

2015

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

COURTS LEGISLATION AMENDMENT BILL 2015
Amendments to be moved by the Attorney-General

SUPPLEMENTARY EXPLANATORY STATEMENT

Presented by
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Attorney-General

COURTS LEGISLATION AMENDMENT BILL 2015

Purpose of the Bill

The Bill will amend several pieces of legislation to make practical improvements to the courts and coronial systems in the ACT.

The legislation amended includes the *Magistrates Court Act 1930*, *Coroners Act 1997*, *Court Procedures Act 2004*, *Supreme Court Act 1933* and the *Oaths and Affirmations Act 1984*.

Background

Clause 25 of the Bill inserts a new division 8.3 (Pre-trial disclosure of expert evidence) into the Court Procedures Act.

The effect of this division is to require expert evidence that would be presented during the trial to be disclosed prior to the trial to ensure both parties have knowledge of what will be adduced and reduce the likelihood of adjournments to consider new expert evidence once the trial has commenced. This division does not affect privileges that apply to an accused person (such as privilege against self-incrimination) as it only applies to expert evidence that the accused person intends to rely on during the trial.

Following presentation of the Bill, further discussions with stakeholders have resulted in the development of a new section 79F for insertion in clause 25 of the Bill. This new section provides that a statement about any matter that is made by or on behalf of the accused for the purposes of complying with the requirements of division 8.3 does not constitute an admission of that matter by the accused.

Human Rights considerations

The amendments requiring pre-trial disclosure of expert evidence by both parties do not limit the right to a fair trial. A discussion of this is set out in the Explanatory Statement to the Bill. The amendment in section 79F does not raise any new human rights considerations.

Clause notes

Clause 25

Section 79F (Miscellaneous) provides that a statement about any matter that is made by or on behalf of the accused person for the purposes of complying with requirements for pre-trial disclosure imposed by or under division 8.3 does not constitute an admission of that matter by the accused person.

The protection afforded the accused person, by this provision, relates to a statement about a matter made by or on behalf of the person for the purposes of complying with division 8.3 pre-trial disclosure requirements only.

The new provision doesn't prevent a statement recorded in expert evidence, such as in a psychological report, from constituting an admission, where the report is disclosed by the accused person, for the purposes of division 8.3, as expert evidence the accused person proposes to adduce. In this situation, the statement in the report has not been made for the purposes of complying with pre-trial disclosure requirements.