2019

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Jeremy Hanson)

Crimes (Anti-Consorting) Amendment Bill 2019

A Bill for

An Act to amend the [Crimes Act 1900](http://www.legislation.act.gov.au/a/1900-40%22%20%5Co%20%22A1900-40)

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

1 Name of Act

This Act is the *Crimes (Anti-Consorting) Amendment Act 2019*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), s 75 (1)).

3 Legislation amended

This Act amends the [Crimes Act 1900](http://www.legislation.act.gov.au/a/1900-40).

4 Offences against Act—application of Criminal Code etc
Section 7A, note 1

insert

 s 84 (Consorting)

5 New part 5A

insert

Part 5A Consorting

83 Meaning of consort—pt 5A

In this part:

consort means consort in person or by any other means, including by electronic or other form of communication.

84 Consorting

 (1) A person commits an offence if the person—

 (a) is 14 years old or older; and

 (b) habitually consorts with convicted offenders; and

 (c) consorts with the convicted offenders—

 (i) after being given an official warning in relation to each offender; and

 (ii) before the official warning stops having effect.

Maximum penalty: 150 penalty units, imprisonment for 3 years or both.

 (2) An official warning stops having effect—

 (a) for a warning given to a person under 18 years old—6 months after the day the warning is given; or

 (b) in any other case—2 years after the day the warning is given.

 (3) In this section:

convicted offender means a person who has been convicted of an indictable offence (other than an offence against this section).

habitually consort—a person habitually consorts with convicted offenders if the person—

 (a) consorts with at least 2 convicted offenders (whether together or on separate occasions); and

 (b) consorts with each convicted offender on at least 2 occasions.

indictable offence includes an offence committed in another jurisdiction that would be an indictable offence if committed in this jurisdiction.

official warning means a warning given by a police officer (orally or in writing) to the effect that—

 (a) a stated person is a convicted offender; and

 (b) habitually consorting with convicted offenders is an offence.

85 Certain consorting to be disregarded

 (1) Section 84 (1) does not apply to a defendant if—

 (a) the consorting occurs in any of the following situations:

 (i) with family members;

 (ii) in the course of lawful employment or the lawful operation of a business;

 (iii) in the course of training or education;

 (iv) in the course of providing a health service or welfare service;

 (v) in the course of providing legal advice;

 (vi) in lawful custody;

 (vii) in the course of complying with an order of the sentence administration board or a direction or recommendation of a corrections officer; and

 (b) the consorting was reasonable in the circumstances.

Note The defendant has an evidential burden in relation to the matters mentioned in s (1) (see [Criminal Code](http://www.legislation.act.gov.au/a/2002-51), s 58).

 (2) In this section:

family member, for a defendant who is an Aboriginal or Torres Strait Islander person, includes a person who is or has been part of the defendant’s extended family kin according to the indigenous kinship system of the defendant’s culture.

health service means—

 (a) a medical (including psychological), hospital, ambulance, paramedical, dental, community health or environmental health service; or

 (b) another service—

 (i) relating to the maintenance or improvement of the health, or the restoration to health, of people or the prevention of disease in, or injury to, people (whether provided as a public or private service); and

 (ii) that is of a class or description prescribed by regulation.

welfare service means a service (whether provided as a public or private service) relating to the provision of—

 (a) housing, employment benefits, rental assistance or other financial assistance or family support; or

 (b) another community welfare service necessary for the promotion, protection, development and maintenance of the wellbeing of people, including any rehabilitation, counselling, drug or alcohol service.

86 Review—pt 5A

 (1) The ombudsman must, as soon as practicable after the end of the 2nd year of this part’s operation (the review period)—

 (a) review the operation of this part; and

 (b) give a copy of a report of the review to the Minister and the chief police officer.

 (2) For subsection (1), the chief police officer must ensure that the ombudsman is given information in relation to—

 (a) any official warnings issued under section 84 during the review period; and

 (b) any proceedings brought under this part during the review period; and

 (c) any documents or other information that the ombudsman reasonably requires to enable the ombudsman to undertake the review.

 (3) The Minister must present the report to the Legislative Assembly as soon as possible after receiving a copy of the report under subsection (1) (b).

 (4) This section expires 3 years after the day it commences.

6 Dictionary, note 2

insert

 Minister (see s 162)

 ombudsman

7 Dictionary, new definition of consort

insert

consort, for part 5A (Consorting)—see section 83.

Endnotes

1 Presentation speech

 Presentation speech made in the Legislative Assembly on 20 February 2019.

2 Notification

 Notified under the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14) on 2019.

3 Republications of amended laws

 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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