

2001

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Bail Amendment Bill 2001

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Bail Amendment Bill 2001

A Bill for

An Act to amend the *Bail Act 1992* and to amend the *Crimes Act 1900* as a consequence

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

2001 016B

Part 1 Preliminary

Section 1

Part 1 Preliminary

1 Name of Act

This Act is the *Bail Amendment Act 2001*.

5 **2 Commencement**

This Act commences on the day it is notified in the Gazette.

Part 2 Amendment of Bail Act 1992

3 Act amended

This part amends the *Bail Act 1992*.

4 Interpretation Section 3 (1), new definition

insert

applicable bail criteria, for a decision about the grant of bail by an authorised person to a person accused of an offence, means criteria under any of the following provisions that apply to the decision:

- (a) for a domestic violence offence—section 8A;
- (b) for a serious offence committed while the accused person was on bail for another serious offence—section 9A;
- (c) for any offence committed by an adult—section 22;
- (d) for any offence committed by a child—section 23.

5 Section 3 (1), definition of ***authorised officer***

substitute

authorised officer means any of the following:

- (a) the chief police officer;
- (b) a police officer exercising the functions of a superintendent or sergeant;
- (c) another police officer authorised in writing by the chief police officer.

6 Section 3 (1), new definition

insert

serious offence—see section 9A (1) (a) (Bail for serious offence committed while on bail for another serious offence).

5 **7 Availability of bail**
Section 5 (1)

omit

Subject to subsection (2) and section 9, an

substitute

10 An

8 Bail for offences other than minor offences
Section 8 (1)

omit everything after paragraph (c)

9 New section 8 (1A)

15 *insert*

(1A) However, this section does not apply to the grant of bail—

(a) by an authorised officer to a person accused of a domestic violence offence (see section 8A); or

20 (b) by a court or an authorised officer to a person accused of a serious offence that is alleged to have been committed while the person was on bail for another serious offence (see section 9A).

10 Bail by authorised officer—domestic violence offences
Section 8A (1)

25 *omit*

on the balance of probabilities

11 Bail in respect of persons sentenced to imprisonment
Section 9, heading*substitute***9 Bail for persons sentenced to imprisonment****5 12 New section 9A***insert***9A Bail for serious offence committed while on bail for another serious offence**

- (1) This section applies if—
- 10 (a) a person is accused of an offence punishable by imprisonment for 5 years or more (a *serious offence*); and
- (b) the person is alleged to have committed the offence while on bail for another serious offence (or a number of offences including a serious offence).
- 15 (2) A court or an authorised officer must not grant bail to the accused person unless satisfied that special or exceptional circumstances exist justifying the grant of bail.
- (3) However, even if special or exceptional circumstances are established, the court or officer must refuse bail if satisfied that
- 20 refusal is justified having regard to—
- (a) if the accused person is an adult—the matters mentioned in section 22 (Criteria for granting bail to adults); or
- (b) if the accused person is a child—the matters mentioned in section 23 (Criteria for granting bail to children).
- 25 (4) Also, if a serious offence mentioned in subsection (1) (a) or (b) is a domestic violence offence, an authorised person must refuse bail to the accused person if satisfied that refusal is required by section 8A (Bail by authorised officer—domestic violence offences).

Section 13

(5) This section does not prevent the application of section 8A to the accused person if—

(a) a serious offence mentioned in subsection (1) (a) or (b) is a domestic violence offence; and

5 (b) an authorised person grants bail to the accused person.

13 Dispensing with bail
New section 10 (5)

insert

10 (5) A court must not dispense with the requirement for bail for an accused person to whom either of the following sections apply unless satisfied that special or exceptional circumstances exist justifying dispensing with the requirement:

(a) section 9 (Bail for persons sentenced to imprisonment);

15 (b) section 9A (Bail for serious offence committed while on bail for another serious offence).

14 Determination of bail after charge laid
Section 13 (1) (d) (i)

substitute

(i) the applicable bail criteria; and

20 **15 Determination of questions of bail by authorised officers**
Section 15 (1) (b), (2) and (3)

omit

25 the matters specified in whichever of subsection 8A (1) and sections 22 and 23 applies to the making of a determination regarding the granting of bail to the accused person

substitute

the applicable bail criteria

16 Failure to answer bail
Section 49*substitute***49 Failure to answer bail**

- 5 (1) If a person who has given an undertaking to appear before a court fails to carry out the undertaking, that court may issue a warrant to arrest the person and to bring the person before the court (or a court with the same jurisdiction).
- 10 (2) A person who has given an undertaking to appear before a court must not, without reasonable excuse, fail to carry out the undertaking.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Part 3 Amendment of Crimes Act 1900

17 Act amended

5 This part amends the *Crimes Act 1900*.

18 Warrants for arrest New section 349ZD (4)

insert

10 (4) This section does not apply to the issue of a warrant under the *Bail Act 1992*, section 49 (1) (Failure to answer bail).

Endnotes

Bail Act 1992

1 Republished as in force on 1 January 1997. See also Acts 1997 Nos 22 and 96; 1998 No 39; 1999 Nos 64 and 79.

Crimes Act 1900

2 Republished as in force on 10 November 1999. See also Acts 1999 Nos 71, 79 and 91; 2000 Nos 3, 56, 58, 66 and 85.

Penalty units

3 The *Interpretation Act 1967*, s 33AA deals with the meaning of offence penalties that are expressed in penalty units.