

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

CRIMES (BILL 2)

EXPLANATORY MEMORANDUM

Circulated by authority of
Terry Connolly, Attorney General

OUTLINE

These amendments to the *Crimes Act 1900* ("the Act") are intended to provide the victims of domestic violence with more effective protection against weapons. Section 349D of the *Crimes Act* currently gives a police officer power to seize a weapon if the officer has reasonable grounds for believing that its seizure is necessary to prevent the commission or repetition of an offence, to prevent a breach of the peace, or to protect life or property. This section was drafted with domestic violence incidents in mind. These amendments are intended to extend the scope of police powers to seize and retain weapons and to give a specific power to search for weapons.

FINANCIAL IMPLICATIONS

These amendments are not expected to have financial implications.

CLAUSE NOTES

Clause 1 is a citation clause.

Clause 2 defines the term "Principal Act".

Clause 3 changes section 349D of the Act by amending subsection 349D(1) and by substituting new provisions for subsection 349D(2).

Proposed subsection 349D(1) relates to the location of weapons which may be seized. It removes the requirement of a weapon being "in the possession" of a person, so that the police officer can seize any weapon in or on the premises or in or on motor vehicles under the control of a person connected with the circumstances giving rise to the entry of the premises where the officer has formed the view that it is necessary. It should be noted that "premises" includes the surrounding grounds.

Proposed new subsection 349D(2) clarifies that a weapon may be seized despite the fact that the owner is unknown and irrespective of whether the owner is connected with the circumstances giving rise to the entry of the police officer on to the premises.

Proposed new subsection 349D(2A) gives a police officer a specific power to search for weapons in or on premises or in or on motor vehicles, and allows police to use such force as is necessary to seize a weapon, which would, for instance, allow police to break open locks.

Proposed new subsection 349D(2B) relates to the length of time seized weapons may be retained. Currently section 349D provides that if no prosecution for an offence has been instituted within 60 days relating to the entry of the premises, then the weapon shall be returned. The proposed amendments extend this to application for domestic violence protection orders or interim protection orders, so that the weapon will be returned after 60 days unless criminal proceedings have been instituted or an application for an order has been made.

Proposed new subsection 349D(2C) provides that a weapon will not be returned if the Registrar has other grounds to retain it under the *Weapons Act 1991*.