

1995

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes (Amendment) Bill (No. ³~~4~~) 1995

**A BILL
FOR**

An Act to amend the *Crimes Act 1900*

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

Short title

- 5 1. This Act may be cited as the *Crimes (Amendment) Act (No. ³~~4~~) 1995*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

10 (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

Principal Act

3. In this Act, "Principal Act" means the *Crimes Act 1900*.¹

Interpretation

4. Section 4 of the Principal Act is amended by inserting in subsection (1) the following definition:

“ ‘medical practitioner’ means a person—

- 5 (a) who is registered under the *Medical Practitioners Act 1930*; or
- (b) who is to be deemed to be registered under that Act by virtue of section 25 of the *Mutual Recognition Act 1992* of the Commonwealth;”.

10 Insertion

5. After Part IIIA of the Principal Act the following Part is inserted:

“PART IIIB—FEMALE GENITAL MUTILATION**Interpretation**

“92V. In this Part—

15 ‘female genital mutilation’ means—

- (a) clitoridectomy or the excision of any other part of the female genital organs;
- (b) infibulation or similar procedure; or
- (c) any other mutilation of the female genital organs.

20 Prohibition of female genital mutilation

“92W. (1) A person shall not intentionally perform female genital mutilation on another person.

Penalty: Imprisonment for 15 years.

25 “(2) It is not a defence to a prosecution for an offence under this section that the person on whom the female genital mutilation was performed, or a parent or guardian of that person, consented to the mutilation.

Removal of child from Territory for genital mutilation

30 “92X. (1) A person shall not take a child from the Territory, or arrange for a child to be taken from the Territory, with the intention of having female genital mutilation performed on the child.

Penalty: Imprisonment for 7 years.

“(2) In proceedings for an offence against subsection (1), if it is proved that—

- (a) the defendant took a child, or arranged for a child to be taken, from the Territory; and
- 5 (b) female genital mutilation was performed on the child while outside the Territory;

it will be presumed, in the absence of proof to the contrary, that the defendant took the child, or arranged for the child to be taken, from the Territory with the intention of having female genital mutilation performed on
10 the child.

“(3) In this section—

‘child’ means a person under the age of 18 years.

Exception—medical procedures for genuine therapeutic purposes

15 “92Y. (1) It is not an offence under this Part to perform a medical procedure that has a genuine therapeutic purpose or to take a person, or arrange for a person to be taken, from the Territory with the intention of having such a procedure performed on the person.

“(2) A medical procedure has a genuine therapeutic purpose only if—

- 20 (a) performed on a person in labour, or who has just given birth, and for medical purposes connected with that labour or birth, by a medical practitioner or midwife; or
- (b) necessary for the health of the person on whom it is performed and it is performed by a medical practitioner.

25 “(3) A medical procedure that is performed as, or as part of, a cultural, religious or other social custom is not of itself to be regarded as being performed for a genuine therapeutic purpose.

“(4) In paragraph (2) (a)—

‘midwife’ means a person—

- 30 (a) registered as a midwife under the *Nurses Act 1988*; or
- (b) deemed to be registered as a midwife under that Act by virtue of section 25 of the *Mutual Recognition Act 1992* of the Commonwealth.

Exception—sexual reassignment procedures

35 “92Z. (1) It is not an offence under this Part to perform a sexual reassignment procedure or to take, or arrange for a person to be taken, from

the Territory with the intention of having such a procedure performed on the person.

“(2) In subsection (1)—

- 5 ‘sexual reassignment procedure’ means a surgical procedure performed
by a medical practitioner to give a female person, or a person
whose sex is ambivalent, the genital appearance of a person of the
opposite sex or of a particular sex (whether male or female).”.

Interpretation

- 10 6. Section 349AA of the Principal Act is amended by omitting the
definition of “medical practitioner”.

NOTE

Principal Act

1. Reprinted as at 31 January 1994. See also Acts Nos. 38, 46, 75, 84, 86, 97 and 98, 1994; Nos 2, 3 and #, 1995.