

1997

**LEGISLATIVE ASSEMBLY  
FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**CRIMES (AMENDMENT) BILL 1997**

**EXPLANATORY MEMORANDUM**

**Circulated by authority of**

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**Attorney-General**

## CRIMES (AMENDMENT) BILL 1997

### OUTLINE

This Bill amends the *Crimes Act 1900* to clarify and revise police search powers and to expand the sentencing principle relating to guilty pleas.

### FINANCIAL IMPACT

The Bill will have no financial impact on Australian Capital Territory expenditure.

### NOTES ON CLAUSES

#### **Clauses 1, 2 and 3**

These clauses are formal provisions that specify the short title of the Bill; provide for commencement; and identify the Act being amended (the Principal Act) as the *Crimes Act 1900*.

#### **Clause 4: *Interpretation – Definition of ‘ordinary search’:***

This clause inserts a reference to ‘socks’ into the list of articles which a person may be required to remove in the conduct of an ‘ordinary search’ as defined in section 349AA of the Principal Act.

#### **Clause 5: *Power to conduct ordinary search of arrested person***

This clause amends section 349ZJ so that any police officer may conduct an ordinary search at or near the scene of the arrest. This is because it is not always possible for the police officer who arrests or is present at an arrest to be also available to conduct the ordinary search envisaged by this section.

#### **Clause 6: *Power to conduct search at police station.***

This clause amends section 349ZL to widen the range of circumstances when a frisk search or an ordinary search may be carried out at a police station. This is to take account of a number of situations where a person is in police custody and the arrest took place some time before: for example, prisoners transferred from a remand centre or from another prison.

**Clause 7: *Safekeeping of things seized***

This clause inserts a new section 349ZO to provide that, when police search a person in lawful custody and seize items from that person, the police are to make a record of those items, hold the items in safekeeping and, when the person is released from custody, return the items to the person unless they are required as evidence. Where the items are retained, the person is to be given a copy of the record indicating that.

**Clause 8: *Matters to which court to have regard***

This clause amends paragraph 429A(1)(u) to provide that a court, in determining a sentence, may take account of the time at which a person pleaded guilty as well as the fact of a guilty plea.