

2020

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes Legislation Amendment Bill 2020

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Crimes Legislation Amendment Bill 2020

A Bill for

An Act to amend legislation about crimes, and for other 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 *Crimes Legislation Amendment Act 2020*.

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 • [Confiscation of Criminal Assets Act 2003](#)
- 11 • [Crimes \(Sentence Administration\) Act 2005](#)
- 12 • [Criminal Code 2002](#)
- 13 • [Magistrates Court Act 1930](#).

1 **Part 2** **Confiscation of Criminal Assets**
2 **Act 2003**

3 **4 Making of exclusion orders—ordinary offences**
4 **Section 76 (1) (a)**

5 *after*

6 applied for

7 *insert*

8 under section 26 (Restraining orders over other property—
9 application)

10 **5 Section 76 (1) (b)**

11 *after*

12 (but not forfeited)

13 *insert*

14 under an order under section 31 (Restraining orders over other
15 property—making)

16 **6 Making of exclusion orders—serious offences**
17 **Section 77 (1) (a)**

18 *after*

19 applied for

20 *insert*

21 under section 26 (Restraining orders over other property—
22 application)

1 **7 Section 77 (1) (b)**

2 *after*

3 (but not forfeited)

4 *insert*

5 under an order under section 31 (Restraining orders over other

6 property—making)

1 **Part 3** **Crimes (Sentence**
2 **Administration) Act 2005**

3 **8** **Corrections officers to report breach of intensive**
4 **correction order obligations**
5 **Section 59 (2)**

6 *substitute*

- 7 (2) The corrections officer must report the belief to—
8 (a) the board; or
9 (b) if the belief is that the offender was convicted or found guilty of
10 an offence mentioned in section 65 (1) by a court other than an
11 ACT court—the sentencing court.

12 **9** **Arrest without warrant—breach of intensive correction**
13 **order obligations**
14 **Section 60 (3) and (4)**

15 *substitute*

- 16 (3) A police officer who arrests an offender under this section must, as
17 soon as practicable, bring the offender before—
18 (a) the board; or
19 (b) if section 65 would apply because of the breach—the sentencing
20 court.
21 (4) However, if the board or sentencing court is not sitting, the police
22 officer must, as soon as practicable, bring the offender before a
23 magistrate for a decision in relation to bail until the offender can be
24 brought before the board or sentencing court.

25 *Note* For remanding or granting bail to the offender, see the *Bail Act 1992*.

1 **10 Arrest warrant—breach of intensive correction order**
2 **obligations**
3 **Section 61 (2) (d)**

4 *after*
5 the board
6 *insert*
7 or sentencing court

8 **11 Section 61 (3) and note**

- 9 *substitute*
- 10 (3) A police officer who arrests the offender under the warrant must, as
11 soon as practicable, bring the offender before—
- 12 (a) the board; or
- 13 (b) if section 65 would apply because of the breach—the sentencing
14 court.
- 15 (4) However, if the board or sentencing court is not sitting, the police
16 officer must, as soon as practicable, bring the offender before a
17 magistrate for a decision in relation to bail until the offender can be
18 brought before the board or sentencing court.

19 *Note* For remanding or granting bail to the offender, see the *Bail Act 1992*.

20 **12 Board inquiry—breach of intensive correction order**
21 **obligations**
22 **Section 62 (3), note**

23 *substitute*

24 *Note* Section 65 requires a court to cancel the offender's intensive correction
25 order in certain circumstances.

1 **13 Board powers—breach of intensive correction order**
2 **obligations**
3 **Section 64 (2) (c), note**

4 *substitute*

5 *Note* Section 65 requires a court to cancel the offender's intensive correction
6 order in certain circumstances and s 66 requires the board to cancel the
7 order if the offender withdraws consent.

8 **14 Cancellation of intensive correction order on further**
9 **conviction etc**
10 **New section 65 (2A) and (2B)**

11 *insert*

12 (2A) If the offender is convicted or found guilty of an offence mentioned
13 in subsection (1) by the Supreme Court and the intensive correction
14 order was made by the Magistrates Court, the Supreme Court is taken
15 to be the sentencing court for this section.

16 (2B) If the offender is convicted or found guilty of an offence mentioned
17 in subsection (1) by the Magistrates Court and the intensive
18 correction order was made or amended by the Supreme Court—

19 (a) the Supreme Court is taken to be the sentencing court for this
20 section; and

21 (b) the Magistrates Court—

22 (i) must, in addition to dealing with the offender for the
23 offence mentioned in subsection (1), commit the offender
24 to the Supreme Court to be dealt with in accordance with
25 subsection (2); and

26 (ii) may remand the offender in custody until the offender can
27 be brought before the Supreme Court.

28 *Note* For remanding or granting bail to the offender, see the *Bail*
29 *Act 1992*.

1 **15 New section 65 (6)**

2 *insert*

3 (6) If the offender is convicted or found guilty of an offence mentioned
4 in subsection (1) by a court other than an ACT court, the board must
5 refer the offender to the sentencing court as soon practicable after
6 becoming aware of the conviction or finding of guilt.

1 **Part 4** **Criminal Code 2002**

2 **16** **Serious vilification**
3 **Section 750 (2), definition of *threatening act*,**
4 **paragraph (a)**

5 *omit*

6 (vi)

7 *substitute*

8 (vii)

1 **Part 5** **Magistrates Court Act 1930**

2 **17** **Institution of appeal**
3 **Section 209 (1)**

4 *substitute*

- 5 (1) An appeal must be instituted by the appellant filing a notice of appeal
6 in the office of the registrar of the Supreme Court—
- 7 (a) for an appeal mentioned in section 208 (1) (b)—within 28 days
8 after the sentence or penalty is imposed in relation to the
9 conviction, or within any further time the Supreme Court
10 allows; and
- 11 (b) for any other appeal—within 28 days after the order or decision
12 is made, or the sentence or penalty is imposed, or within any
13 further time the Supreme Court allows.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 3 December 2020.

2 Notification

Notified under the [Legislation Act](#) on 2020.

3 Republications of amended laws

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

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