

2022

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes Legislation Amendment Bill 2022

Contents

		Page
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
Part 2	Crimes Act 1900	
4	Section 375	3

	Page
Part 3	Crimes (Sentence Administration) Act 2005
5	Registrar to send penalty notice Section 116C (3) (e) 10
6	Section 116D heading 10
7	Section 116D (1) 10
8	Section 116D (2) 10
9	Section 116D (3) 11
10	New section 116D (4) and (5) 11
11	Section 116E heading 11
12	Section 116E (1) 12
13	Section 116E (3), new definition of <i>contact details</i> 12
14	Default notice New section 116H (3) 12
15	Form of default notice Section 116I (1) (e) 12
16	Reminder notice Section 116J (2) 13
17	Sharing information Section 116ZT, example 13
Part 4	Crimes (Sentencing) Act 2005
18	Assessment of suitability—intensive correction order Table 46D, item 7 14
Part 5	Criminal Code 2002
19	New part 7A.1 heading 15
20	New parts 7A.2 and 7A.3 15
21	Dictionary, notes 1 and 2 19
22	Dictionary, new definition of <i>Nazi symbol</i> 20
Schedule 1	Consequential amendments 21
Part 1.1	Australian Crime Commission (ACT) Act 2003 21
Part 1.2	Crimes Act 1900 21

		Page
Part 1.3	Magistrates Court Act 1930	23
Schedule 2	Technical amendments	28
Part 2.1	Australian Crime Commission (ACT) Act 2003	28
Part 2.2	Court Procedures Act 2004	30
Part 2.3	Crimes (Child Sex Offenders) Act 2005	31
Part 2.4	Crimes (Sentence Administration) Act 2005	37
Part 2.5	Crimes (Sentencing) Act 2005	39
Part 2.6	Magistrates Court Act 1930	39
Part 2.7	Spent Convictions Act 2000	40
Part 2.8	Victims of Crime (Financial Assistance) Act 2016	40
Part 2.9	Working with Vulnerable People (Background Checking) Act 2011	41

2022

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes Legislation Amendment Bill 2022

A Bill for

An Act to amend legislation about crimes, and for other purposes

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

J2022-454

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Crimes Legislation Amendment Act 2022*.

4 **2 Commencement**

5 This Act commences on the 7th day after its notification day.

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

8 **3 Legislation amended**

9 This Act amends the following legislation:

- 10 • [Crimes Act 1900](#)
11 • [Crimes \(Sentence Administration\) Act 2005](#)
12 • [Crimes \(Sentencing\) Act 2005](#)
13 • [Criminal Code 2002](#).

14 *Note* This Act also amends other legislation (see sch 1 and sch 2).

Part 2 Crimes Act 1900

4 Section 375

substitute

375 Summary disposal of certain cases—Magistrates Court

(1) This section applies if a person is before the Magistrates Court charged with—

(a) a common law offence; or

(b) an offence punishable by imprisonment for a term not exceeding—

(i) if the offence relates to money or other property—14 years; or

(ii) in any other case—10 years; or

(c) if the person is a body corporate—an offence against the *Work Health and Safety Act 2011*, section 31 (1); or

(d) an offence against the *Criminal Code*—

(i) section 310 (Aggravated robbery); or

(ii) section 311 (1) (b) (Burglary); or

(iii) section 312 (Aggravated burglary).

Note Under the *Criminal Code*, s 311 (1) (b), a person commits an offence if the person enters or remains in a building as a trespasser with intent to commit an offence that involves causing harm, or threatening to cause harm, to anyone in the building.

(2) However, this section applies to a case to which section 374 applies only as mentioned in section 374 (6).

- 1 (3) The court may proceed in accordance with subsections (5) to (13) if—
- 2 (a) the court considers that it has no jurisdiction, apart from this
- 3 section, to hear and determine the charge summarily; and
- 4 (b) for a charge that relates to money, or to property other than a
- 5 motor vehicle—the court considers that the amount of the
- 6 money or the value of the property does not exceed \$30 000.
- 7 (4) To remove any doubt, for subsection (3) (b), property does not
- 8 include real property or any building at which the offence charged
- 9 was allegedly committed.
- 10 (5) The court may invite the person (the *defendant*) to plead guilty or not
- 11 guilty to the charge.
- 12 (6) If the defendant pleads guilty to the charge, the court may accept or
- 13 reject the plea.
- 14 (7) The defendant is taken to have pleaded not guilty to the charge if—
- 15 (a) the defendant does not plead to the charge when invited to do so
- 16 under subsection (5); or
- 17 (b) the court rejects a plea of guilty to the charge under
- 18 subsection (6).
- 19 (8) When the court is satisfied the case is ready to be listed for hearing,
- 20 the court must ask the defendant whether the defendant consents to
- 21 the case being disposed of summarily.
- 22 (9) The court may hear and determine the charge summarily, and may
- 23 sentence or otherwise deal with the defendant according to law, if—
- 24 (a) the defendant pleads, or is to be taken to have pleaded, not guilty
- 25 to the charge; and
- 26 (b) the court considers that the case can properly be disposed of
- 27 summarily; and

- 1 (c) the defendant consented to the case being disposed of summarily
2 and the consent has not been withdrawn under section 375A; and
- 3 (d) if the charge is for an offence against the [Criminal Code](#),
4 section 310 or section 312—the prosecutor also consents to the
5 case being disposed of summarily.
- 6 (10) The court may sentence or otherwise deal with the defendant if—
- 7 (a) the court accepts a plea of guilty to a charge; and
- 8 (b) the court considers that the case can properly be disposed of
9 summarily; and
- 10 (c) the defendant consented to the case being disposed of summarily
11 and the consent has not been withdrawn under section 375A; and
- 12 (d) if the charge is for an offence against the [Criminal Code](#),
13 section 310 or section 312—the prosecutor also consents to the
14 case being disposed of summarily.
- 15 (11) Before the court decides whether a case can properly be disposed of
16 summarily, the court must consider the following:
- 17 (a) any relevant representations made by the defendant;
- 18 (b) any relevant representations made by the prosecutor in the
19 defendant's presence;
- 20 (c) whether, if the defendant were found guilty or the defendant's
21 plea of guilty has been accepted by the court, the court is
22 empowered under this section to impose an adequate penalty,
23 taking into account the circumstances and the degree of
24 seriousness of the case;
- 25 (d) any other circumstances that appear to the court to make it more
26 appropriate for the case to be dealt with on indictment rather
27 than summarily.

- 1 (12) If the court accepts a plea of guilty to a charge under this section,
2 and—
- 3 (a) the court considers that the case cannot properly be disposed of
4 summarily; or
- 5 (b) the defendant's consent to the case being disposed of summarily
6 has been withdrawn under section 375A;
- 7 the *Magistrates Court Act 1930*, section 90A (7) to (13) (Plea of
8 guilty at committal hearing) applies in relation to the defendant as if
9 the court had accepted a plea of guilty to the charge under that section.
- 10 (13) If the court disposes of a case summarily under this section and
11 convicts the defendant of the offence, the court must not impose a
12 penalty that exceeds—
- 13 (a) a fine of \$15 000, imprisonment for 5 years or both; or
14 (b) if the maximum penalty provided for the offence by the law
15 creating it is less than the penalty mentioned in paragraph (a)—
16 the maximum penalty.
- 17 (14) In this section:
18 *Magistrates Court* does not include the Childrens Court.

19 **375AA Summary disposal of certain cases—Childrens Court**

- 20 (1) This section applies if a person is before the Childrens Court charged
21 with any offence other than an offence punishable by imprisonment
22 for life.
- 23 (2) However, this section applies to a case to which section 374 applies
24 only as mentioned in section 374 (6).
- 25 (3) The court may proceed in accordance with subsections (4) to (12) if
26 the court considers that it has no jurisdiction, apart from this section,
27 to hear and determine the charge summarily.

- 1 (4) The court may invite the person (the *defendant*) to plead guilty or not
2 guilty to the charge.
- 3 (5) If the defendant pleads guilty to the charge, the court may accept or
4 reject the plea.
- 5 (6) The defendant is taken to have pleaded not guilty to the charge if—
6 (a) the defendant does not plead to the charge when invited to do so
7 under subsection (4); or
8 (b) the court rejects a plea of guilty to the charge under
9 subsection (5).
- 10 (7) When the court is satisfied the case is ready to be listed for hearing,
11 the court must ask the defendant whether the defendant consents to
12 the case being disposed of summarily.
- 13 (8) The court may hear and determine the charge summarily, and may
14 sentence or otherwise deal with the defendant according to law, if—
15 (a) the defendant pleads, or is to be taken to have pleaded, not guilty
16 to the charge; and
17 (b) the court considers that the case can properly be disposed of
18 summarily; and
19 (c) the defendant consented to the case being disposed of summarily
20 and the consent has not been withdrawn under section 375A.
- 21 (9) The court may sentence or otherwise deal with the defendant if—
22 (a) the court accepts a plea of guilty to a charge; and
23 (b) the court considers that the case can properly be disposed of
24 summarily; and
25 (c) the defendant consented to the case being disposed of summarily
26 and the consent has not been withdrawn under section 375A.

- 1 (10) Before the court decides whether a case can properly be disposed of
2 summarily, the court must consider the following:
- 3 (a) any relevant representations made by the defendant;
- 4 (b) any relevant representations made by the prosecutor in the
5 defendant's presence;
- 6 (c) the facts of the case;
- 7 (d) the seriousness of the alleged offence;
- 8 (e) the circumstances in which the offence is alleged to have been
9 committed;
- 10 (f) the defendant's age;
- 11 (g) the defendant's apparent maturity;
- 12 (h) the defendant's apparent mental capacity;
- 13 (i) the suitability of the penalties that the court is empowered to
14 impose;
- 15 (j) the difficulty of any question of law that is likely to arise.
- 16 (11) If the court accepts a plea of guilty to a charge under this section,
17 and—
- 18 (a) the court considers that the case cannot properly be disposed of
19 summarily; or
- 20 (b) the defendant's consent to the case being disposed of summarily
21 has been withdrawn under section 375A;
- 22 the *Magistrates Court Act 1930*, section 90A (7) to (13) (Plea of
23 guilty at committal hearing) applies in relation to the defendant as if
24 the court had accepted a plea of guilty to the charge under that section.

- 1 (12) If the court disposes of a case summarily under this section and
2 convicts the defendant of the offence, the court must not impose a
3 penalty that exceeds—
- 4 (a) a fine of \$5 000, imprisonment for 2 years or both; or
- 5 (b) if the maximum penalty provided for the offence by the law
6 creating it is less than the penalty mentioned in paragraph (a)—
7 the maximum penalty.

1 **Part 3** **Crimes (Sentence**
2 **Administration) Act 2005**

3 **5 Registrar to send penalty notice**
4 **Section 116C (3) (e)**

5 *omit*
6 address, and any change of address
7 *substitute*
8 contact details, and any change of contact details

9 **6 Section 116D heading**

10 *substitute*

11 **116D Offender to give registrar contact details**

12 **7 Section 116D (1)**

13 *omit*
14 details of his or her home address and postal address
15 *substitute*
16 their contact details

17 **8 Section 116D (2)**

18 *omit*
19 his or her home address or postal address before the fine and any
20 relevant administrative fee are paid must give the registrar details of
21 the new address
22 *substitute*
23 their contact details before the fine and any relevant administrative
24 fee are paid must give the registrar their new contact details

9 Section 116D (3)

omit

his or her home address and postal address

substitute

their contact details

10 New section 116D (4) and (5)

insert

- (4) Subsections (1), (2) and (3) do not apply if the person has a reasonable excuse.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](#), s 58).

- (5) In this section:

contact details, for an offender, means the following details:

- (a) home address;
- (b) postal address;
- (c) email address (if any);
- (d) home phone number (if any);
- (e) mobile phone number (if any).

11 Section 116E heading

substitute

116E Registrar may ask other people for offender's contact details

1 **12 Section 116E (1)**

2 *omit*

3 details held by the person about an address of

4 *substitute*

5 contact details that they hold for

6 **13 Section 116E (3), new definition of *contact details***

7 *insert*

8 *contact details*, for an offender—see section 116D (5).

9 **14 Default notice**
10 **New section 116H (3)**

11 *insert*

12 (3) The default notice must be sent to the fine defaulter's last-known
13 postal address or email address.

14 **15 Form of default notice**
15 **Section 116I (1) (e)**

16 *omit*

17 address

18 *substitute*

19 contact details

- 1 **16** **Reminder notice**
- 2 **Section 116J (2)**
- 3 *omit*
- 4 last known address
- 5 *substitute*
- 6 last-known postal address or email address
- 7 **17** **Sharing information**
- 8 **Section 116ZT, example**
- 9 *omit*
- 10 details of fine defaulter’s address
- 11 *substitute*
- 12 contact details of a fine defaulter

Part 4 Crimes (Sentencing) Act 2005

18 Assessment of suitability—intensive correction order Table 46D, item 7

substitute

7	living circumstances of the offender	<p>member of the offender’s household does not consent to living with the offender while the offender is serving intensive correction</p> <p>someone with parental responsibility or guardianship for a person who is a member of the offender’s household does not consent to the person living with the offender while the offender is serving intensive correction</p> <p>residence outside the ACT may make administration of an intensive correction order, or the offender’s compliance with an intensive correction order, impracticable</p>
---	--------------------------------------	---

1 **Part 5** **Criminal Code 2002**

2 **19** **New part 7A.1 heading**

3 *insert*

4 **Part 7A.1** **Serious vilification**

5 **20** **New parts 7A.2 and 7A.3**

6 *insert*

7 **Part 7A.2** **Public display of Nazi symbols**

8 **751** **Meaning of *Nazi symbol*—pt 7A.2**

9 (1) In this part:

10 *Nazi symbol* means—

11 (a) a Hakenkreuz; or

12 (b) a symbol that so nearly resembles a Hakenkreuz that it is likely
13 to be confused with or mistaken for a Hakenkreuz.

14 **Example—par (b)**

15 a cross with the arms bent at right angles in a counter-clockwise direction

16 (2) In this section:

17 *Hakenkreuz* means a symbol of a cross with the arms bent at right
18 angles in a clockwise direction.

1 **752 Public display of Nazi symbols**

- 2 (1) A person commits an offence if—
- 3 (a) the person displays a Nazi symbol; and
- 4 (b) the person knows, or ought reasonably to know, that the symbol
- 5 is associated with Nazi ideology; and
- 6 (c) the display is other than in private.

7 **Examples—other than in private**

- 8 1 displaying the symbol at an event that is open to the public, even if
- 9 privately organised
- 10 2 including the symbol in a publicly viewable post on social media
- 11 3 displaying the symbol during a video-recorded interview that is intended
- 12 to be broadcast
- 13 4 wearing the symbol on a piece of clothing in a public place, or within
- 14 sight of a person who is in a public place

15 Maximum penalty: 120 penalty units, imprisonment for 12 months

16 or both.

- 17 (2) Subsection (1) does not apply to a person if—
- 18 (a) the Nazi symbol is displayed on the person's body by means of
- 19 tattooing or similar process; or
- 20 (b) the person displayed the symbol reasonably and in good faith—
- 21 (i) for a genuine academic, artistic, religious or scientific
- 22 purpose; or

23 **Examples**

- 24 1 a person of Hindu faith displays a swastika in the front window
- 25 of the person's shop as a symbol of good luck
- 26 2 a person of Jain faith draws a swastika on the person's new
- 27 vehicle before using it as a symbol of good fortune
- 28 3 a person of Buddhist faith displays a sculpture of Buddha with a
- 29 swastika on the chest, as a symbol of auspiciousness, at a
- 30 Buddhist temple

- 1 (ii) for a genuine cultural or educational purpose; or
- 2 **Examples**
- 3 1 the floor of a shop is patterned with swastikas in the hope of
4 bringing prosperity
- 5 2 a member of the Hindu community wears a T-shirt in public with
6 a swastika on the front as a symbol of peace
- 7 3 a bookshop displays for sale an educational textbook on World
8 War II, which has a Hakenkreuz on the cover
- 9 (iii) in making or publishing a fair and accurate report of an
10 event or matter of public interest; or
- 11 (iv) in opposition to fascism, Nazism, neo-Nazism or other
12 related ideologies.
- 13 **Examples**
- 14 1 a person who displays a flag of Nazi Germany with a marking
15 through it to signal the person's opposition to Nazism
- 16 2 a person participating in a protest who displays a Nazi symbol on
17 a placard which also contains words stating opposition to fascism
- 18 *Note* The defendant has an evidential burden in relation to the matters
19 mentioned in s (2) (see s 58).
- 20 (3) A proceeding against a child for an offence against this section must
21 not be started without the written consent of the director of public
22 prosecutions.
- 23 (4) In this section:
- 24 ***beading*** means the cutting of the skin of a person and the insertion of
25 an object beneath the skin to produce a lump.
- 26 ***branding*** means the application of heat, cold or a substance to the
27 skin of a person to produce scar tissue.
- 28 ***scarification*** means the cutting of the skin of a person to create scar
29 tissue.
- 30 ***similar process*** includes beading, branding and scarification.

- 1 **753 Direction to remove Nazi symbol from public display**
- 2 (1) A police officer may direct a person to remove a Nazi symbol from
- 3 display if the police officer reasonably believes that the person is
- 4 committing an offence against section 752 by displaying the Nazi
- 5 symbol.
- 6 (2) A police officer may direct a person to remove a Nazi symbol from
- 7 display at premises if—
- 8 (a) the person is the owner or occupier of the premises; and
- 9 (b) the police officer reasonably believes that an offence is being
- 10 committed against section 752 by the display of the Nazi
- 11 symbol.
- 12 (3) A direction under this section—
- 13 (a) may be given orally or in writing; and
- 14 (b) must state when the direction must be complied with.
- 15 (4) If the direction cannot be given in person, a police officer may leave
- 16 a written direction—
- 17 (a) at the premises where the Nazi symbol is being displayed; or
- 18 (b) if the display is in or on a vehicle—by attaching or placing the
- 19 direction on the vehicle in a conspicuous place.
- 20 (5) A person must comply with a direction given to the person under this
- 21 section.
- 22 Maximum penalty: 10 penalty units.
- 23 (6) Subsection (5) does not apply if the person has a reasonable excuse.
- 24 *Note* The defendant has an evidential burden in relation to the matters
- 25 mentioned in s (6) (see s 58).

1 Part 7A.3 Other offences

2 754 Unauthorised entry of motor vehicle

- 3 (1) A person commits an offence if—
- 4 (a) the person enters a motor vehicle; and
- 5 (b) the vehicle belongs to someone else; and
- 6 (c) the person does not have consent to enter the vehicle from a
- 7 person to whom the vehicle belongs.

8 Maximum penalty: 10 penalty units.

- 9 (2) This section does not apply if the person has a reasonable excuse.

- 10 (3) In this section:

11 *belongs*—see section 301.

12 *enter* a motor vehicle—a person *enters* a motor vehicle if the person

13 puts any part of their body into any part of the motor vehicle.

14 21 Dictionary, notes 1 and 2

15 *substitute*

16 *Note* The [Legislation Act](#) contains definitions relevant to this Act.

17 For example:

- 18 • Act
- 19 • ACT
- 20 • child
- 21 • contravene
- 22 • corporation
- 23 • director of public prosecutions
- 24 • found guilty (of an offence)
- 25 • function
- 26 • indictable offence (see s 190)
- 27 • person

- 1 • proceeding
- 2 • provision
- 3 • public trustee and guardian
- 4 • statutory declaration
- 5 • subordinate law
- 6 • summary offence (see s 190).

7 **22 Dictionary, new definition of *Nazi symbol***

8 *insert*

9 *Nazi symbol*, for part 7A.2 (Public display of Nazi symbols)—see
10 section 751.

1 **Schedule 1** **Consequential amendments**

2 (see s 3)

3 **Part 1.1** **Australian Crime Commission**
4 **(ACT) Act 2003**

5 **[1.1] Section 5, new note**

6 *insert*

7 *Note 3* *Crimes Act*

8 The *Crimes Act 1900*, s 375 and s 375AA provide for the summary
9 disposal of certain cases.

10 **[1.2] Section 23 (5) etc**

11 *omit the note in*

- 12 • section 23 (5)
- 13 • section 26 (1)
- 14 • section 26 (3)
- 15 • section 26 (5)
- 16 • section 28 (1)
- 17 • section 49

18 **Part 1.2** **Crimes Act 1900**

19 **[1.3] Section 374 (6)**

20 *substitute*

21 (6) If the prosecutor does not elect to have the case disposed of
22 summarily within the time required under subsection (5), the court
23 must deal with the charge in accordance with—

- 24 (a) section 375 (5) to (13); or

- 1 (b) if the matter is being heard in the Childrens Court—
2 section 375AA (4) to (12).

3 **[1.4] Section 375A (1)**

4 *substitute*

- 5 (1) A defendant's consent to summary disposal of a case can be
6 withdrawn only if—
7 (a) for consent under section 375 (8)—the Magistrates Court grants
8 leave under this section; or
9 (b) for consent under section 375AA (7)—the Childrens Court
10 grants leave under this section.

11 **[1.5] Section 377**

12 *omit*

13 If the Magistrates Court has heard and determined a charge under
14 section 374 or section 375

15 *substitute*

16 If a court has heard and determined a charge under section 374,
17 section 375 or section 375AA

18 **[1.6] Section 378 (1)**

19 *omit*

20 section 374 or section 375

21 *substitute*

22 section 374, section 375 or section 375AA,

1 **[1.7] Section 378 (2)**

2 *omit*

3 by the Magistrates Court of an information heard and determined by
4 the court under section 374 or section 375

5 *substitute*

6 by a court of an information heard and determined by the court under
7 section 374, section 375 or section 375AA

8 **Part 1.3 Magistrates Court Act 1930**

9 **[1.8] Section 90A (2) and (7) (b) (v)**

10 *omit*

11 section 374 or section 375

12 *substitute*

13 section 374, section 375 or section 375AA

14 **[1.9] Section 208 (1) (b) to (d)**

15 *substitute*

16 (b) an appeal, by the person convicted, from a conviction for an
17 offence dealt with by the Magistrates Court, or the Childrens
18 Court, under—

19 (i) part 3.6 (Proceedings for offences punishable summarily);
20 or

21 (ii) part 3.7 (Service and pleading by post for certain
22 offences); or

23 (iii) the [Crimes Act](#)—

24 (A) section 374 (Summary disposal of certain cases at
25 prosecutor's election); or

- 1 (B) section 375 (Summary disposal of certain cases—
2 Magistrates Court); or
- 3 (C) section 375AA (Summary disposal of certain
4 cases—Childrens Court);
- 5 (c) an appeal, by the person against whom the order is made, from
6 an order made under section 113 or section 114, in a proceeding
7 dealt with under—
- 8 (i) part 3.6; or
- 9 (ii) the [Crimes Act](#), section 374, section 375 or
10 section 375AA;
- 11 (d) an appeal from a sentence or penalty by a person convicted of
12 an offence dealt with under any of the following (whether or not
13 the person appeals against the conviction in relation to which the
14 sentence or penalty was imposed):
- 15 (i) section 90A, part 3.6 or part 3.7;
- 16 (ii) the [Crimes Act](#), section 374, section 375 or
17 section 375AA;

18 **[1.10] Section 208 (1) (e), note**

19 *omit*

20 **[1.11] Section 219B**

21 *substitute*

22 **219B Decisions subject to review appeal**

- 23 (1) Each of the following is a decision of the Magistrates Court, or the
24 Childrens Court, from which an appeal by way of review (a *review*
25 *appeal*) may be made in accordance with this division:

- 1 (a) an order dismissing an information dealt with under—
- 2 (i) part 3.6 (Proceedings for offences punishable summarily);
- 3 or
- 4 (ii) part 3.7 (Service and pleading by post for certain
- 5 offences); or
- 6 (iii) the [Crimes Act](#)—
- 7 (A) section 374 (Summary disposal of certain cases at
- 8 prosecutor's election); or
- 9 (B) section 375 (Summary disposal of certain cases—
- 10 Magistrates Court); or
- 11 (C) section 375AA (Summary disposal of certain
- 12 cases—Childrens Court);
- 13 (b) a conviction for an offence dealt with under—
- 14 (i) part 3.6 or part 3.7; or
- 15 (ii) the [Crimes Act](#), section 374, section 375 or
- 16 section 375AA;
- 17 (c) an order made under section 113 or section 114, in a proceeding
- 18 dealt with under—
- 19 (i) part 3.6; or
- 20 (ii) the [Crimes Act](#), section 374, section 375 or
- 21 section 375AA;
- 22 (d) a decision not to commit a person to the Supreme Court for
- 23 sentence under section 92A (Committal for sentence for
- 24 indictable offence tried summarily);
- 25 (e) a decision to dispose of a case summarily under the [Crimes Act](#),
- 26 section 374, section 375 or section 375AA;

- 1 (f) a sentence or penalty imposed for an offence dealt with under—
2 (i) section 90A, part 3.6 or part 3.7; or
3 (ii) the [Crimes Act](#), section 374, section 375 or
4 section 375AA.
- 5 (2) In subsection (1) (f):
6 *sentence or penalty* includes a sentence or penalty imposed by an
7 order under—
8 (a) any of the following provisions of the [Crimes \(Sentencing\)](#)
9 [Act 2005](#):
10 (i) part 3.2 (Sentences of imprisonment);
11 (ii) part 3.3 (Non-custodial sentences);
12 (iii) part 3.4 (Non-association and place restriction orders);
13 (iv) part 3.5 (Deferred sentence orders);
14 (v) part 3.6 (Combination sentences); or
15 (b) the [Crimes \(Sentence Administration\) Act 2005](#), part 6.6 (Good
16 behaviour orders—amendment and discharge).

17 **[1.12] Section 288 (2)**

- 18 *substitute*
- 19 (2) Subsection (1) (b) is subject to the [Crimes Act 1900](#)—
20 (a) section 374 (Summary disposal of certain cases at prosecutor’s
21 election); and
22 (b) section 375AA (Summary disposal of certain cases—Childrens
23 Court).

1 **[1.13] Section 291K (2)**

2 *substitute*

3 (2) Subsection (1) (b) is subject to the *Crimes Act 1900*—

4 (a) section 374 (Summary disposal of certain cases at prosecutor’s
5 election); and

6 (b) section 375 (Summary disposal of certain cases—Magistrates
7 Court).

8 **[1.14] Section 291Q (3)**

9 *substitute*

10 (3) Subsection (2) (b) is subject to the *Crimes Act 1900*—

11 (a) section 374 (Summary disposal of certain cases at prosecutor’s
12 election); and

13 (b) section 375 (Summary disposal of certain cases—Magistrates
14 Court).

1 **Schedule 2** **Technical amendments**

2 (see s 3)

3 **Part 2.1** **Australian Crime Commission**
4 **(ACT) Act 2003**

5 **[2.1] Section 9 (2)**

6 *omit*

7 section 55A (3) (Operation of State laws—investigation of offences
8 against State laws)

9 *substitute*

10 section 55A (3) (Operation of State laws)

11 **Explanatory note**

12 This amendment updates a cross-reference because of amendments made to the *Australian Crime*
13 *Commission Act 2002* (Cwlth) by the *Australian Crime Commission Amendment (National*
14 *Policing Information) Act 2016* (Cwlth).

15 **[2.2] Section 38 (1), definition of *federal judicial officer***

16 *substitute*

17 *federal judicial officer* means—

18 (a) a judge of the Federal Court; or

19 (b) a judge of the Federal Circuit and Family Court of Australia
20 (Division 2).

21 **Explanatory note**

22 This amendment updates a reference because of amendments to the *Federal Magistrates Act 1999*
23 (Cwlth) by the *Federal Circuit Court of Australia Legislation Amendment Act 2012* (Cwlth), and
24 the enactment of the *Federal Circuit and Family Court of Australia Act 2021* (Cwlth).

1 **[2.3] Dictionary, definition of *Commonwealth body or person*,**
2 **paragraph (j)**

3 *substitute*

4 (j) a judge of the Federal Circuit and Family Court of Australia
5 (Division 2).

6 **Explanatory note**

7 This amendment updates a reference because of amendments to the *Federal Magistrates Act 1999*
8 (Cwlth) by the *Federal Circuit Court of Australia Legislation Amendment Act 2012* (Cwlth), and
9 the enactment of the *Federal Circuit and Family Court of Australia Act 2021* (Cwlth).

10 **[2.4] Dictionary, definition of *federal magistrate***

11 *omit*

12 **Explanatory note**

13 This amendment omits a definition that has become redundant because of amendments to the
14 *Federal Magistrates Act 1999* (Cwlth) by the *Federal Circuit Court of Australia Legislation*
15 *Amendment Act 2012* (Cwlth), and the enactment of the *Federal Circuit and Family Court of*
16 *Australia Act 2021* (Cwlth).

17 **[2.5] Dictionary, definition of *issuing officer*, paragraph (c)**

18 *substitute*

19 (c) a judge of the Federal Circuit and Family Court of Australia
20 (Division 2).

21 **Explanatory note**

22 This amendment updates a reference because of amendments to the *Federal Magistrates Act 1999*
23 (Cwlth) by the *Federal Circuit Court of Australia Legislation Amendment Act 2012* (Cwlth), and
24 the enactment of the *Federal Circuit and Family Court of Australia Act 2021* (Cwlth).

1 **[2.8] Section 41 (2) (d) (i)**

2 *omit*

3 (Consequential orders—ch 2);

4 *substitute*

5 (Consequential orders—pt 2.2);

6 **Explanatory note**

7 This amendment updates a cross-reference because of amendments to the *Evidence*
8 *(Miscellaneous Provisions) Act 1991* by the *Royal Commission Criminal Justice Legislation*
9 *Amendment Act 2018*.

10 **[2.9] Section 72 (4), definition of *circle sentencing***

11 *omit*

12 section 291L

13 *substitute*

14 dictionary

15 **Explanatory note**

16 This amendment updates a cross-reference because of amendments made to the *Magistrates*
17 *Court Act 1930* by the *Crimes Legislation Amendment Act 2018*.

18 **Part 2.3 Crimes (Child Sex Offenders)**
19 **Act 2005**

20 **[2.10] Section 7 (1) (d) (i), note**

21 *omit*

22 **Explanatory note**

23 This amendment omits a note that is no longer needed because the provision it refers to has
24 expired.

1 **[2.11] Section 9 (2)**

2 *omit*

3 schedule 2, part 2.2, item 14A

4 *substitute*

5 schedule 2, part 2.2, item 15

6 **Explanatory note**

7 This amendment corrects a cross reference.

8 **[2.12] Section 59 (2), definition of *internet service provider***

9 *substitute*

10 *internet service provider*—see the [Online Safety Act 2021](#) (Cwlth),
11 section 19 (Internet service providers).

12 **Explanatory note**

13 This amendment updates the definition because the [Broadcasting Services Act 1992](#) (Cwlth),
14 schedule 5, was replaced by the [Online Safety Act 2021](#) (Cwlth). The new definition is identical
15 to the old definition.

16 **[2.13] Schedule 1, part 1.2, items 1 and 2**

17 *substitute*

1	Criminal Code Act 1995 (Cwlth), section 270.5 (1) and section 270.8 (1) (a)	cause child to enter into or remain in servitude	the service provided is a sexual service (as defined in the Criminal Code Act 1995 (Cwlth), dictionary)
2	Criminal Code Act 1995 (Cwlth), section 270.5 (2) and section 270.8 (1) (a)	conduct a business involving child servitude	the service provided is a sexual service (as defined in the Criminal Code Act 1995 (Cwlth), dictionary)

18 **Explanatory note**

19 This amendment updates cross-references and language because of amendments made to the
20 [Criminal Code Act 1995](#) (Cwlth).

1 **[2.14] Schedule 2, part 2.2, item 1**

2 *substitute*

1	<i>Criminal Code Act 1995</i> (Cwlth), section 270.7 and section 270.8 (1) (a)	deceptive recruiting for child labour or services	the service to be provided is a sexual service (as defined in the <i>Criminal Code Act 1995</i> (Cwlth), dictionary)
---	--	---	--

3 **Explanatory note**

4 This amendment updates cross-references and language because of amendments made to the
5 *Criminal Code Act 1995* (Cwlth).

6 **[2.15] Schedule 2, part 2.2, item 3**

7 *substitute*

3	<i>Criminal Code Act 1995</i> (Cwlth), section 271.7	domestic trafficking in children	
---	--	----------------------------------	--

8 **Explanatory note**

9 This amendment updates a cross-reference because of amendments made to the *Criminal Code*
10 *Act 1995* (Cwlth). This amendment also omits unnecessary words.

11 **[2.16] Schedule 2, part 2.2, item 12**

12 *omit*

13 **Explanatory note**

14 This amendment omits an item that has become redundant because the section it refers to has
15 been repealed.

1 **[2.17] Schedule 2, part 2.2, item 14**

2 *substitute*

14	<i>Criminal Code Act 1995</i> (Cwlth), section 273.7 (1)	commit offence against <i>Criminal Code Act 1995</i> (Cwlth), section 273.6 on 3 or more occasions, and involving 2 or more people	
----	--	--	--

3 **Explanatory note**

4 This amendment omits a cross-reference that has become redundant because the section it refers
5 to has been repealed, and corrects a citation.

6 **[2.18] Schedule 2, part 2.2, items 16 and 17**

7 *omit*

8 **Explanatory note**

9 This amendment omits items that have become redundant because the sections they refer to have
10 been repealed.

11 **[2.19] Schedule 2, part 2.2, item 20**

12 *substitute*

20	<i>Criminal Code Act 1995</i> (Cwlth), section 471.22 (1)	commit offence against <i>Criminal Code Act 1995</i> (Cwlth), section 471.19 or 471.20 on 3 or more occasions, and involving 2 or more people	
----	---	---	--

13 **Explanatory note**

14 This amendment omits cross-references that have become redundant because the sections they
15 refer to have been repealed, and corrects a citation.

1 **[2.20] Schedule 2, part 2.2, items 24 and 25**

2 *omit*

3 **Explanatory note**

4 This amendment omits items that have become redundant because the sections they refer to have
5 been repealed.

6 **[2.21] Schedule 2, part 2.2, item 28**

7 *substitute*

28	<i>Criminal Code Act 1995</i> (Cwlth), section 474.24A (1)	commit offence against <i>Criminal Code Act 1995</i> (Cwlth), section 474.22 or section 474.23 on 3 or more occasions, and involving 2 or more people	
----	--	---	--

8 **Explanatory note**

9 This amendment omits cross-references that have become redundant because the sections they
10 refer to have been repealed, and corrects a citation.

11 **[2.22] Schedule 2, part 2.2, items 35 and 36**

12 *substitute*

35	<i>Customs Act 1901</i> (Cwlth), section 233BAB (5)	import tier 2 goods	the tier 2 goods are items of child abuse material (see s 233BAB (1) (h))
36	<i>Customs Act 1901</i> (Cwlth), section 233BAB (6)	export tier 2 goods	the tier 2 goods are items of child abuse material (see s 233BAB (1) (h))

13 **Explanatory note**

14 This amendment updates language to reflect the change of language in the *Customs Act 1901*
15 (Cwlth).

1 **[2.23] Dictionary, definition of *community service order***

2 *omit*

3 section 13 (6)

4 *substitute*

5 section 13 (7)

6 **Explanatory note**

7 This amendment corrects a cross-reference.

8 **[2.24] Dictionary, definition of *parole*, note**

9 *omit*

10 **Explanatory note**

11 This amendment omits a note that is no longer needed because the provisions it refers to have
12 expired.

13 **[2.25] Further amendments, mentions of Criminal Code (Cwlth)**

14 *omit*

15 [Criminal Code](#) (Cwlth)

16 *substitute*

17 [Criminal Code Act 1995](#) (Cwlth)

18 *in*

- 19 • schedule 1, part 1.2, items 5, 8 and 9
20 • schedule 2, part 2.2, items 10, 11 and 31

21 **Explanatory note**

22 This amendment corrects a citation.

1 **Part 2.4** **Crimes (Sentence**
2 **Administration) Act 2005**

3 **[2.26] Section 165 (1) (c)**

4 *omit*

5 last known

6 *substitute*

7 last-known

8 **Explanatory note**

9 This amendment corrects punctuation.

10 **[2.27] Section 298 (8), definition of *relevant victim*, paragraph**
11 **(a)**

12 *omit*

13 views of victims

14 *substitute*

15 victim's views

16 **Explanatory note**

17 This amendment corrects a cross-reference.

1 **[2.28] Dictionary, definition of *ACT prisoner* etc**

2 *omit*

3 chapter 11

4 *substitute*

5 part 11.1

6 *in the definitions of*

- 7 • *ACT prisoner*
- 8 • *ACT sentence of imprisonment*
- 9 • *arrest warrant*
- 10 • *commonwealth sentence of imprisonment*
- 11 • *corresponding ACT court*
- 12 • *corresponding Minister*
- 13 • *default imprisonment*
- 14 • *Governor*
- 15 • *indeterminate sentence*
- 16 • *interstate law*
- 17 • *interstate sentence of imprisonment*
- 18 • *joint prisoner*
- 19 • *non-participating territory*

20 **Explanatory note**

21 This amendment corrects cross-references.

1 **[2.29] Dictionary, definition of *participating jurisdiction***

2 *omit*

3 chapter 11

4 *substitute*

5 chapter 12

6 **Explanatory note**

7 This amendment corrects a cross-reference.

8 **Part 2.5 Crimes (Sentencing) Act 2005**

9 **[2.30] Section 9 (2), note 1**

10 *after 3rd dot point, insert*

- 11
 - drug and alcohol treatment order (see s 12A, pt 4.2B and pt 5.4A)

12 **Explanatory note**

13 This amendment is consequential on the insertion of s 12A, pt 4.2B and pt 5.4A by the [Sentencing](#)
14 [\(Drug and Alcohol Treatment Orders\) Legislation Amendment Act 2019](#).

15 **Part 2.6 Magistrates Court Act 1930**

16 **[2.31] Section 266 (a)**

17 *omit*

18 (Complaints)

19 *substitute*

20 (Complaints to ACAT about utilities)

21 **Explanatory note**

22 This amendment updates a cross-reference because of an amendment made by the [ACT Civil and](#)
23 [Administrative Tribunal Legislation Amendment Act 2008 \(No 2\)](#).

1 **[2.32] Section 266A (2) (b)**

2 *omit*
3 s 82A
4 *substitute*
5 section 82A

6 **Explanatory note**

7 This amendment substitutes language in line with current legislative drafting practice.

8 **Part 2.7 Spent Convictions Act 2000**

9 **[2.33] Section 12 (3), note**

10 *omit*

11 **Explanatory note**

12 This amendment omits a note that is no longer needed because the provisions it refers to have
13 expired.

14 **Part 2.8 Victims of Crime (Financial**
15 **Assistance) Act 2016**

16 **[2.34] Dictionary, definition of *repayment amount***

17 *omit*
18 (Repayment of financial assistance and funeral expenses)
19 *substitute*
20 (Repayment of financial assistance and funeral expenses by assisted
21 person)

22 **Explanatory note**

23 This amendment corrects a cross-reference.

1 **Part 2.9** **Working with Vulnerable People**
2 **(Background Checking) Act 2011**

3 **[2.35] Schedule 3, part 3.2, item 52**

4 *substitute*

52	Crimes Act , s 56	persistent sexual abuse of child or young person under special care	
----	-----------------------------------	--	--

5 **Explanatory note**

6 This amendment is consequential on an amendment of the heading of the [Crimes Act 1900](#), s 56
7 by the [Family Violence Legislation Amendment Act 2022](#).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 23 November 2022.

2 Notification

Notified under the [Legislation Act](#) on 2022.

3 Republications of amended laws

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

© Australian Capital Territory 2022