

2002

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Police, Emergency Services and Corrections)

Rehabilitation of Offenders (Interim) Amendment Bill 2002 (No 2)

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Rehabilitation of Offenders (Interim) Amendment Bill 2002 (No 2)

A Bill for

An Act to amend the *Rehabilitation of Offenders (Interim) Act 2001*, and
for related purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Rehabilitation of Offenders (Interim) Amendment Act*
4 *2002 (No 2)*.

5 **2 Commencement**

6 (1) This Act, other than section 23 (Time held in custody to count),
7 commences on the day after its notification day.

8 *Note* The naming and commencement provisions automatically commence on
9 the notification day (see Legislation Act, s 75 (1)).

10 (2) Section 23 commences 3 months after this Act's notification day.

1 **Part 2** **Rehabilitation of Offenders**
2 **(Interim) Act 2001**

3 **3 Act amended—pt 2**

4 This part amends the *Rehabilitation of Offenders (Interim) Act 2001*.

5 *Note* Additional amendments of other Acts are included in pt 3.

6 **4 Arrest with warrant of person subject to home detention**
7 **order**
8 **Section 22 (1) and (2)**

9 *omit*

10 apprehension

11 *substitute*

12 arrest

13 **5 Section 22 (3)**

14 *omit*

15 apprehended

16 *substitute*

17 arrested

6 Section 42*substitute***42 Victim to be told of decision to make parole order etc**

(1) This section applies if the board decides to make, or not to make, a parole order for a sentenced offender and—

(a) a victim of the offender has made a submission to the board under division 3.3.3 (Making decisions about release on parole) about the release of the offender on parole; or

(b) the board is aware of concerns expressed by or on behalf of a victim of the offender about the need for protection of the victim, or the victim's family, from violence or harassment by the offender; or

(c) details of a victim of the offender are entered in the victims register.

(2) The board must take all reasonable steps to tell the victim, as soon as is practicable, about—

(a) the board's decision; and

(b) if the board decides to make a parole order—

(i) the date the sentenced offender is to be released on parole; and

(ii) the offender's obligations under the parole order.

7 Board to seek views of victims
Section 46 (1)

substitute

- (1) Before considering whether or not a sentenced offender should be released on parole, the board must take all reasonable steps to contact each victim of the offender whose details are entered in the victims register.

8 Arrest of parolee with warrant
Section 54 (1)

substitute

- (1) If a judicial officer is satisfied by information on oath that there are reasonable grounds for believing that a sentenced offender who is subject to a parole order has breached the offender's obligations under the order, the judicial officer may issue a warrant for the offender's arrest.

9 Section 54 (2) (d)

omit

apprehension

substitute

arrest

10 Section 54 (3)

omit

apprehended

substitute

arrested

1 **11 Section 56, new heading**

2 *substitute*

3 **56 Warrant remanding parolee in custody on adjournment**

4 **12 Revocation of parole orders**
5 **Section 58 (4)**

6 *substitute*

- 7 (4) If, under subsection (3) (b), the board imposes an additional
8 condition on the parole order or amends an existing additional
9 condition imposed by the board on the order, the board may, for
10 giving effect to the condition or amended condition and by warrant,
11 remand the offender in custody until a stated date or the happening
12 of a stated event.
- 13 (5) The board must not remand the sentenced offender in custody under
14 this section—
- 15 (a) more than once for the same breach; or
- 16 (b) for longer than 30 days for a breach.
- 17 (6) The day when the board remands the sentenced offender, and the
18 stated day or the day the stated event happens, are both counted for
19 subsection (5).
- 20 (7) If the board takes action under subsection (1), (3) or (4), the board
21 must—
- 22 (a) record its reasons for taking the action in the minutes of the
23 board; and
- 24 (b) give the sentenced offender a copy of the reasons.

13 Sections 59 and 60*substitute***59 Date of effect of revocation of parole order**

(1) An order revoking a parole order for a sentenced offender takes effect on the day the order is made.

(2) However, if the parole order has ended (otherwise than because it has been revoked) and the board is satisfied that the sentenced offender breached the offender's obligations under the order, an order revoking the order takes effect on the date stated in the order.

Note Section 43 (3) deals with the effect of revoking a parole order with effect from a date before the end of parole.

(3) For subsection (2), the day stated in the order must be—

- (a) the date when it appears to the board that the offender breached the offender's obligations; or
- (b) if the board is satisfied that the sentenced offender breached the offender's obligations under the order on 2 or more separate days—the date when it appears to the board that the offender first breached the obligations.

14 Parole order revoked if parolee sentenced to imprisonment
Section 61 (a)*substitute*

- (a) convicted of an offence (including an offence against the law of the Commonwealth, a State or another Territory) committed during the parole period; and

1 **15 New section 62A**

2 *insert in part 3.4*

3 **62A Warrant by board committing parolee to prison**

4 (1) This section applies if the board—

5 (a) revokes a parole order for a sentenced offender under
6 section 58 (Revocation of parole orders); or

7 (b) is satisfied that a parole order for a sentenced offender has
8 been automatically revoked under section 61 (Parole order
9 revoked if parolee sentenced to imprisonment) or section 62
10 (Parole order revoked if former parolee sentenced to
11 imprisonment for offence committed while order in force).

12 (2) A judicial member or the secretary must issue a warrant committing
13 the sentenced offender to prison for the relevant period of
14 imprisonment.

15 **16 New section 72A**

16 *insert in part 4.1*

17 **72A Delegation of chairperson's functions**

18 The chairperson may delegate to a deputy chairperson the
19 chairperson's functions under the following provisions:

20 (a) section 49 (1) (Further consideration by board of release of
21 offender on parole);

22 (b) section 72 (1) (Divisions of board);

23 (c) section 73 (2) (Time and place of board meetings);

24 (d) section 74 (Conduct of board proceedings).

25 *Note* For the making of delegations and the exercise of delegated functions,
26 see Legislation Act, pt 19.4.

17 Sentenced offenders to appear before board
Section 84 (4) (c)

omit

apprehension

substitute

arrest

18 Section 84 (5)

omit

apprehended

substitute

arrested

19 New sections 93A and 93B

insert in part 4.4

93A Protection from liability for board members and secretary

(1) A person who is, or has been, a member of the board or the secretary is not civilly liable for an act or omission done honestly in the exercise, or purported exercise, of a function under this Act.

(2) Any liability that would, apart from subsection (1), attach to a person attaches to the Territory.

93B Protection of witnesses etc

(1) A lawyer representing a sentenced offender, or someone else representing a sentenced offender with the board's consent, at a hearing of the board has the same protection as a barrister has in appearing for a party in a proceeding in the Supreme Court.

- 1 (2) A witness in a proceeding before the board has the same protection
2 as a witness in a proceeding in the Supreme Court.

3 **20 Security of information**
4 **Section 96**

5 *substitute*

6 **96 Security of information**

- 7 (1) The board or the secretary must not disclose to an offender a
8 document, or any part of a document, containing any of the
9 following details about a victim of the offender:
- 10 (a) the victim's home or business address;
- 11 (b) any email address for the victim;
- 12 (c) any contact telephone or fax number for the victim.
- 13 (2) This Act does not require a person to be given a copy of a
14 document, or any part of a document, if there is, in a judicial
15 member's opinion, a substantial risk that giving it to a person
16 would—
- 17 (a) adversely affect the security, discipline or good order of a
18 prison or remand centre; or
- 19 (b) jeopardise the conduct of any lawful investigation; or
- 20 (c) endanger the person or anyone else; or
- 21 (d) prejudice the public interest.

Part 3 Additional amendments

Division 3.1 Crimes Act 1900

21 Act amended—div 3.1

This division amends the *Crimes Act 1900*.

22 When sentence takes effect Section 352, new note

insert

Note Section 360 deals with how time spent by an offender in custody for an offence is to be taken as a period of imprisonment served for the offence.

23 Time held in custody to count Section 360 (1)

substitute

(1) When a court sentences an offender to a term of imprisonment for an offence, the court must—

(a) count any period when the offender was held in custody in relation to proceedings for that offence, or proceedings arising from those proceedings, as a period of imprisonment already served under the sentence; and

(b) state in the sentence the period counted under paragraph (a).

1 **Division 3.2 Remand Centres Act 1976**

2 **24 Act amended—div 3.2**

3 This division amends the *Remand Centres Act 1976*.

4 **25 Persons who may be detained**
5 **Section 15 (1) (q) (ii)**

6 *substitute*

7 (ii) is under arrest or remanded in custody in relation to the
8 person's parole.

Endnote

Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.