

2001

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

## Bail Amendment Bill 2001 (No 2)

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2001 098B



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(As presented)

(Attorney-General)

## **Bail Amendment Bill 2001 (No 2)**

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### **A Bill for**

An Act to amend the *Bail Act 1992*

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

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**1 Name of Act**

This Act is the *Bail Amendment Act 2001 (No 2)*.

**2 Commencement**

This Act commences 14 days after it is notified in the Gazette.

*Note* The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).

**3 Act amended**

This Act amends the *Bail Act 1992*.

**4 Interpretation  
Section 3 (1), definition of *applicable bail criteria*,  
paragraph (b)**

*substitute*

(b) for a serious offence committed while a charge for another serious offence is pending or outstanding—section 9A;

**5 Section 3 (1), new definitions**

*insert*

*outstanding*, in relation to a charge against a person for a serious offence—see section 9A (6).

*pending*, in relation to a charge against a person for a serious offence—see section 9A (6).

**6 Section 3 (1), definition of *serious offence***

*substitute*

*serious offence*—see section 9A (1) (a) (Bail for serious offence committed while charge for another is pending or outstanding).

**7 Bail for offences other than minor offences****Section 8 (1A) (b)***substitute*

(b) by a court or an authorised officer to a person accused of a serious offence if section 9A (Bail for serious offence committed while charge for another is pending or outstanding) applies.

**8 Bail for serious offence committed while on bail for another serious offence**  
**Section 9A, heading***substitute***9A Bail for serious offence committed while charge for another is pending or outstanding****9 Section 9A (1) (b)***substitute*

(b) the person is alleged to have committed the offence while a charge against the person for another serious offence is pending or outstanding.

**Examples**

- 1 Julianne is served with a summons to attend the Magistrates Court to answer a charge that she has committed the offence of taking a vehicle without authority (punishable by 5 years imprisonment under the *Crimes Act 1900*, s 120, and so a *serious offence* under par (a)). Before the court date, Julianne is arrested and charged with having committed an armed robbery the day after being served with the summons (punishable by 25 years imprisonment under the *Crimes Act 1900*, s 101, and so also a *serious offence* under par (a)). At the time of the alleged armed robbery, the charge of taking a vehicle without authority was still *pending* (see below s (6)). Section 9A will apply to any decision about the grant of bail to Julianne in relation to the armed robbery charge.
- 2 Julian is arrested and charged with burglary (punishable by 14 years imprisonment under the *Crimes Act 1900*, s 102, and so a *serious offence* under par (a)). He is granted bail. Before the charge is heard in the Magistrates Court, Julian is again arrested, this time for a theft committed

Section 10

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1 while he was on bail (punishable by 10 years imprisonment under the *Crimes*  
2 *Act 1900*, s 99, and so another *serious offence* under par (a)). At the time of  
3 the alleged theft, the charge of burglary was still *outstanding* (see below  
4 s (6)). Section 9A will apply to any decision about the grant of bail to Julian  
5 in relation to the theft charge.

6 **10 New section 9A (6) to (8)**

7 *insert*

8 (6) In this section:

9 *outstanding*—a charge against a person for a serious offence  
10 is *outstanding*—

11 (a) until the charge is finally dealt with in any of the following  
12 ways:

13 (i) the charge is withdrawn;

14 (ii) the charge is dismissed by a court;

15 (iii) the person is discharged by the Magistrates Court  
16 following a committal hearing;

17 (iv) the person is acquitted or found guilty by a court of the  
18 offence charged; and

19 (b) if the person is acquitted or found guilty by a court of the  
20 offence charged, but a new trial on the charge (or a charge  
21 based on the same facts) is later ordered on appeal—from the  
22 date the new trial is ordered until the earliest of the following  
23 happens:

24 (i) the charge (or a charge based on the same facts) is finally  
25 dealt with as mentioned in paragraph (a) (i), (ii) or (iv);

26 (ii) the order for the new trial is reversed on a further appeal.

27 *Note* **Found guilty**, of an offence, includes having the offence taken into  
28 account under the *Crimes Act 1900*, s 448 and having an order made in  
29 relation to the offence under the *Crimes Act 1900*, s 556A or the  
30 *Children and Young People Act 1999*, s 96. (See *Interpretation Act*  
31 *1967*, dict).

- 1            ***pending***—a charge against a person for a serious offence is ***pending***  
2            if the person has not yet been charged with the offence, but—
- 3            (a) the person has been arrested for the offence, unless the person  
4                 is later released without being charged with a serious offence;  
5                 or
- 6            (b) a summons to appear before a court to answer a charge for the  
7                 offence has been served on the person; or
- 8            (c) the person has, at the invitation of a police officer, signed an  
9                 agreement to attend court to answer a charge for the offence  
10                (known as a ‘voluntary agreement to attend court’, or by a  
11                similar name).
- 12        (7) This section applies in relation to a decision to grant bail made on or  
13        after the commencement of the *Bail Amendment Act 2001 (No 2)*  
14        even if any relevant serious offence is alleged to have been  
15        committed before that commencement.
- 16        (8) Subsection (7) and this subsection expire 2 years after the  
17        commencement of the *Bail Amendment Act 2001 (No 2)*.

18        **11    Dispensing with bail**  
19        **Section 10 (5) (b)**

- 20            *substitute*
- 21            (b) section 9A (Bail for serious offence committed while charge  
22                for another is pending or outstanding).

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**Endnotes**

**Act amended**

- 1            Republished as in force on 31 January 1999. See also Acts 1999 Nos 64 and 79;  
              2001 No 25.

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