

Media Release

Jaclyn Symes MLC

Leader of the Government in the Legislative Council

Attorney-General

Minister for Emergency Services



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AFFIRMATIVE CONSENT MODEL NOW LAW IN VICTORIA

The Andrews Labor Government's reforms to change the way sexual violence is dealt with in Victoria have passed Parliament, sending a clear message to Victorians that there's no room for this inexcusable behaviour.

The *Justice Legislation Amendment (Sexual Offences and Other Matters) Bill 2022* includes amendments that will adopt an affirmative consent model and provide better protections for victim-survivors of sexual offences, shifting the scrutiny from victim-survivors onto their perpetrators.

The model will make it clear that everyone has a responsibility to get consent before engaging in sexual activity. For their belief in consent to be reasonable, a person must have taken steps by saying or doing something to find out if the other person consents – simply, it must be a clear and enthusiastic go-ahead.

This can include, but isn't limited to verbally asking and getting a "yes", a physical gesture like a nod or reciprocating a move such as removing clothes.

Even if a person meets this minimum requirement to take steps, their belief in consent must still be reasonable in all the circumstances – for example taking into consideration if the steps went far enough, or if there were cues such as pushing away the accused's hand or facial reactions.

The reforms will also clarify that circumstances where there is no consent to an act, including the removal, non-use or tampering of a condom – commonly referred to as "stealthing" – without the other person's consent is a crime.

The Bill also includes stronger laws to target image-based sexual abuse, which includes taking intimate videos of someone without their consent and distributing, or threatening to distribute, intimate images, including deepfake porn.

It includes new jury directions to address misconceptions in sexual offence trials and reforms to better protect the confidential health information of sexual offence complainants.

These reforms will be supported by community-based education delivered by local organisations and specialist services, announced in the *Victorian Budget 2022/23*. They will start to come into effect from next month, with the affirmative consent model to be in place from July 2023 unless proclaimed earlier.

The Government consulted extensively with victim-survivors to ensure that lived experience is at the centre of these reforms to build effective and long-lasting change, as well as with the courts and other key stakeholders.

Quotes attributable to Attorney-General Jaclyn Symes

"Victorians have made it clear there's no room for victim-blaming and outdated attitudes around sexual violence – these new affirmative consent laws will ensure our justice system keeps up with those expectations."

"By making it crystal clear that stealthing is a crime, we're not only condemning it but making it easier for victims to realise what's happened to them – and that it isn't something to be ashamed of."

Quotes attributable to Minister for the Prevention of Family Violence Ros Spence

"This is a crucial step in stopping all forms of violence against women. Every Victorian has a responsibility to challenge the harmful behaviours, attitudes and assumptions that lead to sexual violence."

"This new standard of consent in Victoria shifts the focus away from the victim and towards the accused and what actions they took to confirm consent."

Media contact: Casey Lodge 0410 964 928 | casey.lodge@minstaff.vic.gov.au