

2025

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Magistrates Court (Indicative Sentencing) Amendment Bill 2025

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Magistrates Court (Indicative Sentencing) Amendment Bill 2025

A Bill for

An Act to amend the *Magistrates Court Act 1930*, and for other purposes

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

- 1 **1 Name of Act**
- 2 This Act is the *Magistrates Court (Indicative Sentencing) Amendment*
- 3 *Act 2025*.
- 4 **2 Commencement**
- 5 This Act commences 6 months 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 [Magistrates Court Act 1930](#).
- 10 *Note* This Act also amends the [Crimes \(Sentencing\) Act 2005](#) (see sch 1).
- 11 **4 Definitions for ch 3**
- 12 **Section 18A, new definition of *sexual offence***
- 13 *insert*
- 14 *sexual offence* means an offence against any of the following
- 15 provisions of the [Crimes Act](#):
- 16 (a) part 3 (Sexual offences);
- 17 (b) part 3A (Intimate image abuse);
- 18 (c) part 4 (Female genital mutilation);
- 19 (d) part 5 (Sexual servitude).

5 New division 3.4.1A

insert

Division 3.4.1A Sentence indications

55 Application—div 3.4.1A

This division applies to any proceeding that the Magistrates Court has jurisdiction to hear and decide, other than a proceeding—

- (a) for a family violence offence, a sexual offence or an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 6 (1) (a); or
- (b) within the jurisdiction of the Childrens Court; or
- (c) for an offence prescribed by regulation.

Note An offence against the *Road Transport (Safety and Traffic Management) Act 1999*, s 6 (1) (a) is an offence of negligent driving that occasions death.

56 Definitions—div 3.4.1A

In this division:

indicated sentence means the sentence the court indicates it would impose under a sentence indication.

sentence indication—see section 57 (1).

victim impact statement—see the *Crimes (Sentencing) Act 2005*, section 47.

57 Applications for sentence indication

- (1) A person charged with an offence (the ***defendant***) may apply to the Magistrates Court for an indication of the sentence that the court would likely impose on the defendant if they were to plead guilty to the charge for the offence (a ***sentence indication***).

- 1 (2) The application may be made at any time during the proceeding for
2 the offence up to and including the first day of the hearing of the
3 charge for the offence.
- 4 (3) The defendant's legal representative must give the court written
5 notice of the defendant's intention to apply for a sentence indication
6 at least 5 working days before the application is made.
- 7 (4) If notice is not given in accordance with subsection (3), the court must
8 adjourn the proceeding for the offence for at least 5 working days.
- 9 (5) However, subsections (3) and (4) do not apply if a defendant applies
10 for a sentence indication within 5 days of the first day of the hearing
11 of the charge for the offence.
- 12 (6) The defendant may withdraw their application for the court to give
13 the defendant a sentence indication at any time before the indicated
14 sentence is given.
- 15 (7) A defendant may apply for a sentence indication more than once in a
16 proceeding, but not more than 3 times in relation to a charge for an
17 offence.
- 18 (8) However, a sentence indication may be given only once in relation to
19 a charge for an offence, unless—
- 20 (a) there has been a material change in relation to the charge since
21 the court provided an indicated sentence; or
- 22 **Examples—material change**
- 23 1 defendant charged with a different offence
- 24 2 brief of evidence about the offence served on defendant
- 25 3 prosecutor's disclosure of information, a document or another thing that
26 has not previously been given to the defendant
- 27 (b) an indicated sentence is revised under section 61D.

**58 Prosecution's election about whether sentence indication
may be given**

- (1) If a defendant has applied for a sentence indication in a proceeding for an offence, the prosecution may, within the time required under subsection (2), elect whether or not it consents to a sentence indication being given.
- (2) An election under subsection (1) must be made before the later of—
- (a) the second time the proceeding for the offence is before the court; and
- (b) 21 days after the first time the proceeding for the offence is before the court.
- (3) The court must not grant a defendant's application for a sentence indication before the time required under subsection (2) has ended if the prosecution has not made an election under subsection (1).
- (4) If the prosecution elects that it consents to a sentence indication, the court must grant the defendant's application for a sentence indication and deal with the application in accordance with this division.
- (5) If the prosecution elects not to consent to the court giving a sentence indication, the court must not grant the defendant's application for a sentence indication.
- (6) If the prosecution does not make an election within the time required under subsection (2), the court may grant the defendant's application for a sentence indication and deal with the application in accordance with this division.
- (7) If a defendant applies for a sentence indication more than once in a proceeding, the prosecution may make an election under subsection (1) for each application.

59 Information for court to consider before giving sentence indication

- (1) If the Magistrates Court grants a defendant's application for a sentence indication, the court must consider the following information before deciding the indicated sentence:
- (a) a statement of agreed facts on which the charge for the offence is based;
 - (b) the defendant's criminal history;
 - (c) if there is a complainant for the offence—
 - (i) any victim impact statement prepared by or for the complainant; and
 - (ii) whether the prosecution believes there is sufficient information about the harm suffered by the complainant for the court to give a sentence indication.
- (2) The court may also consider any additional information the court considers relevant to sentencing the defendant for the offence.

60 Court's discretion to not give sentence indication

- (1) The Magistrates Court may decide to not give a defendant a sentence indication if the court—
- (a) believes it does not have sufficient information; or
 - (b) otherwise considers that a sentence indication would not be appropriate.
- (2) In deciding to not give a sentence indication, the court must consider the effect not giving a sentence indication will have on any complainant in relation to the offence.

1 **61 Explanation of process for and effect of sentence**
2 **indications**

- 3 (1) Before giving a defendant a sentence indication, the Magistrates
4 Court must explain to the defendant the process for, and effect of,
5 giving a sentence indication, including—
6 (a) that the defendant may withdraw their application for the
7 sentence indication at any time before the indicated sentence is
8 given; and
9 (b) the effect of sections 61A, 61B and 61C; and
10 (c) that an inference of guilt will not be drawn if the defendant—
11 (i) withdraws their application for the sentence indication; or
12 (ii) does not accept the indicated sentence; and
13 (d) the maximum penalty for the offence charged; and
14 (e) that, if the defendant accepts an indicated sentence and the
15 sentence imposed on the defendant for the offence is appealed,
16 a more severe sentence may be imposed.
17 (2) The court must also recommend that an unrepresented defendant
18 obtain their own legal advice in relation to whether to accept or reject
19 an indicated sentence.

20 **61A Acceptance or rejection of sentence indication**

- 21 (1) If the Magistrates Court gives a defendant a sentence indication, the
22 defendant must accept or reject the indicated sentence—
23 (a) if the defendant applies for the sentence indication before the
24 first day of the hearing of the charge for the offence—by the
25 earlier of—
26 (i) the day determined by the court; and

- 1 (ii) the day that is 7 days after the day the indicated sentence
2 is given; or
- 3 (b) if the defendant applies for the sentence indication on the
4 first day of the hearing of the charge for the offence—by the
5 time on that day determined by the court.
- 6 (2) The day determined by the court under subsection (1) (a) must be not
7 later than the first day of the hearing of the charge for the offence.
- 8 (3) The indicated sentence is taken to have been rejected by the defendant
9 if—
- 10 (a) the defendant fails to accept or reject the indicated sentence in
11 accordance with subsection (1); or
- 12 (b) if the defendant accepts the indicated sentence in accordance
13 with subsection (1)—the court is not satisfied the defendant has
14 received, or had a reasonable opportunity to receive, legal
15 advice about the indicated sentence.

16 **61B Effect of rejected sentence indication**

- 17 (1) This section applies if—
- 18 (a) the Magistrates Court gives a defendant an indicated sentence in
19 relation to a charge for an offence; and
- 20 (b) the defendant rejects, or is taken to have rejected, the indicated
21 sentence.
- 22 (2) The court that hears and decides the charge—
- 23 (a) must be constituted by a magistrate other than the magistrate
24 who gave the sentence indication (the *original magistrate*)
25 unless—
- 26 (i) the original magistrate had already been assigned to hear
27 the charge for the offence when the defendant applied for
28 the sentence indication; or

- 1 (ii) all the parties to the proceeding otherwise agree; and
- 2 (b) is not bound by the indicated sentence if imposing a sentence on
- 3 the defendant for the offence.

4 **61C Effect of accepted sentence indication**

- 5 (1) This section applies if—
- 6 (a) the Magistrates Court gives a defendant an indicated sentence in
- 7 relation to a charge for an offence; and
- 8 (b) the defendant accepts the indicated sentence.
- 9 (2) If the defendant pleads guilty to the charge for the offence, the court
- 10 must not impose a sentence more severe than the indicated sentence.
- 11 (3) If, despite having accepted the indicated sentence, the defendant does
- 12 not plead guilty to the charge for the offence, the court that hears and
- 13 decides the charge—
- 14 (a) must be constituted by a magistrate other than the magistrate
- 15 who gave the sentence indication (the *original magistrate*)
- 16 unless—
- 17 (i) the original magistrate had already been assigned to hear
- 18 the charge for the offence when the defendant applied for
- 19 the sentence indication; or
- 20 (ii) all the parties to the proceeding otherwise agree; and
- 21 (b) is not bound by the indicated sentence if imposing a sentence on
- 22 the defendant for the offence.
- 23 (4) There is no right of appeal against an indicated sentence.
- 24 (5) A sentence indication given to a defendant in relation to a charge for
- 25 an offence does not affect any party's right to appeal against a
- 26 sentence imposed on the defendant for the offence.

- 1 **61D Court may revise sentence indication**
- 2 (1) The Magistrates Court may, at any time before a defendant is
- 3 sentenced, revise an indicated sentence if there has been a change in
- 4 circumstances that the court considers would result in a different
- 5 sentence than the indicated sentence being imposed.
- 6 (2) Before revising an indicated sentence, the court must—
- 7 (a) be satisfied that the indicated sentence would not, as a result of
- 8 the change in circumstances, be an appropriate sentence; and
- 9 (b) tell the defendant that the court would likely impose a different
- 10 sentence than the indicated sentence.
- 11 (3) If the court revises an indicated sentence after the defendant pleads
- 12 guilty to the offence, the defendant may withdraw the plea of guilty.
- 13 (4) An indicated sentence may be revised under this section only if the
- 14 court is constituted by the magistrate who gave the sentence
- 15 indication (the *original magistrate*).
- 16 (5) However, the indicated sentence may be revised by the court
- 17 constituted by another magistrate if the original magistrate is unable
- 18 to revise the indicated sentence because the magistrate—
- 19 (a) dies; or
- 20 (b) resigns; or
- 21 (c) becomes mentally or physically incapacitated, if the incapacity
- 22 substantially affects the exercise of their functions; or
- 23 (d) is otherwise unlikely to be able to constitute the court within a
- 24 reasonable time.

61E Sentence indication information inadmissible etc

- (1) If a defendant has applied for a sentence indication in a proceeding for an offence (the *primary proceeding*), evidence of the following is inadmissible in the primary proceeding or in any other criminal or civil proceeding:
- (a) the defendant's application for a sentence indication;
 - (b) the indicated sentence for the defendant;
 - (c) if there is a complainant for the offence—any victim impact statement prepared by or for the complainant.
- (2) However, evidence mentioned in subsection (1) (a) or (b) is admissible in a proceeding in the following circumstances:
- (a) if the primary proceeding for the offence has been finally decided—the defendant—
 - (i) accepted the indicated sentence; and
 - (ii) has been sentenced for the offence; or
 - (b) if the primary proceeding for the offence has not been finally decided—
 - (i) a court hearing a proceeding considers the evidence admissible in the proceeding; and
 - (ii) the defendant consents to the admission of the evidence.
- (3) Also, evidence mentioned in subsection (1) (c) is admissible in a proceeding (whether or not the primary proceeding for the offence has been finally decided) if—
- (a) a court hearing the proceeding considers the evidence admissible in the proceeding; and
 - (b) the complainant consents to the admission of the evidence.

- 1 **61F Restriction on publication of sentence indication matters**
- 2 (1) This section applies if—
- 3 (a) a defendant applied for a sentence indication in a criminal
- 4 proceeding; and
- 5 (b) any of the following apply:
- 6 (i) the court has not decided whether the defendant is guilty
- 7 or not guilty of the offence;
- 8 (ii) the court finds the defendant not guilty of the offence or
- 9 the proceeding otherwise ends without a finding of guilt;
- 10 (iii) if the defendant is found guilty of the offence—
- 11 the defendant has not been sentenced for the offence.
- 12 (2) A person commits an offence if the person publishes information
- 13 about any of the following:
- 14 (a) the defendant applying for a sentence indication;
- 15 (b) particulars of the defendant’s application for a sentence
- 16 indication;
- 17 (c) the indicated sentence for the defendant;
- 18 (d) if there is a complainant for the offence—any victim impact
- 19 statement prepared by or for the complainant.
- 20 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 21 both.
- 22 (3) Subsection (2) does not apply if publishing the information was
- 23 necessary on reasonable grounds for carrying out a court registry
- 24 function, or giving information to the defendant or the defendant’s
- 25 legal representative.
- 26 *Note* A person charged with an offence against s (2) has an evidential burden
- 27 in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

1 (4) It is a defence to a prosecution for an offence against
2 subsection (2) (a), (b) or (c) if the person proves that the defendant
3 consented to the publication of the information before it was
4 published.

5 (5) It is a defence to a prosecution for an offence against
6 subsection (2) (d) if the person proves that the complainant consented
7 to the publication of the information before it was published.

8 *Note* A person charged with an offence against s (2) has a legal burden in
9 relation to the matters mentioned in s (4) and s (5) (see [Criminal Code](#),
10 s 59).

11 (6) In this section:

12 *publish* means communicate or distribute information in a way or to
13 an extent that makes it available to, or likely to come to the notice of,
14 the public or a section of the public.

15 **61G Review of amendments made by Magistrates Court** 16 **(Indicative Sentencing) Amendment Act 2025**

17 (1) The Minister must review the operation of the amendments made by
18 the *Magistrates Court (Indicative Sentencing) Amendment Act 2025*
19 within 3 years after the commencement of that Act, section 3
20 (the *commencement day*).

21 (2) The review must be started not earlier than 2 years after the
22 commencement day.

23 (3) The review must include a consideration of the effect of the
24 amendments on human rights.

25 (4) Subsection (3) does not limit what may be included in the review.

26 (5) The Minister must present a report of the review to the Legislative
27 Assembly as soon as practicable after the report is completed.

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

1	6	Sections 90AA (9) and 90AB (3)
2		<i>omit</i>
3	7	Dictionary, new definitions
4		<i>insert</i>
5		<i>indicated sentence</i> , for division 3.4.1A (Sentence indications)—
6		see section 56.
7		<i>sentence indication</i> , for division 3.4.1A (Sentence indications)—
8		see section 57 (1).
9		<i>sexual offence</i> , for chapter 3 (Criminal proceedings)—
10		see section 18A.
11		<i>victim impact statement</i> , for division 3.4.1A (Sentence
12		indications)—see the <i>Crimes (Sentencing) Act 2005</i> , section 47.

Schedule 1 Crimes (Sentencing) Act 2005—Consequential amendments

(see s 3)

[1.1] New section 52 (2A)

insert

(2A) If a defendant has applied for a sentence indication in a proceeding for an offence—

(a) for the purpose of determining the indicated sentence—the statement may be tendered to the court when the court considers appropriate; and

(b) for the purpose of sentencing the defendant—the statement may be tendered to the court, made orally or read out in court when the court considers appropriate.

[1.2] New section 52 (3A)

insert

(3A) However, subsection (3) does not apply to a statement given to the court under subsection (2A) (a).

[1.3] Section 52 (6), new definitions

insert

defendant—see the *Magistrates Court Act 1930*, section 57.

indicated sentence—see the *Magistrates Court Act 1930*, section 56.

sentence indication—see the *Magistrates Court Act 1930*, section 57 (1).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 30 October 2025.

2 Notification

Notified under the [Legislation Act](#) on 2025.

3 Republications of amended laws

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

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