

1999

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

CRIMES AMENDMENT BILL (NO. 2) 1999

EXPLANATORY MEMORANDUM

Circulated by authority of

Gary Humphries MLA
Attorney-General
Minister for Justice and Community Safety

Outline

This provision amends the common law position relating to the commission of a crime by a woman, in the presence of her husband. Under the common law, there is a presumption in favour of the wife that she is under the coercion of her husband when committing an offence in his presence. The wife is entitled to be acquitted unless the Crown specifically rebuts the presumption and proves that the wife acted independently.

This provision abolishes the common law presumption of marital coercion.

Notes on Clauses

Clauses 1 and 2 - short title and commencement

Clauses 1 and 2 are formal clauses dealing with the title of the Bill, once enacted, and the commencement arrangements. The substantive provisions of the Bill will take effect on the day it is notified in the *Gazette*.

Clause 3 - Act amended

This clause explains that the Act amended by this bill is the *Crimes Act 1900*.

Clause 4 - Insertion

This clause inserts after section 406, a new section - section 407. Section 407 expressly abolishes the common law presumption of marital coercion.