

Guide to Sentencing Schemes in Victoria 2021

Sentencing Advisory Council

Successive amendments to the *Sentencing Act 1991* (Vic), the *Children, Youth and Families Act 2005* (Vic) and the *Crimes Act 1958* (Vic) have introduced a number of sentencing schemes that apply to particular offences. Often, several schemes will apply to the same offence or to an offence when committed in particular circumstances.

The Council has produced this guide, and accompanying tables, to assist judicial officers, practitioners, criminal justice stakeholders and the broader community in understanding when a particular sentencing scheme applies to the sentencing of a particular offence.

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Advice on using this guide

This guide is *not* exhaustive. It does not, for example, list all the serious offences for the purpose of the serious offender provisions in Part 2A of the *Sentencing Act 1991* (Vic), nor does it list the continuing criminal enterprise offences relating to Part 2B of that Act. However, it covers all Category 1 and 2 offences, standard sentence offences, statutory minimum sentences and Category A and B serious youth offences, as at **1 January 2021**.

Caution should be exercised when using this guide, to ensure that further amendments to sentencing law (subsequent to publication of this guide) have not affected the applicability of a sentencing scheme to a relevant offence.

Changes to sentencing schemes since 31 December 2019

The following legislative changes relevant to the sentencing schemes covered in this guide have occurred since 31 December 2019 (the last version of this guide):

- the introduction of **homicide by firearm** as a specific offence (a form of manslaughter), which is classified as a Category 2 offence, a Category A serious youth offence and a standard sentence offence;
- **thresholds and limitations on impaired mental functioning as a special reason (from 1 July 2020):**
 - in order to avoid the application of statutory minimum sentences or non-parole periods, the offender must satisfy the court on the balance of probabilities that, at the time of the offending, they had impaired mental functioning causally linked to their offending that *substantially and materially* reduced their culpability (previously, the threshold was that the impaired mental function *substantially* reduced their culpability);
 - similarly, when being sentenced for a Category 2 offence, an offender seeking to avoid a sentence of imprisonment by proving on the balance of probabilities that they had impaired mental functioning causally linked to the offending must prove that it *substantially and materially* reduced their culpability for it to warrant a sentence other than imprisonment;
 - special reasons or circumstances allowing a court to not impose a statutory minimum sentence or non-parole period, or a sentence of imprisonment for certain Category 1 or 2 offences, do not exist where they are based on impaired mental functioning caused *substantially* by self-induced intoxication (previously, impaired mental functioning was only excluded if it was caused *solely* by self-induced intoxication);

- **accessories to emergency worker offences** – for offenders seeking to avoid the imposition of a statutory minimum sentence for being an accessory to certain offences against emergency or custodial workers on duty, they must now prove on the balance of probabilities that their involvement was *minor* (previously, the statutory minimum sentence did not apply to anyone who intentionally assisted, encouraged or directed such offences); and
- **additional requirement to consider parliamentary intent when special reasons exist for certain Category 1 offences** – if a court finds special reasons exist when sentencing an offender for causing injury or serious injury to emergency or custodial workers on duty as Category 1 offences, it must consider parliament’s intention that statutory minimum sentences and non-parole periods ordinarily apply for certain manslaughter offences and offences against emergency or custodial workers on duty.

Category 1 and 2 offences

For **Category 1 offences**, a court must make an order under Division 2 of Part 3 ('Custodial orders') of the *Sentencing Act 1991* (Vic).

Relevant orders under Division 2 of Part 3 include:

- imprisonment;
- drug treatment orders; and
- youth justice centre orders.

While a combined order (involving a term of imprisonment of up to 12 months *and* a community correction order, pursuant to section 44) is normally a custodial order under Division 2 of Part 3, courts are prohibited from imposing a combined order for Category 1 offences (section 5(2G)).

There are, however, certain Category 1 offences for which a court may impose a sentence other than a custodial order if special reasons exist (under section 10A of the *Sentencing Act 1991* (Vic)). In particular, if special reasons exist (see **Statutory minimum sentences** below) and the Category 1 offence is a designated offence, a court may impose either a custodial order or one of the following (section 5(2GA)):

- a mandatory treatment and monitoring order, whether or not a sentence of imprisonment is also imposed (section 44A);
- a residential treatment order (section 82AA(1)); or
- a court secure treatment order (section 94A).

The designated offences are particular offences against emergency or custodial workers on duty as outlined in section 5(2GA) of the *Sentencing Act 1991* (Vic). The abovementioned orders are available only if:

- (i) the offender proves on the balance of probabilities that, at the time of the commission of the offence, they had impaired mental functioning (that was not substantially caused by self-induced intoxication) that is causally linked to the commission of the offence and substantially and materially reduces the offender's culpability; and
- (ii) the court is satisfied that a mandatory treatment and monitoring order, a residential treatment order or a court secure treatment order, as the case requires, is appropriate.

In considering whether such orders are available to the court in respect of the designated offences, the court must also consider parliament's intention that certain manslaughter offences and certain offences committed against emergency or custodial workers should ordinarily receive sentences of imprisonment and terms in accordance with the statutory minimum sentence scheme.

In addition to the offences described in the accompanying tables, Category 1 offences include several historical sexual offences repealed by the *Crimes Amendment (Sexual Offences) Act 2016* (Vic), if the offences were *committed* between 20 March 2017 and 30 June 2017:

- section 44(1) – incest with the person's child, other lineal descendant or stepchild, if the victim was, at the time of the offence, under the age of 18;
- section 44(2) – incest with a child, other lineal descendant or stepchild under the age of 18, of the person's de facto spouse;
- section 45(1) – sexual penetration of a child under the age of 16, committed in the circumstance of aggravation described in section 45(2)(a) of the *Crimes Act 1958* (Vic) as then in force; and
- section 47A(1) – persistent sexual abuse of a child under the age of 16.

For **Category 2 offences**, a court must make an order under Division 2 of Part 3 ('Custodial orders') – and **cannot** make a combined order (imprisonment and a community correction order) – unless specific circumstances exist under section 5(2H) of the *Sentencing Act 1991* (Vic). For offending committed on or after 28 October 2018, special reasons not to impose a custodial order for a Category 2 offence have been restricted to circumstances where:

- the offender has assisted or has given an undertaking to assist, after sentencing, law enforcement authorities in the investigation or prosecution of an offence; or
- the offender proves on the balance of probabilities that:
 - at the time of the commission of the offence, they had impaired mental functioning (that was not substantially caused by self-induced intoxication) that is causally linked to the commission of the offence and substantially and materially reduces the offender's culpability; or
 - they have impaired mental functioning that would result in being subject to burdens or risks of imprisonment substantially and materially greater than the ordinary; or
- the court proposes to make a court secure treatment order or a residential treatment order in respect of the offender; or
- there are substantial and compelling circumstances that are exceptional and rare and that justify not making an order under Division 2 of Part 3.

In determining whether 'substantial and compelling circumstances' exist, the court must:

- regard general deterrence and denunciation of the offender's conduct as having greater importance than the other purposes set out in section 5(1); and
- give less weight to the personal circumstances of the offender than to other matters such as the nature and gravity of the offence; and
- not have regard to:
 - the offender's previous good character (other than an absence of previous convictions or findings of guilt); or
 - an early guilty plea; or
 - prospects of rehabilitation; or
 - parity with other sentences; and
- have regard to parliament's intention that a sentence of imprisonment should ordinarily be imposed and whether the cumulative impact of the circumstances justify a departure from such a sentence.

Standard sentences

Standard sentencing applies to prescribed offences if committed on or after 1 February 2018 by an offender aged 18 or older. It does not apply if the offence is heard and determined summarily.

For **standard sentence** offences, the court must consider the standard sentence as a guidepost, representing the sentence for an offence in the middle of the range of seriousness, only having regard to factors related to the offending and not the offender.

The standard sentence is one factor to be considered among all others; it does not create two-stage sentencing nor remove the approach to sentencing known as *instinctive* (or *intuitive*) *synthesis*.

The court must state how the sentence imposed on a standard sentence offence relates to the prescribed standard sentence.

Non-parole periods for cases including standard sentence offences

In any case that includes a standard sentence offence committed after 1 February 2018, the court must fix a non-parole period of at least:

- 30 years if the total effective sentence is a term of life imprisonment; or
- 70% of the total effective sentence if that total effective sentence is 20 years' imprisonment or more; or
- 60% of the total effective sentence if that total effective sentence is less than 20 years' imprisonment –

unless the court considers that it is in the interests of justice not to do so.

Statutory minimum sentences

A court must impose a statutory minimum sentence or non-parole period for certain offences committed by an offender aged 18 years or over unless a special reason exists (under section 10A of the *Sentencing Act 1991* (Vic)).

A special reason not to impose a statutory minimum sentence or non-parole period exists if:

- the offender has assisted or has given an undertaking to assist, after sentencing, law enforcement authorities in the investigation or prosecution of an offence; or
- the offender proves on the balance of probabilities that:
 - at the time of the commission of the offence, they had impaired mental functioning (that was not caused substantially by self-induced intoxication) that is causally linked to the commission of the offence and substantially and materially reduces the offender’s culpability; or
 - they have impaired mental functioning that would result in being subject to burdens or risks of imprisonment substantially and materially greater than the ordinary; or
- the court proposes to make a court secure treatment order or a residential treatment order in respect of the offender; or
- there are substantial and compelling circumstances that are exceptional and rare and that justify not imposing the statutory minimum.

In determining whether ‘substantial and compelling circumstances’ exist, the court must:

- regard general deterrence and denunciation of the offender’s conduct as having greater importance than the other purposes set out in section 5(1); and
- give less weight to the personal circumstances of the offender than to other matters such as the nature and gravity of the offence; and
- not have regard to:
 - the offender’s previous good character (other than an absence of previous convictions or findings of guilt); or
 - an early guilty plea; or
 - prospects of rehabilitation; or
 - parity with other sentences; and
- have regard to parliament’s intention that a sentence of imprisonment should ordinarily be imposed and that a sentence or non-parole period of not less than the relevant statutory minimum should ordinarily be imposed, and whether the cumulative impact of the circumstances justify a departure from such a sentence.

The court must also state, in writing, the special reason not to impose the statutory minimum.

Statutory minimums may apply to manslaughter in circumstances of gross violence and by single punch or strike *only* if the prosecution gives the defendant notice that, if the defendant is found guilty, the prosecution will seek a sentence in accordance with the statutory minimum (under section 9A of the *Sentencing Act 1991* (Vic)).

Statutory minimums *do not* apply to offences of causing injury or serious injury to emergency or custodial workers on duty if the offender's involvement was one of intentionally assisting, encouraging or directing the commission of the offence and they prove on the balance of probabilities that their involvement was minor.

Statutory minimum youth justice centre orders: young offenders aged 18 to 20

For a select number of causing injury offences committed by a young offender (aged 18 years or over but under 21 years at the time of sentencing) against emergency or custodial workers on duty, the court may impose a **minimum term of youth justice centre detention** in lieu of a **statutory minimum non-parole period** if the court finds:

- that a special reason under section 10A of the *Sentencing Act 1991* (Vic) does not exist; and
- a pre-sentence report indicates, and the court believes, that:
 - there are reasonable prospects for the rehabilitation of the young offender; or
 - the young offender is particularly impressionable, immature or likely to be subjected to undesirable influences in an adult prison.

Category A and B serious youth offences

If an offence is a Category A or B serious youth offence, then presumptions regarding the jurisdiction in which particular offences will be heard (either the Children's Court or the higher courts) may apply, as may certain sentencing presumptions.

The provisions relating to each of these presumptions came into effect on different dates:

- the jurisdictional presumption provisions came into effect on 5 April 2018; and
- the sentencing presumption provisions came into effect on 26 February 2018 (as noted in the accompanying tables).

Jurisdictional presumption provisions

Category A serious youth offences

If a child is charged before the Children's Court with a Category A serious youth offence committed when that child was aged 16 years or over (other than murder, attempted murder, manslaughter, child homicide, homicide by firearm, arson causing death or culpable driving causing death, which attract a mandatory uplift from the Children's Court to the higher courts), the charge must be heard and determined in the higher courts unless:

- the child or the prosecution requests that the charge be heard and determined summarily; and
- the Children's Court is satisfied that the sentencing options available to it under the *Children, Youth and Families Act 2005* (Vic) are adequate to respond to the child's offending; and
- any of the following applies:
 - it is in the interests of the victim or victims that the charge be heard and determined summarily;
 - the accused is particularly vulnerable because of cognitive impairment or mental illness; or
 - there is a substantial and compelling reason why the charge should be heard and determined summarily.

In determining whether there is a substantial and compelling reason why the charge should be heard and determined summarily, the Children's Court must have regard to parliament's intention that a charge for a Category A serious youth offence should *not* normally be heard and determined summarily.

Category B serious youth offences

If a child is charged before the Children's Court with a **Category B serious youth offence** committed when they were aged 16 years or over, the court must consider whether section 356(3) of the *Children, Youth and Families Act 2005* (Vic) has the effect that the offence should not be heard and determined summarily.

Section 356(3) relevantly provides that the charge must be heard and determined summarily unless:

- the child objects (before the hearing of any evidence); or
- the court considers that the charge is unsuitable, by reason of exceptional circumstances, to be determined summarily.

Sentencing presumption provisions

Category A serious youth offences

If a young offender is to be sentenced for a **Category A serious youth offence** under the *Sentencing Act 1991* (Vic), and the court considers a custodial sentence is justified, a court must *not* make a youth justice centre order or a youth residential centre order in respect of the young offender unless the court is satisfied that exceptional circumstances exist.

Category B serious youth offences

If:

- a young offender is to be sentenced for a Category B serious youth offence under the *Sentencing Act 1991* (Vic);
- the court has decided to impose a custodial sentence on the young offender; and
- the young offender has previously been convicted of another offence that is a Category A serious youth offence or a Category B serious youth offence –

then a court must *not* make a youth justice centre order or a youth residential centre order (and instead must impose a sentence of adult imprisonment) unless the court is satisfied that exceptional circumstances exist.

Serious offender provisions

The serious offender provisions apply when a court is sentencing:

- a serious sexual offender for a sexual or a violent offence; or
- a serious violent offender for a serious violent offence; or
- a serious drug offender for a drug offence; or
- a serious arson offender for an arson offence.

A person will fall within one of these categories if they have previously received a term of imprisonment or youth detention (even within the same hearing) for a charge (or, for some offences, at least two charges) of the relevant offence. The serious offender provisions do not apply to the sentencing of young offenders.

When sentencing a serious offender for a relevant offence, if a term of imprisonment is imposed, the court, in determining the length of that sentence:

- must regard the protection of the community from the offender as the principal purpose for which the sentence is imposed; and
- may impose a sentence longer than that which is proportionate to the gravity of the offence considered in light of its objective circumstances, in order to achieve that purpose.

Every term of imprisonment imposed on a serious offender for a relevant offence must be served cumulatively on any uncompleted sentence of imprisonment, unless the court orders otherwise.

Offences and applicable sentencing schemes

As at 1 January 2021

Table 1: Homicide offences

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (does not include all serious offender offences)
Murder – emergency/custodial/ youth justice worker on duty Common law; <i>Crimes Act 1958</i> (Vic) s 3; <i>Sentencing Act 1991</i> (Vic) s 3, sch 1	Life	Category 1 Committed on/ after 20 March 2017	30 years Committed on/ after 1 February 2018			Category A Committed on/after 26 February 2018	Yes
Murder – any other case Common law; <i>Crimes Act 1958</i> (Vic) s 3; <i>Sentencing Act 1991</i> (Vic) s 3, sch 1	Life	Category 1 Committed on/ after 20 March 2017	25 years Committed on/ after 1 February 2018			Category A Committed on/after 26 February 2018	Yes
Attempted murder Common law; <i>Crimes Act 1958</i> (Vic) ss 3, 321P; <i>Sentencing Act 1991</i> (Vic) s 3, sch 1	25 years					Category A Committed on/after 26 February 2018	Yes
Manslaughter Common law; <i>Crimes Act 1958</i> (Vic) s 5; <i>Sentencing Act 1991</i> (Vic) sch 1	25 years	Category 2 Committed on/ after 20 March 2017				Category A Committed on/after 26 February 2018	Yes
Manslaughter – in circumstances of gross violence Common law; <i>Crimes Act 1958</i> (Vic) s 5; <i>Sentencing Act 1991</i> (Vic) ss 3, 9B, sch 1	25 years	Category 2 Committed on/ after 20 March 2017		10 years' non-parole period Committed on/after 1 November 2014		Category A Committed on/after 26 February 2018	Yes

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (<i>does not include all serious offender offences</i>)
Manslaughter – by single punch or strike Common law; <i>Crimes Act 1958</i> (Vic) ss 4A, 5; <i>Sentencing Act 1991</i> (Vic) ss 3, 9C, sch 1	25 years	Category 2 Committed on/after 20 March 2017		10 years' non-parole period Committed on/after 1 November 2014		Category A Committed on/after 26 February 2018	Yes
Homicide by firearm <i>Crimes Act 1958</i> (Vic) s 5B; <i>Sentencing Act 1991</i> (Vic) s 3, sch 1	25 years	Category 2	13 years			Category A	Yes
Child homicide <i>Crimes Act 1958</i> (Vic) s 5A; <i>Sentencing Act 1991</i> (Vic) s 3, sch 1	25 years	Category 2 Committed on/after 20 March 2017				Category A Committed on/after 26 February 2018	Yes
Arson causing death <i>Crimes Act 1958</i> (Vic) s 197A; <i>Sentencing Act 1991</i> (Vic) s 3, sch 1	25 years	Category 2 Committed on/after 20 March 2017				Category A Committed on/after 26 February 2018	Yes
Culpable driving causing death <i>Crimes Act 1958</i> (Vic) s 318; <i>Sentencing Act 1991</i> (Vic) s 3	20 years	Category 2 Committed on/after 28 October 2018	8 years Committed on/after 1 February 2018			Category A Committed on/after 26 February 2018	
Dangerous driving causing death <i>Crimes Act 1958</i> (Vic) s 319; <i>Sentencing Act 1991</i> (Vic) s 3	10 years	Category 2 Committed on/after 28 October 2018					

Table 2: Causing/threatening injury offences

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (does not include all serious offender offences)
Intentionally causing serious injury in circumstances of gross violence <i>Crimes Act 1958 (Vic) s 15A; Sentencing Act 1991 (Vic) s 10, sch 1</i>	20 years	Category 1 Committed on/after 20 March 2017		4 years' non-parole period		Category A Committed on/after 26 February 2018	Yes
Intentionally causing serious injury in circumstances of gross violence – emergency/custodial/youth justice worker on duty <i>Crimes Act 1958 (Vic) s 15A; Sentencing Act 1991 (Vic) s 10AA, sch 1</i>	20 years	Category 1 Committed on/after 28 October 2018		5 years' non-parole period Emergency worker: committed on/after 2 November 2014 Custodial officer: committed on/after 3 October 2016 Youth justice custodial worker: committed on/after 5 April 2018		Category A Committed on/after 26 February 2018	Yes
Recklessly causing serious injury in circumstances of gross violence <i>Crimes Act 1958 (Vic) s 15B; Sentencing Act 1991 (Vic) ss 3, 10, sch 1</i>	15 years	Category 1 Committed on/after 20 March 2017		4 years' non-parole period		Category B Committed on/after 26 February 2018	Yes

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (<i>does not include all serious offender offences</i>)
<p>Recklessly causing serious injury in circumstances of gross violence – emergency/custodial/youth justice worker on duty <i>Crimes Act 1958 (Vic) s 15B; Sentencing Act 1991 (Vic) s 10AA, sch 1</i></p>	15 years	<p>Category 1 Committed on/after 28 October 2018</p>		<p>5 years' non-parole period Emergency worker: committed on/after 2 November 2014 Custodial officer: committed on/after 3 October 2016 Youth justice custodial worker: committed on/after 5 April 2018</p>		<p>Category B Committed on/after 26 February 2018</p>	Yes
<p>Intentionally causing serious injury – emergency/custodial/youth justice worker on duty <i>Crimes Act 1958 (Vic) s 16; Sentencing Act 1991 (Vic) ss 3, 10AA, sch 1</i></p>	20 years	<p>Category 1 Committed on/after 28 October 2018</p>		<p>3 years' non-parole period Emergency worker: committed on/after 2 November 2014 Custodial officer: committed on/after 3 October 2016 Youth justice custodial worker: committed on/after 5 April 2018</p>	<p>3 years Emergency worker: committed on/after 2 November 2014 Custodial officer: committed on/after 3 October 2016 Youth justice custodial worker: committed on/after 5 April 2018</p>		Yes

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (does not include all serious offender offences)
<p>Intentionally causing serious injury <i>Crimes Act 1958 (Vic) s 16; Sentencing Act 1991 (Vic) s 3, sch 1</i></p>	<p>20 years</p>	<p>Category 2 Committed on/after 20 March 2017</p>					<p>Yes</p>
<p>Recklessly causing serious injury – emergency/custodial/youth justice worker on duty <i>Crimes Act 1958 (Vic) s 17; Sentencing Act 1991 (Vic) ss 3, 10AA, sch 1</i></p>	<p>15 years</p>	<p>Category 1 Committed on/after 28 October 2018</p>		<p>2 years’ non-parole period Emergency worker: committed on/after 2 November 2014 Custodial officer: committed on/after 3 October 2016 Youth justice custodial worker: committed on/after 5 April 2018</p>	<p>2 years Emergency worker: committed on/after 2 November 2014 Custodial officer: committed on/after 3 October 2016 Youth justice custodial worker: committed on/after 5 April 2018</p>		<p>Yes</p>

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (does not include all serious offender offences)
<p>Intentionally causing injury – emergency/custodial/youth justice worker on duty <i>Crimes Act 1958 (Vic) s 18; Sentencing Act 1991 (Vic) ss 3, 10AA</i></p>	<p>10 years</p>	<p>Category 1 Committed on/after 28 October 2018</p>		<p>6 months’ imprisonment Emergency worker: committed on/after 2 November 2014 Custodial officer: committed on/after 3 October 2016 Youth justice custodial worker: committed on/after 5 April 2018</p>	<p>6 months Emergency worker: committed on/after 2 November 2014 Custodial officer: committed on/after 3 October 2016 Youth justice custodial worker: committed on/after 5 April 2018</p>		
<p>Recklessly causing injury – emergency/custodial/youth justice worker on duty <i>Crimes Act 1958 (Vic) s 18; Sentencing Act 1991 (Vic) ss 3, 10AA</i></p>	<p>5 years</p>	<p>Category 1 Committed on/after 28 October 2018</p>		<p>6 months’ imprisonment Emergency worker: committed on/after 2 November 2014 Custodial officer: committed on/after 3 October 2016 Youth justice custodial worker: committed on/after 5 April 2018</p>	<p>6 months Emergency worker: committed on/after 2 November 2014 Custodial officer: committed on/after 3 October 2016 Youth justice custodial worker: committed on/after 5 April 2018</p>		

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (does not include all serious offender offences)
Intentionally exposing emergency/custodial/youth justice worker on duty to risk by driving – causing injury <i>Crimes Act 1958</i> (Vic) s 317AC; <i>Sentencing Act 1991</i> (Vic) ss 3, 10AE(1)	20 years	Category 1 Committed on/after 28 October 2018		2 years' non-parole period Committed on/after 5 April 2018			
Aggravated intentionally exposing emergency/custodial/youth justice worker on duty to risk by driving – causing injury <i>Crimes Act 1958</i> (Vic) s 317AD; <i>Sentencing Act 1991</i> (Vic) ss 3, 10AE(1)	20 years	Category 1 Committed on/after 28 October 2018		2 years' non-parole period Committed on/after 5 April 2018			
Aggravated intentionally exposing emergency/custodial/youth justice worker on duty to risk by driving – no injury <i>Crimes Act 1958</i> (Vic) s 317AD; <i>Sentencing Act 1991</i> (Vic) ss 3, 10AE(1)	20 years	Category 2 Committed on/after 28 October 2018					
Aggravated recklessly exposing emergency/custodial/youth justice worker on duty to risk by driving <i>Crimes Act 1958</i> (Vic) s 317AF; <i>Sentencing Act 1991</i> (Vic) s 3	10 years	Category 2 Committed on/after 28 October 2018					

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (<i>does not include all serious offender offences</i>)
<p>Discharging a firearm reckless to safety of a police officer/ protective services officer – where conduct created risk to physical safety of victim or any member of the public <i>Crimes Act 1958 (Vic) s 31C; Sentencing Act 1991 (Vic) s 3</i></p>	<p>15 years</p>	<p>Category 2 Committed on/ after 5 June 2019</p>					
<p>Common assault – where offence committed against police officer/protective services officer with threat to use offensive weapon that does, or is likely to, cause apprehension or fear, if the assault included the direct application of force within the meaning of <i>assault</i> in section 31(2) of the <i>Crimes Act 1958 (Vic)</i> <i>Crimes Act 1958 (Vic) ss 31, 320A; Sentencing Act 1991 (Vic) s 3</i></p>	<p>10 years (15 years if weapon is a real or imitation firearm)</p>	<p>Category 2 Committed on/ after 5 June 2019</p>					

Table 3: Sexual offences

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (does not include all serious offender offences)
Rape <i>Crimes Act 1958 (Vic) s 38; Sentencing Act 1991 (Vic) s 3, sch 1</i>	25 years	Category 1 Committed on/after 20 March 2017	10 years Committed on/after 1 February 2018			Category B Committed on/after 26 February 2018	Yes
Rape by compelling sexual penetration <i>Crimes Act 1958 (Vic) s 39; Sentencing Act 1991 (Vic) s 3, sch 1</i>	25 years	Category 1 Committed on/after 20 March 2017				Category B Committed on/after 26 February 2018	Yes (if the victim is a child)
Sexual penetration of a child under the age of 12 <i>Crimes Act 1958 (Vic) s 49A; Sentencing Act 1991 (Vic) s 3, sch 1</i>	25 years	Category 1 Committed on/after 20 March 2017	10 years Committed on/after 1 February 2018				Yes
Sexual penetration of a child under the age of 16 <i>Crimes Act 1958 (Vic) s 49B; Sentencing Act 1991 (Vic) s 3, sch 1</i>	15 years		6 years Committed on/after 1 February 2018				Yes
Sexual assault of a child under the age of 16 <i>Crimes Act 1958 (Vic) s 49D; Sentencing Act 1991 (Vic) s 3, sch 1</i>	10 years		4 years Committed on/after 1 February 2018				Yes

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (<i>does not include all serious offender offences</i>)
Sexual activity in the presence of a child under the age of 16 <i>Crimes Act 1958 (Vic) s 49F; Sentencing Act 1991 (Vic) s 3, sch 1</i>	10 years		4 years Committed on/after 1 February 2018				Yes
Causing a child under the age of 16 to be present during sexual activity <i>Crimes Act 1958 (Vic) s 49H; Sentencing Act 1991 (Vic) s 3, sch 1</i>	10 years		4 years Committed on/after 1 February 2018				Yes
Persistent sexual abuse of a child under the age of 16 <i>Crimes Act 1958 (Vic) s 49J; Sentencing Act 1991 (Vic) s 3, sch 1</i>	25 years	Category 1 Committed on/after 20 March 2017	10 years Committed on/after 1 February 2018				Yes
Sexual penetration of a lineal descendant – victim under 18 <i>Crimes Act 1958 (Vic) s 50C; Sentencing Act 1991 (Vic) s 3, sch 1</i>	25 years	Category 1 Committed on/after 20 March 2017	10 years Committed on/after 1 February 2018				Yes
Sexual penetration of a stepchild – victim under 18 <i>Crimes Act 1958 (Vic) s 50D; Sentencing Act 1991 (Vic) s 3, sch 1</i>	25 years	Category 1 Committed on/after 20 March 2017	10 years Committed on/after 1 February 2018				Yes

Table 4: Drug offences

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (<i>does not include all serious offender offences</i>)
Trafficking large commercial quantity of drug of dependence <i>Drugs, Poisons and Controlled Substances Act 1981 (Vic) s 71; Sentencing Act 1991 (Vic) s 3, sch 1</i>	Life	Category 1 Committed on/after 20 March 2017	16 years Committed on/after 1 February 2018				Yes
Trafficking commercial quantity of drug of dependence <i>Drugs, Poisons and Controlled Substances Act 1981 (Vic) s 71AA; Sentencing Act 1991 (Vic) s 3, sch 1</i>	25 years	Category 2 Committed on/after 20 March 2017					Yes
Cultivating large commercial quantity of a narcotic plant <i>Drugs, Poisons and Controlled Substances Act 1981 (Vic) s 72; Sentencing Act 1991 (Vic) s 3, sch 1</i>	Life	Category 1 Committed on/after 20 March 2017					Yes
Cultivating commercial quantity of a narcotic plant <i>Drugs, Poisons and Controlled Substances Act 1981 (Vic) s 72A; Sentencing Act 1991 (Vic) s 3, sch 1</i>	25 years	Category 2 Committed on/after 20 March 2017					Yes

Table 5: Robbery/kidnapping and related offences

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (<i>does not include all serious offender offences</i>)
Kidnapping <i>Crimes Act 1958 (Vic) s 63A; Sentencing Act 1991 (Vic) s 3, sch 1</i>	25 years	Category 2 Committed on/after 20 March 2017					Yes
Kidnapping – common law <i>Crimes Act 1958 (Vic) s 320; Sentencing Act 1991 (Vic) s 3, sch 1</i>	25 years	Category 2 Committed on/after 20 March 2017					Yes
Armed robbery – if firearm used, or injury occurs, or more than one offender <i>Crimes Act 1958 (Vic) s 75A; Sentencing Act 1991 (Vic) s 3</i>	25 years	Category 2 Committed on/after 28 October 2018					
Home invasion <i>Crimes Act 1958 (Vic) s 77A; Sentencing Act 1991 (Vic) s 3</i>	25 years	Category 2 Committed on/after 28 October 2018				Category B Committed on/after 26 February 2018	
Aggravated home invasion <i>Crimes Act 1958 (Vic) s 77B; Sentencing Act 1991 (Vic) ss 3, 10AC</i>	25 years	Category 1 Committed on/after 28 October 2018		3 years' non-parole period		Category A Committed on/after 26 February 2018	

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (<i>does not include all serious offender offences</i>)
Carjacking <i>Crimes Act 1958 (Vic) s 79; Sentencing Act 1991 (Vic) s 3</i>	15 years	Category 2 Committed on/after 28 October 2018				Category B Committed on/after 26 February 2018	
Aggravated carjacking <i>Crimes Act 1958 (Vic) s 79A; Sentencing Act 1991 (Vic) ss 3, 10AD</i>	25 years	Category 1 Committed on/after 28 October 2018		3 years' non-parole period		Category A Committed on/after 26 February 2018	

Table 6: Terrorism offences

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category A or B serious youth offence	Serious offender offence (<i>does not include all serious offender offences</i>)
Providing documents or information facilitating terrorist acts <i>Terrorism (Community Protection) Act 2003 (Vic) s 4B(1); Sentencing Act 1991 (Vic) s 3</i>	10 years	Category 2 Committed on/ after 20 March 2017					

Table 7: Contravention offences

Offence and statutory references	Maximum penalty	Category 1 or 2 offence	Standard sentence	Statutory minimum non-parole period or sentence	Statutory minimum youth justice centre detention – young adult offender (18–20)	Category B or B serious youth offence	Serious offender offence (<i>does not include all serious offender offences</i>)
Contravene supervision order or interim supervision order – intentionally or recklessly contravene a restrictive condition of supervision order or interim supervision order <i>Serious Offender Act 2018 (Vic) s 169; Sentencing Act 1991 (Vic) s 10AB</i>	5 years			12 months' imprisonment			

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