

2020

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Coroners Amendment Bill 2020

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Coroners Amendment Bill 2020

A Bill for

An Act to amend the *Coroners Act 1997*

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

1 **1 Name of Act**

2 This Act is the *Coroners Amendment Act 2020*.

3 **2 Commencement**

4 This Act commences on a day fixed by the Minister by written notice.

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

7 *Note 2* A single day or time may be fixed, or different days or times may be
8 fixed, for the commencement of different provisions (see [Legislation Act](#),
9 s 77 (1)).

10 *Note 3* If a provision has not commenced within 6 months beginning on the
11 notification day, it automatically commences on the first day after that
12 period (see [Legislation Act](#), s 79).

13 **3 Legislation amended**

14 This Act amends the *Coroners Act 1997*.

15 **4 Objects of Act**
16 **Section 3BA (1) (d)**

17 *after*

18 make recommendations

19 *insert*

20 and comments

5 Section 3BA (2) (a)

substitute

- (a) for an inquest into a person's death—recognises the following:
- (i) the family and friends of the deceased person have an interest in having all reasonable questions about the circumstances of the person's death answered;
 - (ii) the death of a person, and an inquest into the person's death, has a significant impact on the person's family and friends;
 - (iii) that where appropriate, members of the immediate family of the deceased person should be given the earliest opportunity to participate in, and be kept informed of the particulars and progress of, the inquest into the person's death;
 - (iv) that different cultures have different beliefs and practices about death that should, where possible, be respected; and

6 New section 3BB

insert

3BB Meaning of *death in care*

- (1) In this Act:

death in care means the death of a person—

- (a) while being taken into or detained in custody, or subject to an order, under—
- (i) the *Mental Health Act 2015*; or
 - (ii) the *Crimes Act 1900*, section 309 (Assessment whether emergency detention required); or

- 1 (b) because of a fatal injury sustained in circumstances mentioned
2 in subsection (a).
- 3 (2) For this section, a person is *subject to* an order if the person is—
- 4 (a) being taken into, or detained in, custody under the order; or
- 5 (b) being restrained, or otherwise being provided with care, under
6 the order; or
- 7 (c) otherwise subject to the order.

8 **7 Meaning of *death in custody***
9 **Section 3C (1)**

10 *after*
11 means the death of a person
12 *insert*
13 (other than a death in care)

14 **8 Section 3C (1) (c)**

15 *omit*

16 **9 Deputy coroners' functions**
17 **Section 9 (2)**

18 *before*
19 death in custody
20 *insert*
21 death in care or

1 **10 Coroner's jurisdiction in relation to deaths**
2 **Section 13 (1) (i)**

3 *before*
4 custody
5 *insert*
6 care or

7 **11 Consideration of immediate family**
8 **Section 23 (1)**

9 *before*
10 death in custody
11 *insert*
12 death in care or

13 **12 Decision not to conduct hearing**
14 **Section 34A (2)**

15 *substitute*
16 (2) A coroner must not dispense with a hearing into a death of a person,
17 if the coroner has reasonable grounds for believing the death is a death
18 in care or death in custody.

19 **13 Notification of immediate family**
20 **Section 37 (1)**

21 *substitute*
22 (1) Before conducting a hearing for an inquest into a death (other than a
23 death in care or death in custody), the coroner must, at the earliest
24 opportunity, take reasonable steps to notify a member of the
25 immediate family of the deceased person about the time and place of
26 the hearing.

- 1 **14** **Notice relating to conduct of hearing**
2 **Section 38**
- 3 *omit*
4 14 days
5 *substitute*
6 28 days
- 7 **15** **Inquests into non-custodial deaths and inquiries—**
8 **discretion to appoint counsel assisting**
9 **Section 39 (1)**
- 10 *before*
11 death in custody
12 *insert*
13 death in care or
- 14 **16** **Section 39 (3), note**
- 15 *substitute*
16 *Note* A coroner must appoint a lawyer as counsel assisting in an inquest into a
17 death in care or a death in custody (see s 72).
- 18 **17** **Section 54 heading**
- 19 *substitute*
- 20 **54** **Requests for copies of findings**

1 **18 Section 54 (1)**

2 *before*
3 death in custody
4 *insert*
5 death in care or

6 **19 New section 57A**

7 *in division 5.4, insert*

8 **57A Correction of errors**

- 9 (1) A coroner may amend a finding or report in relation to an inquest or
10 inquiry to correct a mistake, error or omission in the finding or report.
11 (2) The amendment may be made—
12 (a) on the coroner’s own initiative; or
13 (b) on request by a person with sufficient interest in the inquest or
14 inquiry.

15 **20 Part 6 heading**

16 *substitute*

17 **Part 6 Deaths in care and deaths in**
18 **custody—additional provisions**

19 **21 Sections 69 to 71**

20 *before*
21 death in custody
22 *insert*
23 death in care or

1	22	Section 72 heading
2		<i>substitute</i>
3	72	Inquest into death in care or death in custody—
4		appointment of counsel assisting
5	23	Section 72
6		<i>before</i>
7		death in custody
8		<i>insert</i>
9		death in care or
10	24	Section 73
11		<i>substitute</i>
12	73	Records of deaths in care and deaths in custody
13		The registrar must keep a record of an inquest into a death in care or
14		death in custody for a period of not less than 7 years after the
15		completion of the inquest.
16	25	Findings about quality of care, treatment and supervision
17		Section 74
18		<i>before</i>
19		death in custody
20		<i>insert</i>
21		death in care or

1 **26** **Copies of reports of findings**
2 **Section 75 (1)**

3 *before*
4 death in custody
5 *insert*
6 death in care or

7 **27** **Section 75 (1) (b)**

8 *substitute*
9 (b) the agency the deceased person was in the care or custody of
10 when the death happened and the Minister responsible for the
11 agency; and

12 **28** **Section 75 (2)**

13 *before*
14 death in custody
15 *insert*
16 death in care or

17 **29** **Response to reports**
18 **Section 76 (1)**

19 *omit*
20 custodial

21 **30** **Section 78 heading**

22 *substitute*

23 **78** **Obligation to report death in care or death in custody**

1 **31 Section 78 (a)**

2 *substitute*

3 (a) knows of a death in care or death in custody; and

4 **32 Deaths in institutions—retention of records of dead**
5 **person**
6 **Section 100 (2)**

7 *before*

8 custody

9 *insert*

10 care or

11 **33 Section 100 (4)**

12 *substitute*

13 (4) In subsection (2):

14 *responsible person*, in relation to a person who died in care or
15 custody, means—

16 (a) if the person died in a hospital or other institution—the person
17 in charge of the hospital or institution; or

18 (b) in any other case—the person in charge of the agency the
19 deceased person was in the care or custody of when the death
20 happened.

1 **34 New section 100A**

2 *insert*

3 **100A Attorney-general may make guidelines for responses**

4 (1) The Attorney-General may make guidelines in relation to responses
5 required under section 57 (4) (b) and section 76 including—

- 6 (a) information to be included in the response; and
7 (b) requirements for the preparation of the response.

8 (2) A guideline is a notifiable instrument.

9 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

10 **35 Annual report of court**
11 **Section 102 (2) (a)**

12 *before*

13 deaths in custody

14 *insert*

15 deaths in care or

16 **36 Dictionary, new definition of *death in care***

17 *insert*

18 *death in care*—see section 3BB.

- 1 **37** **Dictionary, definition of *member of the immediate family*,**
2 **except note**
- 3 *substitute*
- 4 ***member of the immediate family***, of a deceased person the subject of
5 an inquest, means—
- 6 (a) a person who was the deceased person’s domestic partner,
7 parent, step-parent, grandparent, child, brother or sister, or
8 guardian or ward; and
- 9 (b) if the deceased person was an Aboriginal or Torres Strait
10 Islander person—a person who, in accordance with the
11 traditions and customs of the deceased person’s Aboriginal or
12 Torres Strait Islander community, had the responsibility for, or
13 an interest in, the welfare of the deceased person.

1 Presentation speech

Presentation speech made in the Legislative Assembly on 13 February 2020.

2 Notification

Notified under the [Legislation Act](#) on 2020.

3 Republications of amended laws

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

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