

2001

**THE LEGISLATIVE ASSEMBLY OF THE  
AUSTRALIAN CAPITAL TERRITORY**

**CRIMES LEGISLATION AMENDMENT BILL 2001**

**SUPPLEMENTARY EXPLANATORY MEMORANDUM**

Circulated by authority of the Attorney-General  
Bill Stefaniak MLA

## Crimes Legislation Amendment Bill 2000 – Government amendments

### Amendment 1

This amendment inserts new clause 37A into the Bill. This clause will increase the penalty for the offence of indecent exposure. The existing maximum penalty for the offence of indecent exposure is \$1000. This is not an adequate penalty for more serious instances of indecent exposure, including repeat offending. The amendment makes imprisonment an option that is available to the court when sentencing an offender for this offence.

### Amendment 2

This amendment inserts new part 4A into the Bill. This new part contains amendments to the *Crimes (Forensic Procedures) Act 2000*. These amendments are intended to ensure that differences between Australian jurisdictions in the ways that they have chosen to legislate in relation to the DNA database do not preclude effective datasharing and datamatching across jurisdictions. Although the ACT's legislation was modelled very closely on the MCCOC Model Forensic Procedures Bill, other jurisdictions have legislated in a different way and therefore the ACT's provisions dealing with those other jurisdictions' laws need to be revised to accommodate these differences.

New clause 42B affects section 94 of the *Crimes (Forensic Procedures) Act 2000*. Section 94 will be replaced with a new section 94, which contains definitions relevant to the DNA database system. This new section reproduces most of the content of old section 94, but deals with data collected under other jurisdictions' laws in a different way. Old section 94 included references to things done or occurring under "a corresponding law of a participating jurisdiction". To avoid any doubts as to whether a law of another jurisdiction is or is not a "corresponding law", new section 94 contains new definitions of "corresponding DNA index" and "corresponding statistical index". These definitions make it clear that it is not necessary for the law under which those indexes are maintained to be "corresponding laws" in order for those indexes to be regarded as corresponding indexes.

New section 94 also amends the definitions of "crime scene index", "DNA database system", "serious offenders index", "statistical index", "suspects index", "unknown deceased person's index", "volunteers (limited purposes) index" and "volunteers (unlimited purpose) index" to make it clear that these definitions include indexes maintained by other jurisdictions which have been prescribed (by regulations) for the purposes of these definitions.

New clause 42C of the Bill amends section 95(1)(a) of the *Crimes (Forensic Procedures) Act 2000*. The effect of the amendment is to replace a reference to "a corresponding law of a participating jurisdiction" with a reference to "a law of another jurisdiction prescribed for this subsection". The purpose of the amendment is to ensure that the provision can apply to things done under a

law of another jurisdiction even where that jurisdiction has decided to legislate in a different way than the ACT chose to legislate.

Similarly, new clause 42D amends section 95(3) to remove references to "corresponding laws" and replace them with references to "laws of another jurisdiction prescribed for this definition".

New clause 42E amends section 100 of the *Crimes (Forensic Procedures) Act 2000* to amend the definition of "corresponding law" and "DNA database" so that these definitions include laws of other jurisdictions which are prescribed for the purposes of these definitions.

### **Amendment 3**

This amends the heading on page 33 of the Bill to replace a reference to "2000" with "2001", to reflect the fact that new Road Transport Regulations have been made since the Bill was introduced.

### **Amendment 4**

This amendment affects clause 63, and replaces a reference to "2000" with "2001".

### **Amendment 5**

This amendment updates a reference to the Schedule to the Road Transport (Offences) Regulations.