

152A. Procuring young person etc for penile intercourse: s 217(1) (Offences charged after 1 August 2023)

152A.1 Legislation

[Last reviewed: December 2024]

Criminal Code

[Section 217](#) – Procuring young person etc. for penile intercourse

[Section 1](#) – Definition of person with an impairment of the mind

[Section 6](#) – Meaning of engage in penile intercourse

[Section 756](#) – Offences charged before or after the commencement

152A.2 Commentary

[Last reviewed: December 2024]

The defendant must have:

- (1) Procured;
- (2) A person who
 - a. Is not an adult; or
 - b. Is a person with an impairment of the mind;
- (3) To engage in penile intercourse.

An adult is 'a person of or above the age of 18 years': s 1. A 'person with an impairment of the mind' is defined in s 1. The meaning of engage in penile intercourse is defined in s 6. The term 'procure' is defined at s 217(2) as 'knowingly entice or recruit for the purposes of sexual exploitation'.

The *Domestic and Family Violence Protection (Combating Coercive Control and Other Legislation Amendment Act) 2023* (Qld) amended s 217 of the *Criminal Code* (previously named procuring young person etc. for carnal knowledge) to describe the offence as procuring young person etc. for penile intercourse. The Amendment Act commenced on 1 August 2023. The transitional provision in s 756 of the *Criminal Code* states that the former provisions continue to apply where the person is charged before the commencement date. The new provisions apply where the person is charged after the commencement date, whether the charge is for an offence committed before or after the commencement.

Pursuant to s 217(1A), a circumstance of aggravation under s 161Q of the *Penalties and Sentences Act 1992* (Qld) applies. See Part 9D, Division 1 of the *Penalties and Sentences Act 1992* (Qld) for relevant definitions.

152A.3 Suggested Direction

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In order for the prosecution to prove the offence, it must establish each of the following elements beyond reasonable doubt:

- 1. That the defendant procured the complainant.**

To procure means knowingly entice or recruit for the purposes of sexual exploitation. A dictionary definition of ‘exploitation’ is ‘selfish utilisation’.

- 2. (Refer to either (a) or (b) as relevant):**

(a) That the complainant was not an adult, which means the complainant was not a person of or above the age of 18 years.

(or)

(b) That the complainant was a person with an impairment of the mind.

A person with an impairment of the mind means a person with a disability that –

- a) is attributable to an intellectual, psychiatric, cognitive, or neurological impairment or a combination of these; and**
- b) results in –**
 - (i) a substantial reduction of the person’s capacity for communication, social interaction or learning; and**
 - (ii) the person needing support.**

[Outline the evidence relevant to proof of this element].

- 3. That the complainant was procured by the defendant to engage in penile intercourse (either in Queensland or elsewhere).**

Penile intercourse is the penetration, to any extent, of the [vagina/vulva/anus] of another person.

A person engages in penile intercourse with another person if (refer to (a) and/or (b) as relevant):

- (a) the person penetrates to any extent, the [vagina/vulva/anus] of another person with the person's penis.**

This means that the defendant penetrated to any extent, the [vagina/vulva/anus] of the complainant with his penis.

or

- (b) the person's [vagina/vulva/anus] is penetrated, to any extent, by the penis of another person.**

This means that the defendant's [vagina/vulva/anus] was penetrated, to any extent, by the complainant's penis.

The following matters may be relevant to the issue of penetration:

- (a) penetration to the slightest degree is sufficient;**
- (b) the offence is complete the moment that penetration is achieved;**
- (c) there is no requirement for proof that penetration was effected for any particular period of time;**
- (d) whether or not ejaculation occurred is irrelevant; and**
- (e) whether or not the complainant consented to the act of penetration is irrelevant.**