

Assault with
intent to
commit a
felony.
Assaulting
officer &c. in
execution
of duty.
No. 6103 s. 40.

40. Whosoever assaults any person with intent to commit felony, or assaults resists or wilfully obstructs any member of the police force in the due execution of his duty or any person acting in aid of such officer, or assaults any person with intent to resist or prevent the lawful apprehension or detainer of any person for any offence, shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than two years.^(a)

Assault with
intent to
obstruct or
compel sale
of grain &c.
No. 6103 s. 41.

41. Whosoever beats or uses any violence or threat of violence to any person with intent to deter or hinder him from buying selling or otherwise disposing of or to compel him to buy sell or otherwise dispose of any wheat or other grain flour meal malt or potatoes in any market or other place, or beats or uses any such violence or threat to any person having the care or charge of any wheat or other grain flour meal malt or potatoes whilst on the way to or from any city market town or other place with intent to stop the conveyance of the same, shall on conviction before a court of petty sessions be liable to imprisonment for a term of not more than three months. No person who is punished for any such offence by virtue of this section shall be punished for the same offence by virtue of any other law whatsoever.

Assaulting
seamen &c.
No. 6103 s. 42.

42. Whosoever unlawfully and with force hinders or prevents any seaman keelman or caster from working at or exercising his lawful trade business or occupation, or beats or uses any violence to any such person with intent to hinder or prevent him from working at or exercising the same, shall on conviction before a court of petty sessions be liable to imprisonment for a term of not more than three months. No person who is punished for any such offence by reason of this section shall be punished for the same offence by virtue of any other law whatsoever.

Assault
arising from
combinations.
No. 6103 s. 43.

43. Whosoever in pursuance of any unlawful combination or conspiracy to raise the rate of wages or of any unlawful combination or conspiracy respecting any trade business or manufacture or respecting any person concerned or employed therein unlawfully assaults any person, shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than two years.

(8) *Rape and Similar Offences. Defilement of Women. Abduction.*

Punishment
of rape.
No. 6103 s. 44.

44. (1) Whosoever is convicted of rape shall be guilty of felony and except as herein provided shall be liable to imprisonment for a term of not more than twenty years.

(2) If on the trial of any person charged with rape the jury are satisfied that the offence charged has been committed but that there were circumstances connected with the commission of the

(a) See also section 461.

crime which appear to mitigate the offence the jury may return as their verdict that such person is guilty of the offence so charged with mitigating circumstances.

(3) A person convicted of rape with mitigating circumstances shall be liable to imprisonment for a term of not more than ten years.

45. Whosoever is convicted of an attempt to commit or of an assault with intent to commit the crime of rape shall be liable to imprisonment for a term of not more than ten years.

Punishment
for an
attempt.
No. 6103 s. 45.

46. Whosoever unlawfully and carnally knows and abuses any girl under the age of ten years,^(a) shall be guilty of felony and shall be liable to imprisonment for a term of not more than twenty years.

Abusing girl
under ten.
No. 6103 s. 46.

47. Whosoever is convicted of any attempt or assault with intent unlawfully and carnally to know and abuse any girl under the age of ten years^(a) shall be liable to imprisonment for a term of not more than ten years.

Punishment
for attempt.
No. 6103 s. 47.

It shall be no defence to any such charge that such attempt or assault with intent was made with the consent of such girl.

Notwith-
standing
consent.

48. (1) Whosoever unlawfully and carnally knows any girl of or above the age of ten and under the age of sixteen years^(a) shall be guilty of felony, and shall be liable to imprisonment for a term of not more than ten years; but if he is a schoolmaster or teacher, and such girl his pupil, he shall be liable to imprisonment for a term of not more than fifteen years.

Abusing girl
between ten
and sixteen.
No. 6103 s. 48.

(2) Whosoever attempts to have unlawful carnal knowledge of any girl of or above the age of ten and under the age of sixteen years,^(a) or assaults any such girl with intent unlawfully and carnally to know her, shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than three years; but if he is a schoolmaster or teacher, and such girl his pupil, he shall be liable to imprisonment for a term of not more than five years.

Attempt.

49. It shall be no defence to a charge for unlawfully and carnally knowing, or for attempting or for assaulting with intent unlawfully and carnally to know any girl under the age of sixteen years^(a) that such carnal knowledge or attempt to have carnal knowledge or assault with intent was or was made with the consent of such girl unless such girl is older than or of the same age as the defendant.

Consent no
defence where
female under
sixteen.
No. 6103 s. 49.

(a) As to proof of age see section 411.

Offences against females between sixteen and eighteen years of age.
No. 6103 s. 50.

50. (1) If any person of or above the age of twenty-one years unlawfully and carnally knows any unmarried female of or above the age of sixteen and under the age of eighteen years^(a) he shall be guilty of an indictable offence and shall be liable to imprisonment for a term of not more than twelve months.

Consent no defence when female under eighteen.

(2) It shall be no defence to any charge for an offence under this section that such carnal knowledge was with the consent of such female.

Meaning of "female."

(3) In this section the expression "female" does not include a female who with her consent has previously had intercourse with a male person other than the accused.

Limit of time when prosecution may be commenced.
No. 6103 s. 51.

51. No prosecution for an offence against a girl of or above the age of twelve years under the provisions of section forty-eight or against a female of or above the age of sixteen years^(a) under section fifty shall be commenced more than twelve months after its commission.

Abuse of female over ten by father or ancestor.
No. 6103 s. 52.

52.^(b) (1) Whosoever unlawfully and carnally knows a woman or girl of or above the age of ten years^(a) such woman or girl being to his knowledge his daughter or other lineal descendant or his step-daughter shall be guilty of felony, and shall be liable to imprisonment for a term of not more than twenty years.

Attempt.

(2) Whosoever attempts to have unlawful carnal knowledge of a woman or girl of or above the age of ten years,^(a) or assaults any such woman or girl with intent unlawfully and carnally to know her, such woman or girl being to his knowledge his daughter or other lineal descendant or his step-daughter shall be guilty of felony, and shall be liable to imprisonment for a term of not more than ten years.

Carnal knowledge of female by brother or son.

(3) Whosoever unlawfully and carnally knows a woman or girl of or above the age of ten years such woman or girl being to his knowledge his sister or mother shall be guilty of felony, and shall be liable to imprisonment for a term of not more than seven years.

Attempt and assault with intent to carnally know female by brother or son.

(4) Whosoever attempts to have unlawful carnal knowledge of a woman or girl of or above the age of ten years,^(a) or assaults such woman or girl with intent unlawfully and carnally to know her, such woman or girl being to his knowledge his sister or mother, shall be guilty of felony, and shall be liable to imprisonment for a term of not more than five years.

Consent not a defence.

(5) It shall be no defence to a charge for any offence against this section that such carnal knowledge or attempt or assault with intent to have unlawful carnal knowledge was or was made with the consent of such woman or girl.

(a) As to proof of age see section 411.

(b) This and the next succeeding section apply to an "adopted" child both as respects its relations by adoption and its relations by blood. *Adoption of Children Act 1958*, section 8 (3).

53. (1) Any woman or girl of or above the age of eighteen years^(a) who consents to her father or other lineal ancestor or step-father or her brother or her son having carnal knowledge of her and permits him (knowing him to be her father or other lineal ancestor or her step-father or her brother or her son as the case may be) so to do shall be guilty of felony, and shall be liable to imprisonment for a term of not more than five years.

When female
an adult and
consents.
No. 6103 s. 53.

(2) It shall be sufficient to prove in support of a charge for any offence against this or the last preceding section that the woman or girl on whose person or by whom the offence is alleged to have been committed is or is reputed to be the daughter or other lineal descendant or step-daughter or sister or mother of the person charged or with whom the offence is alleged to have been committed, and it shall not be necessary to prove that such woman or girl (or any person being her parent or ancestor and descendant of the person charged or with whom the offence is alleged to have been committed) was born in lawful wedlock.

Sufficient
evidence of
woman or
girl being
daughter of
person
charged with
offence.

(3) In all proceedings under this or the last preceding section knowledge on the part of the accused of the relationship or affinity existing between the woman or the girl on whose person or by whom the offence is alleged to have been committed and the person charged or with whom the offence is alleged to have been committed shall unless or until evidence to the contrary is given be presumed to have existed at the time at which the offence is alleged to have been committed.

Knowledge of
relationship to
be presumed
unless contrary
is shown.

(4) In all proceedings against any woman or girl for an offence against this section, it shall be a sufficient defence to prove that such woman or girl was at the time she consented to her father or other lineal ancestor or step-father or her brother or her son having carnal knowledge of her or permitted him so to do acting under his coercion.

Woman or
girl acting
under
coercion
excused.

(5) In this and the last preceding section "brother" and "sister" respectively include half-brother and half-sister.

As to
relationships
involved.

(6) The provisions of this and the last preceding section shall apply whether the relationship between the person charged with an offence under either of the said sections and the person with whom the offence is alleged to have been committed is or is not traced through lawful wedlock.

54. (1) Whosoever being—

(a) a superintendent medical attendant officer nurse attendant or other person employed in any mental hospital (including a hospital for the criminal insane) receiving house receiving ward or private mental home (within the meaning of the *Mental*

Abuse of
female lunatic.
No. 6103 s. 54.

(a) As to proof of age see section 411.

Hygiene Act 1958) or institution within the meaning of the *Mental Deficiency Act 1958* or benevolent asylum or charitable institution; or

- (b) a person having the care or charge of any female being a patient within the meaning of the *Mental Hygiene Act 1958* or being defective within the meaning of the *Mental Deficiency Act 1958*—

carnally knows or attempts or assaults with intent to carnally know such female or any female under care or treatment as a lunatic in a mental hospital (including a hospital for the criminal insane) receiving house receiving ward or private mental home (within the meaning of the *Mental Hygiene Act 1958*) or institution within the meaning of the *Mental Deficiency Act 1958* or benevolent asylum or charitable institution shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than five years; and no consent or alleged consent of such female thereto shall be a defence to any charge for such offence.

(2) No person shall be convicted of an offence against this section upon the evidence of one witness only unless such witness is corroborated in some material particular by evidence implicating the accused.

Indecent
assault.
No. 6103 s. 55.

55. (1) Whosoever unlawfully and indecently assaults any woman or girl, shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than three years.

Consent no
defence.

(2) It shall be no defence to a charge for an indecent assault on a girl under the age of sixteen years^(a) that such assault was made with the consent of such girl.

Second
offence.

(3) Whosoever having been convicted of such misdemeanour as in this section mentioned afterwards commits such misdemeanour as in this section mentioned, shall be guilty of felony, and shall be liable to imprisonment for a term of not more than ten years.

Procuration.
No. 6108 s. 56.

56. (1) Whosoever—

- (a) procures or attempts to procure any woman or girl under the age of twenty-one years^(a) not being a common prostitute or of known immoral character to have unlawful carnal connexion within or without Victoria with any other person or persons; or
- (b) procures or attempts to procure any woman or girl to become within or without Victoria a common prostitute; or
- (c) procures or attempts to procure any woman or girl to leave Victoria with intent that she may become an inmate of a brothel elsewhere; or

(a) As to proof of age see section 411.

- (d) procures or attempts to procure any woman or girl to leave her place of abode in Victoria, such place not being a brothel, with intent that she may become an inmate of a brothel within or without Victoria—

shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than two years.

(2) No person shall be convicted of any offence under this section upon the evidence of one witness only unless such witness is corroborated in some material particular by evidence implicating the accused.

Corroboration necessary.

57. (1) Whosoever—

- (a) by threats or intimidation procures or attempts to procure any woman or girl to have unlawful carnal connexion within or without Victoria; or
- (b) by any false pretence or false representation or other fraudulent means procures or attempts to procure any woman or girl not being a common prostitute or of known immoral character to have any unlawful carnal connexion within or without Victoria—

Procuring defilement of women by threats or fraud or administering drugs.
No. 6103 s. 57.

shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than two years.

(2) Whosoever applies administers to or causes to be taken by any woman or girl any drug matter or thing with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connexion with such woman or girl, shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than ten years.^(a)

(3) No person shall be convicted of an offence under this section upon the evidence of one witness only unless such witness is corroborated in some material particular by evidence implicating the accused.

58. Whosoever being the owner or occupier of any premises or having or acting or assisting in the management or control thereof induces or knowingly suffers any girl of such age as is in this section mentioned to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man whether such carnal knowledge is intended to be with any particular man or generally—

Householder &c. permitting defilement of girl on his premises.
No. 6103 s. 58.

- (a) if such girl is under the age of thirteen years^(b) shall be guilty of felony, and shall be liable to imprisonment for a term of not more than ten years;

(a) See also sections 21 and 22.

(b) As to proof of age see section 411.

(b) if such girl is of or above the age of thirteen and under the age of sixteen years,^(a) shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than two years.

Abduction of girl under eighteen with intent to have carnal knowledge.
No. 6103 s. 59.

59. Whosoever with intent that any girl or woman under the age of eighteen years^(a) should be unlawfully and carnally known by any man whether such carnal knowledge is intended to be with any particular man or generally takes or causes to be taken such girl or woman out of the possession and against the will of her father or mother or any person having the lawful charge of her shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than two years.

Unlawful detention with intent to have carnal knowledge.
No. 6103 s. 60.

60. (1) Whosoever detains any woman or girl against her will—

(a) in or upon any premises with intent that she may be unlawfully and carnally known by any man whether any particular man or generally; or

(b) in any brothel—

shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than two years.

What constitutes unlawful detention.

(2) When a woman or girl is in or upon any premises for the purpose of having an unlawful carnal connexion or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises or in such brothel if with intent to compel or induce her to remain in or upon such premises or in such brothel such person withholds from such woman or girl any wearing apparel or other property belonging to her, or where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the direction of such person such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

(3) No legal proceedings civil or criminal shall be taken against any such woman or girl for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave such premises or brothel.

Abduction of woman from motives of lucre.
No. 6103 s. 61.

61. Whosoever from motives of lucre takes away or detains against her will a woman of any age, who has any estate or interest in any real or personal property, or is a presumptive heiress or coheiress or next of kin to any one having such interest, with intent to marry or carnally know her or to cause her to be married or carnally known by any person, and whosoever fraudulently allures takes away or detains such woman being under

(a) As to proof of age see section 411.

the age of twenty-one years^(a) out of the possession and against the will of her parent or guardian or of any other person having the lawful care or charge of her with intent to marry or carnally know her or to cause her to be married or carnally known by any other person, shall be guilty of felony, and shall be liable to imprisonment for a term of not more than fifteen years.

And whosoever is convicted of any offence against this section shall be incapable of taking any estate or interest in any property of such woman or in which she has any such interest or which comes to her as such heiress coheiress or next of kin as aforesaid; and if any such marriage as aforesaid has taken place, such property shall upon such conviction be settled in such manner as the Supreme Court upon any information at the suit of the Attorney-General appoints.

62. Whosoever by force takes away or detains against her will any woman of any age with intent to marry or carnally know her or to cause her to be married or carnally known by any other person, shall be guilty of felony, and shall be liable to imprisonment for a term of not more than ten years.

Forcible
abduction of
woman.
No. 6103 s. 62.

(9) *Child Stealing.*

63. (1) Whosoever unlawfully either by force or fraud leads or takes away or decoys or entices away or detains any child under the age of sixteen years,^(a) with intent to deprive any parent or guardian or any other person having the lawful care or charge of such child of the possession of such child or with intent to steal any article upon or about the person of such child; and whosoever with any such intent receives or harbors any such child knowing the same to have been by force or fraud led taken decoyed enticed away or detained, shall be guilty of felony, and shall be liable to imprisonment for a term of not more than five years.

Child
stealing.
No. 6103 s. 63.

No person who has claimed any right to the possession of such child, or is the mother or has claimed to be the father of an illegitimate child, shall be liable to be prosecuted under this or the next succeeding sub-section on account of the getting possession of such child or taking such child out of the possession of any person having the lawful care or charge thereof.

Proviso as to
persons
claiming
right to
possession of
child.

(2) Whosoever unlawfully takes decoys or entices away any child under the age of sixteen years^(a) out of the possession and against the will of the child's parent or guardian or of any other person having the lawful care or charge of the child shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than two years.

Taking or
enticing child
away
without force
or fraud.

(a) As to proof of age see section 411.