

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Courts Legislation Amendment Bill 2012

Contents

		Page
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
Schedule 1	Legislation amended	3
Part 1.1	Crimes (Sentencing) Act 2005	3
Part 1.2	Supreme Court Act 1933	7

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Courts Legislation Amendment Bill 2012

A Bill for

An Act to amend legislation about courts and sentencing

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

1 **1 Name of Act**

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

3 **2 Commencement**

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

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

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

11 (2) If this Act has not commenced within 12 months beginning on its
12 notification day, it automatically commences on the first day after
13 that period.

14 (3) The Legislation Act, section 79 (Automatic commencement of
15 postponed law) does not apply to this Act.

16 **3 Legislation amended**

17 This Act amends the legislation mentioned in schedule 1.

1 **Schedule 1** **Legislation amended**

2 (see s 3)

3 **Part 1.1** **Crimes (Sentencing) Act 2005**

4 **[1.1] New section 33 (1) (ka)**

5 *insert*

6 (ka) any assistance by the defence in the administration of justice
7 (see section 35A);

8 **[1.2] Section 35 (7), definition of *defence***

9 *substitute*

10 *defence* means—

11 (a) the offender; or

12 (b) any lawyer representing the offender.

13 **[1.3] New section 35A**

14 *insert*

15 **35A Reduction of sentence—assistance in administration of**
16 **justice**

17 (1) This section applies if—

18 (a) an offender is convicted or found guilty of an offence; and

- 1 (b) before or after the conviction or finding of guilt—the defence
2 assisted in the administration of justice for the offence.
- 3 **Example—par (b)**
4 An admission made by the defence pre-trial or during a trial
- 5 *Note* An example is part of the Act, is not exhaustive and may extend, but
6 does not limit, the meaning of the provision in which it appears (see
7 Legislation Act, s 126 and s 132).
- 8 (2) A court may impose a lesser penalty (including a shorter nonparole
9 period) on the offender than it would otherwise have imposed
10 having regard to the degree of assistance provided in the
11 administration of justice.
- 12 (3) A lesser penalty imposed under this section must not be
13 unreasonably disproportionate to the nature and circumstances of
14 the offence.
- 15 (4) For this section, assistance in the administration of justice does not
16 include—
- 17 (a) assistance consisting only of a plea of guilty under section 35;
18 or
- 19 (b) assistance given to law enforcement officers under section 36.
- 20 (5) In this section:
- 21 *defence* means—
- 22 (a) the offender; or
23 (b) any lawyer representing the offender.

1 **[1.4] Section 37 (1)**

2 *after*

3 section 35 (Reduction of sentence—guilty plea)

4 *insert*

5 , section 35A (Reduction of sentence—assistance in administration
6 of justice)

7 **[1.5] Section 37 (2) (b)**

8 *before*

9 section 36

10 *insert*

11 section 35A or

12 **[1.6] Section 41 (1) and note**

13 *substitute*

14 (1) This section applies if—

15 (a) the Magistrates Court—

16 (i) finds an offender guilty of an offence in a proceeding
17 before the court; or

18 (ii) accepts an offender's guilty plea for an offence; or

19 (b) the Magistrates Court commits an offender to the Supreme
20 Court for sentence; or

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

- 1 (c) the Supreme Court—
- 2 (i) finds an offender guilty of an offence in a proceeding
- 3 before the court; or
- 4 (ii) accepts an offender’s guilty plea for an offence.
- 5 (1A) If subsection (1) (b) applies—the Magistrates Court may—
- 6 (a) order a pre-sentence report in relation to the offender; and
- 7 (b) order the director-general to provide a copy of the report to the
- 8 Supreme Court or any other person.
- 9 (1B) If subsection (1) (a) or (c) applies—the court may—
- 10 (a) order a pre-sentence report in relation to the offender; and
- 11 (b) adjourn the proceeding for the report to be prepared; and
- 12 (c) order the director general to provide a copy of the report to the
- 13 court or any other person.
- 14 *Note* If a form is approved under the *Court Procedures Act 2004* for an
- 15 order under this section, the form must be used
- 16 (see that Act, s 8 (2)).

17 **[1.7] Section 45**

18 *omit*

19 **[1.8] Dictionary, definition of *pre-sentence report***

20 *substitute*

21 ***pre-sentence report*** means a report—

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

1 **Part 1.2** **Supreme Court Act 1933**

2 **[1.9] Section 68B (1) (c) (i) and (ii)**

3 *substitute*

- 4 (i) the person, or the person's legal representative, knows
5 the identity of the judge for the person's trial; and
6 (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 2012.

3 Republications of amended laws

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