (2)	wounding (aggravated offence— involving family violence)	offence other than against vulnerable person
20	Crimes Act , s 22	assault with intent to commit other offence	offence other than against vulnerable person
21	Crimes Act , s 23	inflict actual bodily harm	offence other than against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
22	Crimes Act , s 23 and s 48A (2)	inflict actual bodily harm (aggravated offence— against pregnant woman)	offence other than against vulnerable person
23	Crimes Act , s 23 and s 48C (2)	inflict actual bodily harm (aggravated offence— involving family violence)	offence other than against vulnerable person
24	Crimes Act , s 24	assault occasioning actual bodily harm	offence other than against vulnerable person
25	Crimes Act , s 24 and s 48A (2)	assault occasioning actual bodily harm (aggravated offence— against pregnant woman)	offence other than against vulnerable person
26	Crimes Act , s 24 and s 48C (2)	assault occasioning actual bodily harm (aggravated offence— involving family violence)	offence other than against vulnerable person
27	Crimes Act , s 25	cause grievous bodily harm	offence other than against vulnerable person
28	Crimes Act , s 27 (3) (a)	acts endangering life— chokes, suffocates or strangles	offence other than against vulnerable person
29	Crimes Act , s 27 (3) (a) and s 48C (2)	acts endangering life— chokes, suffocates or strangles (aggravated offence— involving family violence)	offence other than against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
30	Crimes Act, s 27 (3) (b)	acts endangering life— administer stupefying or overpowering drug	offence other than against vulnerable person
31	Crimes Act, s 27 (3) (b) and s 48C (2)	acts endangering life— administer stupefying or overpowering drug (aggravated offence— involving family violence)	offence other than against vulnerable person
32	Crimes Act, s 27 (3) (c)	acts endangering life— use offensive weapon	offence other than against vulnerable person
33	Crimes Act, s 27 (3) (c) and s 48C (2)	acts endangering life— use offensive weapon (aggravated offence— involving family violence)	offence other than against vulnerable person
34	Crimes Act, s 27 (3) (e)	acts endangering life— cause explosion etc	offence other than against vulnerable person
35	Crimes Act, s 27 (3) (e) and s 48C (2)	acts endangering life— cause explosion etc (aggravated offence— involving family violence)	offence other than against vulnerable person
36	Crimes Act, s 27 (3) (f)	acts endangering life— set trap	offence other than against vulnerable person
37	Crimes Act, s 27 (3) (f) and s 48C (2)	acts endangering life— set trap (aggravated offence— involving family violence)	offence other than against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
38	Crimes Act , s 27 (3) (g)	acts endangering life— interfere with conveyance, transport facility or public utility service	offence other than against vulnerable person
39	Crimes Act , s 27 (3) (g) and s 48C (2)	acts endangering life— interfere with conveyance, transport facility or public utility service (aggravated offence— involving family violence)	offence other than against vulnerable person
40	Crimes Act , s 36	torture	offence other than against vulnerable person
41	Crimes Act , s 74	prohibition of female genital mutilation	offence other than against vulnerable person
Sexual assault and related offences			
42	Crimes Act , s 51	sexual assault in first degree	offence other than against vulnerable person
43	Crimes Act , s 51 and s 72AA (2)	sexual assault in first degree (aggravated offence— involving family violence)	offence other than against vulnerable person
44	Crimes Act , s 52	sexual assault in second degree	offence other than against vulnerable person
45	Crimes Act , s 52 and s 72AA (2)	sexual assault in second degree (aggravated offence— involving family violence)	offence other than against vulnerable person
46	Crimes Act , s 53	sexual assault in third degree	offence other than against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
47	Crimes Act , s 53 and s 72AA (2)	sexual assault in third degree (aggravated offence— involving family violence)	offence other than against vulnerable person
48	Crimes Act , s 54	sexual intercourse without consent	offence other than against vulnerable person
49	Crimes Act , s 54 and s 72AA (2)	sexual intercourse without consent (aggravated offence— involving family violence)	offence other than against vulnerable person
50	Crimes Act , s 55 (2)	sexual intercourse with young person (under 16 years old)	offence within young adult relationship
51	Crimes Act , s 55 (2) and s 72AA (2)	sexual intercourse with young person (under 16 years old) (aggravated offence— involving family violence)	offence within young adult relationship
52	Crimes Act , s 57	act of indecency in first degree	offence other than against vulnerable person
53	Crimes Act , s 57 and s 72AA (2)	act of indecency in first degree (aggravated offence— involving family violence)	offence other than against vulnerable person
54	Crimes Act , s 58	act of indecency in second degree	offence other than against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
55	Crimes Act , s 58 and s 72AA (2)	act of indecency in second degree (aggravated offence— involving family violence)	offence other than against vulnerable person
56	Crimes Act , s 59	act of indecency in third degree	offence other than against vulnerable person
57	Crimes Act , s 59 and s 72AA (2)	act of indecency in third degree (aggravated offence— involving family violence)	offence other than against vulnerable person
58	Crimes Act , s 60	act of indecency without consent	offence other than against vulnerable person
59	Crimes Act , s 60 and s 72AA (2)	act of indecency without consent (aggravated offence— involving family violence)	offence other than against vulnerable person
60	Crimes Act , s 61 (2)	act of indecency without consent (child under 16 years)	offence within young adult relationship
61	Crimes Act , s 61 (2) and s 72AA (2)	act of indecency without consent (child under 16 years) (aggravated offence— involving family violence)	offence within young adult relationship
62	Crimes Act , s 61B (1)	observe with device or capture visual data— other person	offence against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
63	Crimes Act , s 61B (1) and s 72AA (2)	observe with device or capture visual data— other person (aggravated offence— involving family violence)	offence against vulnerable person
64	Crimes Act , s 61B (5)	observe with device or capture visual data— other person’s genital/ anal region or breasts	offence against vulnerable person
65	Crimes Act , s 61B (5) and s 72AA (2)	observe with device or capture visual data— other person’s genital/ anal region or breasts (aggravated offence— involving family violence)	offence against vulnerable person
66	Crimes Act , s 62 (2)	incest (under 16 years)	offence against child 13 years or older
67	Crimes Act , s 62 (3)	incest (16 years or older)	offence other than against vulnerable person
68	Crimes Act , s 72C	non-consensual distribution of intimate images	offence against vulnerable person
69	Crimes Act , s 72C and s 72EA (2)	non-consensual distribution of intimate images (aggravated offence— involving family violence)	offence against vulnerable person
70	Crimes Act , s 72D	Distribution of intimate image of young person	

column 1 item	column 2 offence	column 3 short description	column 4 condition
71	Crimes Act , s 72D and s 72EA (2)	Distribution of intimate image of young person (aggravated offence— involving family violence)	
72	Crimes Act , s 79 (1)	sexual servitude— cause person to enter or remain in	offence other than against vulnerable person
73	Crimes Act , s 79 (2)	sexual servitude— conduct business involving	offence other than against vulnerable person
74	Crimes Act , s 80	deceptive recruiting for sexual services	offence other than against vulnerable person
Dangerous or negligent acts endangering others			
75	Crimes Act , s 39	neglect etc of children	
76	Crimes Act , s 41	expose or abandon child	
Abduction, harassment and related offences			
77	Crimes Act , s 38	kidnapping	offence against child family member or person other than a vulnerable person
78	Crimes Act , s 63	abduction	offence against child family member or person other than a vulnerable person
Fraud, deception and related offences			
79	Criminal Code , s 326	obtain property by deception	offence against vulnerable person
80	Criminal Code , s 332	obtain financial advantage by deception	offence against vulnerable person
81	Criminal Code , s 333	general dishonesty	
82	Criminal Code , s 334	conspiracy to defraud	offence against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
83	Criminal Code , s 336	pass valueless cheques	offence against vulnerable person
84	Criminal Code , s 336A	make false statements on oath or in statutory declarations	
85	Criminal Code , s 337	make false or misleading statements	
86	Criminal Code , s 338	give false or misleading information	offence against vulnerable person
87	Criminal Code , s 339	produce false or misleading documents	offence against vulnerable person
88	Criminal Code , s 346	forgery	offence against vulnerable person
89	Criminal Code , s 347	use false document	offence against vulnerable person
90	Criminal Code , s 348	possess false document	offence against vulnerable person
91	Criminal Code , s 351	false statement by officer of body	
Illicit drug offences			
92	Criminal Code , s 603 (1)	traffic controlled drug—large commercial quantity	
93	Criminal Code , s 603 (3)	traffic controlled drug—commercial quantity	
94	Criminal Code , s 603 (5)	traffic controlled drug—trafficable quantity of cannabis	
95	Criminal Code , s 603 (7)	traffic controlled drug—controlled drug other than cannabis	

column 1 item	column 2 offence	column 3 short description	column 4 condition
96	Criminal Code, s 603 (8)	traffic controlled drug—cannabis	
97	Criminal Code, s 607 (1)	manufacture controlled drug to sell—large commercial quantity	
98	Criminal Code, s 607 (3)	manufacture controlled drug to sell— commercial quantity	
99	Criminal Code, s 607 (5)	manufacture controlled drug to sell	
100	Criminal Code, s 609	manufacture controlled drug	
101	Criminal Code, s 610 (1)	sell controlled precursor—large commercial quantity	
102	Criminal Code, s 610 (3)	sell controlled precursor— commercial quantity	
103	Criminal Code, s 610 (5)	sell controlled precursor for manufacture	
104	Criminal Code, s 611 (1)	manufacture controlled precursor—large commercial quantity	
105	Criminal Code, s 611 (3)	manufacture controlled precursor to sell—large commercial quantity	
106	Criminal Code, s 611 (5)	manufacture controlled precursor— commercial quantity	
107	Criminal Code, s 611 (7)	manufacture controlled precursor to sell— commercial quantity	

column 1 item	column 2 offence	column 3 short description	column 4 condition
108	Criminal Code , s 611 (9)	manufacture controlled precursor	
109	Criminal Code , s 611 (10)	manufacture controlled precursor to sell	
110	Criminal Code , s 612 (1)	possess controlled precursor—large commercial quantity	
111	Criminal Code , s 612 (3)	possess controlled precursor— commercial quantity	
112	Criminal Code , s 612 (5)	possess controlled precursor	
113	Criminal Code , s 613 (1)	supply substance, equipment or document for drug manufacture	
114	Criminal Code , s 613 (2)	possess substance, equipment or document to supply for drug manufacture	
115	Criminal Code , s 614	possess substance, equipment or document for drug manufacture	
116	Criminal Code , s 616 (1)	cultivate controlled plant to sell—large commercial quantity	
117	Criminal Code , s 616 (3)	cultivate controlled plant to sell— commercial quantity	
118	Criminal Code , s 616 (5)	cultivate controlled plant to sell— trafficable quantity	

column 1 item	column 2 offence	column 3 short description	column 4 condition
119	Criminal Code, s 616 (7)	cultivate other controlled plant to sell	
120	Criminal Code, s 616 (8)	cultivate cannabis plant to sell	
121	Criminal Code, s 618 (1)	cultivate controlled plant other than cannabis plant	
122	Criminal Code, s 619 (1)	sell controlled plant— large commercial quantity	
123	Criminal Code, s 619 (3)	sell controlled plant— commercial quantity	
124	Criminal Code, s 619 (5)	sell controlled plant— trafficable quantity of cannabis plant	
125	Criminal Code, s 619 (7)	sell controlled plant— controlled plant other than cannabis plant	
126	Criminal Code, s 619 (8)	sell controlled plant— cannabis plant	
127	Criminal Code, s 620 (1)	supply controlled plant, product, equipment or document—cultivation	
128	Criminal Code, s 620 (2)	possess controlled plant, product, equipment or document—intent to supply to another	
129	Criminal Code, s 621	possess controlled plant, product, equipment or document—cultivation	

column 1 item	column 2 offence	column 3 short description	column 4 condition
130	Criminal Code , s 622 (1)	supply controlled drug to child for selling— commercial quantity	
131	Criminal Code , s 622 (3)	supply controlled drug to child for selling	
132	Criminal Code , s 624 (1)	procure child to traffic in controlled drug— commercial quantity	
133	Criminal Code , s 624 (4)	procure child to traffic in controlled drug	
134	Criminal Code , s 625	supply controlled drug to child	
135	Drugs of Dependence Act , s 164 (2)	sell or supply drug of dependence	
136	Drugs of Dependence Act , s 164 (3)	sell or supply prohibited substance	
Public order offences			
137	Animal Welfare Act , s 7A	aggravated cruelty	

1 **Schedule 1** **Consequential amendments**

2 (see s 3)

3 **Part 1.1** **Children and Young People**
4 **Act 2008**

5 **[1.1]** **Section 246, definition of *privileged*, paragraph (b)**

6 *substitute*

7 (b) it includes a protected confidence under the *Evidence*
8 *(Miscellaneous Provisions) Act 1991*, division 4.4.3 (Sexual and
9 family violence offence proceedings—protection of counselling
10 communications).

11 **Part 1.2** **Crimes (Child Sex Offenders)**
12 **Act 2005**

13 **[1.2]** **Schedule 1, part 1.1, item 12**

14 *substitute*

12	<i>Crimes Act 1900</i> , section 56 (1)	persistent sexual abuse of child or young person under special care	
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1 **Part 1.3 Evidence Act 2011**

2 **[1.3] Section 126F (3), except note**

3 *substitute*

4 (3) This division does not apply in relation to a protected confidence
5 within the meaning of the *Evidence (Miscellaneous Provisions)*
6 *Act 1991*, division 4.4.3 (Sexual and family violence offence
7 proceedings—protection of counselling communications).

8 **Part 1.4 Sex Work Act 1992**

9 **[1.4] Schedule 1, item 16**

10 *substitute*

16	56	persistent sexual abuse of child or young person under special care
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11 **Part 1.5 Supreme Court Act 1933**

12 **[1.5] Schedule 2, part 2.2, item 12**

13 *substitute*

12	Crimes Act	56	persistent sexual abuse of child or young person under special care
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Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 10 February 2022.

2 Notification

Notified under the [Legislation Act](#) on 2022.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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