



Queensland

Criminal Law (Domestic Violence) Amendment Bill (No. 2) 2015



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2015

A Bill

for

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

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Criminal Law (Domestic Violence) Amendment Act (No. 2) 2015*. 4
5

Part 2 Amendment of Criminal Code 6

Clause 2 Act amended 7

This part amends the Criminal Code. 8

Clause 3 Insertion of new s 315A 9

After section 315— 10

insert— 11

315A Choking, suffocation or strangulation in a domestic setting 12
13

(1) A person commits a crime if— 14

(a) the person unlawfully chokes, suffocates or 15
strangles another person, without the other 16
person's consent; and 17

(b) either— 18

(i) the person is in a domestic relationship 19
with the other person; or 20

(ii) the choking, suffocation or 21
strangulation is associated domestic 22

	violence under the <i>Domestic and Family Violence Protection Act 2012</i> .	1 2
	Maximum penalty—7 years imprisonment.	3
(2)	An assault is not an element of an offence against subsection (1).	4 5
Part 3	Amendment of Penalties and Sentences Act 1992	6 7
Clause 4	Act amended	8
	This part amends the <i>Penalties and Sentences Act 1992</i> .	9
Clause 5	Amendment of s 9 (Sentencing guidelines)	10
	Section 9—	11
	<i>insert—</i>	12
	(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.	13 14 15 16 17 18 19
	<i>Examples of exceptional circumstances—</i>	20
	1 the victim of the offence has previously committed an act of serious domestic violence, or several acts of domestic violence, against the offender	21 22 23
	2 the offence is manslaughter under the Criminal Code, section 304B	24 25

[s 6]

Clause 6	Amendment of s 15 (Information on sentence)	1	
(1)	Section 15, heading, ‘on’—	2	
	<i>omit, insert—</i>	3	
	or submissions for	4	
(2)	Section 15(1), after ‘section 344’—	5	
	<i>insert—</i>	6	
	, or a sentencing submission made by a party to the proceedings	7 8	
(3)	Section 15—	9	
	<i>insert—</i>	10	
	(3) In this section—	11	
	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.	12 13 14 15	
Clause 7	Insertion of new pt 14, div 12	16	
	Part 14—	17	
	<i>insert—</i>	18	
	Division 12	Transitional provision for Criminal Law (Domestic Violence) Amendment Act (No. 2) 2015	19 20 21 22
	239 Sentencing submissions	23	
	The amendments made to section 15 by the <i>Criminal Law (Domestic Violence) Amendment Act (No. 2) 2015</i> apply in relation to sentencing an offender even if the offence or conviction happened before the commencement.	24 25 26 27 28	

Part 4	Amendment of Youth Justice Act 1992	1 2
Clause 8	Act amended	3
	This part amends the <i>Youth Justice Act 1992</i> .	4
Clause 9	Amendment of s 150 (Sentencing principles)	5
	(1) Section 150(3)—	6
	<i>omit.</i>	7
	(2) Section 150—	8
	<i>insert—</i>	9
	(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.	10 11 12 13 14 15
	(3) Section 150—	16
	<i>insert—</i>	17
	(6) In this section—	18
	<i>sentencing submission</i> , made by a party, means a submission stating the sentence, or range of sentences, the party considers appropriate for the court to impose.	19 20 21 22
Clause 10	Insertion of new pt 11, div 12	23
	Part 11—	24
	<i>insert—</i>	25

[s 10]

Division 12	Transitional provision for Criminal Law (Domestic Violence) Amendment Act (No. 2) 2015	1 2 3 4
368 Sentencing submissions		5
	The amendments made to section 150 by the <i>Criminal Law (Domestic Violence) Amendment Act (No. 2) 2015</i> apply in relation to sentencing a child even if the offence or conviction happened before the commencement.	6 7 8 9 10

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Authorised by the Parliamentary Counsel