



Australian Capital Territory

Courts Legislation Amendment Act 2012

A2012-29

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Australian Capital Territory

Courts Legislation Amendment Act 2012

A2012-29

An Act to amend legislation about courts and sentencing

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Courts Legislation Amendment Act 2012*.

2 Commencement

- (1) This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days may be fixed, for the commencement of different provisions (see Legislation Act, s 71 (1)).

- (2) If this Act has not commenced within 12 months beginning on its notification day, it automatically commences on the first day after that period.
- (3) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to this Act.

3 Legislation amended

This Act amends the legislation mentioned in schedule 1.

Schedule 1 Legislation amended

(see s 3)

Part 1.1 Crimes (Sentencing) Act 2005

[1.1] Section 35 (7), definition of *defence*

substitute

defence means—

- (a) the offender; or
- (b) any lawyer representing the offender.

[1.2] Section 41 (1) and note

substitute

(1) This section applies if—

- (a) the Magistrates Court—
 - (i) finds an offender guilty of an offence in a proceeding before the court; or
 - (ii) accepts an offender's guilty plea for an offence; or
- (b) the Magistrates Court commits an offender to the Supreme Court for sentence; or

Note The Magistrates Court may commit a person to the Supreme Court for sentence under the *Magistrates Court Act 1930*, s 92A.

- (c) the Supreme Court—
 - (i) finds an offender guilty of an offence in a proceeding before the court; or
 - (ii) accepts an offender's guilty plea for an offence.

- (1A) If subsection (1) (b) applies—the Magistrates Court may—
- (a) order a pre-sentence report in relation to the offender; and
 - (b) order the director-general to provide a copy of the report to the Supreme Court or any other person.
- (1B) If subsection (1) (a) or (c) applies—the court may—
- (a) order a pre-sentence report in relation to the offender; and
 - (b) adjourn the proceeding for the report to be prepared; and
 - (c) order the director general to provide a copy of the report to the court or any other person.

Note If a form is approved under the *Court Procedures Act 2004* for an order under this section, the form must be used (see that Act, s 8 (2)).

[1.3] Section 45

omit

[1.4] Dictionary, definition of *pre-sentence report*

substitute

pre-sentence report means a report—

- (a) for use in a criminal proceeding; and
- (b) prepared by the director-general.

Part 1.2 Supreme Court Act 1933

[1.5] Section 68B (1) (c) (i) and (ii)

substitute

- (i) the person, or the person's legal representative, knows the identity of the judge for the person's trial; and
 - (ii) any time limit prescribed under the rules; and
-

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 10 May 2012.

2 Notification

Notified under the Legislation Act on 13 June 2012.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Courts Legislation Amendment Bill 2012, which was passed by the Legislative Assembly on 5 June 2012.

Clerk of the Legislative Assembly

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