

Passed by both Houses



New South Wales

Crimes Amendment (Aggravated Sexual Assault in Company) Bill 2001

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Crimes Act 1900 No 40	2
4 Consequential amendment of other Acts	2
Schedules	
1 Amendment of Crimes Act 1900	3
2 Consequential amendment of other Acts	6

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2001*



New South Wales

Crimes Amendment (Aggravated Sexual Assault in Company) Bill 2001

Act No , 2001

An Act to amend the *Crimes Act 1900* to provide for a maximum penalty of life imprisonment for aggravated sexual assault in company; and for related purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Amendment (Aggravated Sexual Assault in Company) Act 2001*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Crimes Act 1900 No 40

The *Crimes Act 1900* is amended as set out in Schedule 1.

4 Consequential amendment of other Acts

Each Act referred to in Schedule 2 is amended as set out in that Schedule.

Schedule 1 Amendment of Crimes Act 1900

(Section 3)

[1] Section 4 Definitions

Insert “, 61JA” after “61J” in the definition of *Personal violence offence* in section 4 (1).

[2] Section 61JA

Insert after section 61J:

61JA Aggravated sexual assault in company

- (1) A person:
 - (a) who has sexual intercourse with another person without the consent of the other person and who knows that the other person does not consent to the sexual intercourse, and
 - (b) who is in the company of another person or persons, and
 - (c) who:
 - (i) at the time of, or immediately before or after, the commission of the offence, maliciously inflicts actual bodily harm on the alleged victim or any other person who is present or nearby, or
 - (ii) at the time of, or immediately before or after, the commission of the offence, threatens to inflict actual bodily harm on the alleged victim or any other person who is present or nearby by means of an offensive weapon or instrument, or
 - (iii) deprives the alleged victim of his or her liberty for a period before or after the commission of the offence,

is liable to imprisonment for life.
- (2) A person sentenced to imprisonment for life for an offence under this section is to serve that sentence for the term of the person’s natural life.

- (3) Nothing in this section affects the operation of section 21 of the *Crimes (Sentencing Procedure) Act 1999* (which authorises the passing of a lesser sentence than imprisonment for life).
- (4) Nothing in this section affects the prerogative of mercy.

[3] Section 61P Attempt to commit offence under sections 61I–61O

Insert “, 61JA” after “61J”.

[4] Section 61Q Alternative verdicts

Insert after section 61Q (1):

- (1A) **Question of aggravation in company.** If on the trial of a person for an offence under section 61JA the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied on the evidence that the accused is guilty of an offence under section 61I or 61J, it may find the person not guilty of the offence charged but guilty of the latter offence, and the accused is liable to punishment accordingly.

[5] Section 61Q (3)

Insert “or 61JA” after “61J”.

[6] Section 61R Consent

Omit “61I and 61J” wherever occurring.
Insert instead “61I, 61J and 61JA”.

[7] Section 61T Offender married to victim

Insert “, 61JA” after “61J”.

[8] Section 61U Circumstances of certain sexual offences to be considered in passing sentence

Insert at the end of section 61U (b):

- or
- (c) both an offence under section 61JA and an offence under section 61K,

[9] Section 66EA Persistent sexual abuse of a child

Insert “, 61JA” after “61J” in the definition of *sexual offence* in section 66EA (12).

[10] Section 431A Life sentences

Insert “, for an offence under 61JA” after “ for the offence of murder” in section 431A (2).

Schedule 2 Consequential amendment of other Acts

(Section 4)

2.1 Bail Act 1978 No 161

Section 9 Presumption in favour of bail for certain offences—exceptions

Insert “, 61JA” after “61J” in section 9 (1) (c).

2.2 Children (Care and Protection) Act 1987 No 54

Section 3 Definitions

Insert “, 61JA” after “61J” in section 3 (9).

2.3 Crimes (Sentencing Procedure) Act 1999 No 92

Schedule 1 Existing life sentences

Insert “or 61JA” after “19A” in the definition of *existing life sentence* in clause 1.

2.4 Criminal Procedure Act 1986 No 209

Section 3 Definitions

Insert “, 61JA” after “61J” in the definition of *prescribed sexual offence* in section 3 (1).