

2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Crimes Legislation Amendment Bill 2011

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# **Crimes Legislation Amendment Bill 2011**

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## **A Bill for**

An Act to amend legislation about self-defence and sentencing

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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 *Crimes Legislation Amendment Act 2011*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

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

8 **3 Legislation amended**

9 This Act amends the following legislation:

- 10 • *Crimes Act 1900*  
11 • *Crimes (Sentencing) Act 2005*  
12 • *Criminal Code 2002*.

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1       **Part 2**                               **Crimes Act 1900**

2       **4**       **New section 293**

3               *insert*

4       **293**       **Self-defence—limited if defendant under police restraint**

5               (1) A plea of self-defence may not be raised in a proceeding for an  
6               offence against a law in force in the ACT, to which the Criminal  
7               Code does not apply, where the defendant believed on reasonable  
8               grounds that an act making up the offence was necessary to prevent  
9               or end the unlawful imprisonment of the defendant, or someone  
10              else, if—

11              (a) the imprisonment perceived as unlawful by the defendant was  
12              because of the defendant's, or other person's, restraint by a  
13              police officer; and

14              (b) it was reasonably clear that the person carrying out the restraint  
15              was a police officer.

16              (2) Subsection (1) does not apply to an act that happened before the  
17              commencement of this section.

18              (3) Subsection (2) and this subsection expire 5 years after the day this  
19              section commences.

20              (4) In this section:

21               *direction*, given to a person by a police officer, means a direction  
22               that is given by the officer in the honest belief that the direction  
23               could be lawfully given.

24               *restraint* includes any restriction on a person's liberty because the  
25               person is under arrest or has been given a direction by a police  
26               officer that requires the person to remain in the custody of, or at a  
27               place in accordance with a direction of, a police officer until a police  
28               officer rescinds the direction.

- 1                   **Examples—restraint**
- 2                   1    detention for breath analysis (see *Road Transport (Alcohol and Drugs)*
- 3                                    *Act 1977*, s 11)
- 4                   2    a direction to remain at a place while roadside drug screening test carried out
- 5                                    (see *Road Transport (Alcohol and Drugs) Act 1977*, s 13A)
- 6                   *Note*     An example is part of the Act, is not exhaustive and may extend, but
- 7                                    does not limit, the meaning of the provision in which it appears (see
- 8                                    Legislation Act, s 126 and s 132).
- 9                   ***under arrest*** means arrested by a police officer holding the honest
- 10                                   belief that the arrest could be lawfully made.





