

2016

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2016 (No 2)

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Justice and Community Safety Legislation Amendment Bill 2016 (No 2)

A Bill for

An Act to amend legislation about justice and community safety

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Justice and Community Safety Legislation*
4 *Amendment Act 2016 (No 2)*.

5 **2 Commencement**

- 6 (1) This Act (other than part 4 and section 14) commences on the day
7 after its notification day.
- 8 (2) Part 4 (Supreme Court Act 1933) is taken to have commenced on
9 the commencement of the *Supreme Court Amendment Act 2016*,
10 section 3.
- 11 (3) Section 14 commences on 1 July 2017.

12 **3 Legislation amended**

13 This Act amends the following legislation:

- 14 • *Civil Law (Wrongs) Act 2002*
15 • *Limitation Act 1985*
16 • *Supreme Court Act 1933*
17 • *Victims of Crime Act 1994*.

Part 2 Civil Law (Wrongs) Act 2002

4 Notice of claim Section 51 (1), note 1

substitute

Note 1 A proceeding must be brought before the end of the relevant limitation period (if any) under the [Limitation Act 1985](#).

Note 1A The [Limitation Act 1985](#) does not apply a limitation period to institutional child abuse claims (see that [Act](#), s 21C).

5 Section 51 (3)

omit

The notice must be given

substitute

For a proceeding not based on an institutional child abuse claim, the notice must be given

6 New section 51 (3A)

insert

(3A) For a proceeding based on an institutional child abuse claim, the notice must be given within a reasonable time before the claimant brings the proceeding against the respondent.

Note If the notice is not given as required under s (3A), the obligation to give the notice continues until it is given (see [Legislation Act](#), s 152).

1 **7 New section 51 (9)**

2 *insert*

3 (9) In this section:

4 *institutional child abuse claim*, by or on behalf of a person, means a
5 claim in relation to a personal injury that arises from sexual abuse to
6 which the person was subjected when the person was a child in an
7 institutional context.

8 *institutional context*—see the *Limitation Act 1985*, section 21C (4).

9 *sexual abuse*—see the *Limitation Act 1985*, section 21C (4).

10 *subjected*, in relation to sexual abuse—see the *Limitation Act 1985*,
11 section 21C (4).

1 (b) any other powers of a court under a law in force in the
2 Territory, a rule of court, or any other practice of the court.

3 **Example—par (b)**

4 a court's power to summarily dismiss or permanently stay proceedings where the
5 passage of time has a prejudicial effect on the defendant that is so serious that a
6 fair trial is not possible

7 *Note* An example is part of the Act, is not exhaustive and may extend, but
8 does not limit, the meaning of the provision in which it appears (see
9 [Legislation Act](#), s 126 and s 132).

10 (4) In this section:

11 ***institution***—

12 (a) means a public or private body, organisation or other entity of
13 any kind (whether incorporated or unincorporated); and

14 (b) includes, for example, an entity (including an entity that no
15 longer exists) that provides or has provided activities, facilities,
16 programs or services of any kind through which adults have
17 contact with children, including through their families.

18 ***institutional context*** includes—

19 (a) a place where an institution has premises or conducts activities;
20 or

21 (b) circumstances involving the actions of an institution's official
22 where the institution has directly or indirectly created,
23 facilitated, increased, or in any way contributed to (whether by
24 act or omission), the risk of sexual abuse of a child or the
25 circumstances or conditions giving rise to that risk; or

26 (c) circumstances in which, on reasonable grounds, an institution
27 is, or should be treated as being, responsible for adults having
28 contact with children.

29 ***official***, of an institution, includes the following:

30 (a) a representative (however described) of the institution or an
31 entity related to the institution;

- 1 (b) a member, officer, employee, associate, contractor or volunteer
2 (however described) of the institution or an entity related to the
3 institution;
- 4 (c) a person, body or other entity, or a member, officer, employee,
5 associate, contractor or volunteer (however described) of the
6 person, body or other entity, that provides services to or for the
7 institution or an entity related to the institution;
- 8 (d) any other person who would on reasonable grounds be
9 considered an official of the institution.

10 *sexual abuse* includes the following:

- 11 (a) an offence of a sexual nature;
12 (b) misconduct of a sexual nature.

13 *subjected*, in relation to sexual abuse, includes witness.

14 **9 Special provision for injuries to children**
15 **Section 30A (1) (c)**

16 *substitute*

- 17 (c) a limitation period applies to the claim under this Act; and
18 (d) the limitation period does not end within the relevant period.

19 **10 Special provision in relation to children—claims relating**
20 **to health services**
21 **Section 30B (1) (b)**

22 *substitute*

- 23 (b) the claim—
24 (i) relates to the provision of a health service; but
25 (ii) is not a claim to which section 21C (Personal injury
26 resulting from institutional sexual abuse of child) applies.

1 **Part 4** **Supreme Court Act 1933**

2 **11** **Court may order retrial—category B offence**
3 **Section 68N (6)**

4 *after*

5 before

6 *insert*

7 , on

8 **12** **Court may order trial—administration of justice offence**
9 **Section 68O (4)**

10 *after*

11 before

12 *insert*

13 , on

1 **Part 5** **Victims of Crime Act 1994**

2 **13** **Imposition of victims services levy**
3 **Section 24 (2)**

4 *omit*

5 \$40

6 *substitute*

7 \$50

8 **14** **Section 24 (2)**

9 *omit*

10 \$50

11 *substitute*

12 \$60

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2 August 2016.

2 Notification

Notified under the [Legislation Act](#) on 2016.

3 Republications of amended laws

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

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