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**CRIMES AGAINST CHILDREN**

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**Release No. 42, December 2018**

**What's New in this Update:**

This release features updates to the sentencing tables pertaining to Sexual Interference, Incest and Kidnapping.

**Recent case law introduced in the updates with this release includes the following:**

**Sentencing Quantums — Sexual Interference: Section 151, Criminal Code** — The twenty-one year old accused had sexual relations with the fourteen year old complainant whose developmental challenges translated to the mental level of a five year old. Both came from strict families, each had no prior sexual experience, and both attended the same high school. The court found the accused to be wilfully blind to the disability, and found him guilty of sexual interference. The court determined that the circumstances in this instance were exceptional, and weighed

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rehabilitation more heavily, vis-À-vis denunciation and deterrence, in light of his youthfulness, absence of previous criminality, and need for address of his own mental and social challenges, such as drug abuse, depression, anxiety and ADHD. The court imposed a sentence of 16 months' total incarceration, followed by an order for two years' probation: *R. v. H.L.*, 2018 ONSC 1026, 2018 CarswellOnt 2217 (Ont. S.C.).

**Sentencing Quantums — Incest: Section 155, Criminal Code** — The thirty-nine year old accused was found guilty of incest and sexual assault committed against his eighteen year old daughter. The court held the accused to have abused a position of trust, and the daughter to have been exceptionally vulnerable. Although he was a contributing member of society, the accused claimed no memory of events and had no insight into his actions or their devastating impact — rather, he denied responsibility and portrayed himself as a victim. The court imposed a sentence of five years' imprisonment for incest, to run concurrently with three years for sexual assault: *R. v. J.*, 2017 ONSC 6704, 2017 CarswellOnt 17325 (Ont. S.C.).