

2005

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Mr Bill Stefaniak)

# Sentencing and Corrections Reform Amendment Bill 2005

## Contents

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	Page
<b>Part 1</b>	
<b>Preliminary</b>	
1 Name of Act	2
2 Commencement	2
<b>Part 2</b>	
<b>Crimes Act 1900</b>	
3 Legislation amended—pt 2	3
4 Offences against Act—application of Criminal Code etc Section 7A, note 1	3
5 Manslaughter Section 15 (2)	3

## Contents

	Page
6 Intentionally inflicting grievous bodily harm Section 19	3
7 Recklessly inflicting grievous bodily harm Section 20	4
8 Wounding Section 21	4
9 Assault with intent to commit certain indictable offences Section 22	4
10 Acts endangering life etc Section 27 (3)	4
11 Section 27 (4)	5
12 Acts endangering health etc Section 28 (2)	5
13 Culpable driving of motor vehicle Section 29 (2)	5
14 Section 29 (3)	5
15 Section 29 (8) (a)	6
16 Possession of object with intent to kill etc Section 33	6
17 New sections 35A to 35C	6
18 Abduction of young person Section 37	10
19 Neglect etc of children Section 39 (1), penalty	10
20 Section 39 (3), penalty	11
21 Alternative verdicts for certain offences against the person Table 49, item 10	11
22 Table 49, item 11	11
23 Table 49, new items	11
24 Sexual assault in the first degree Section 51 (1)	12
25 Section 51 (2)	12
26 Sexual assault in the second degree Section 52 (1)	12
27 Section 52 (2)	12
28 Sexual assault in the third degree Section 53 (1)	13
29 Section 53 (2)	13

	Page
30 Sexual intercourse without consent Section 54 (1)	13
31 Section 54 (2)	13
32 Sexual intercourse with young person Section 55 (1)	14
33 Maintaining a sexual relationship with young person Section 56 (5)	14
34 Act of indecency in the first degree Section 57	14
35 Act of indecency in the second degree Section 58	14
36 Acts of indecency with young people Section 61 (1)	15
37 Abduction Section 63	15
38 Possessing child pornography Section 65 (1), penalty	15
39 Using the Internet etc to deprave young people Section 66 (1), penalty, paragraph (a)	15
40 Section 66 (1), penalty, paragraph (b)	16
41 Section 66 (2), penalty	16
42 Aiding prisoner to escape Section 159	16
43 Escaping Section 160	16
44 Accessory after the fact Section 181 (a)	17
45 Summary disposal of certain cases Section 375 (1) (b)	17
46 Section 375 (2) (c)	17
47 Section 375 (10)	17
48 Section 375 (11)	18
<b>Part 3 Criminal Code 2002</b>	
49 Legislation amended—pt 3	19
50 New section 318A	19

## Contents

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		Page
51	False accounting Section 350 (1), penalty	20
52	False statement by officer of body Section 351 (1), penalty	20

2005

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FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Mr Bill Stefaniak)

# **Sentencing and Corrections Reform Amendment Bill 2005**

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## **A Bill for**

An Act to reform the law about sentencing and corrections, and for other purposes

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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 *Sentencing and Corrections Reform Amendment*  
4 *Act 2005*.

5 **2 Commencement**

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

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

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## Part 2 Crimes Act 1900

### 3 Legislation amended—pt 2

This part amends the *Crimes Act 1900*.

### 4 Offences against Act—application of Criminal Code etc Section 7A, note 1

*insert*

- s 35A (Assault, stalking etc of police officer)
- s 35B (Obtaining personal information about police officer)
- s 35C (Stalking etc person associated with police officer)

### 5 Manslaughter Section 15 (2)

*omit*

20 years

*substitute*

25 years

### 6 Intentionally inflicting grievous bodily harm Section 19

*omit*

15 years

*substitute*

20 years

Section 7

---

1 **7 Recklessly inflicting grievous bodily harm**  
2 **Section 20**

3 *omit*

4 10 years

5 *substitute*

6 15 years

7 **8 Wounding**  
8 **Section 21**

9 *omit*

10 5 years

11 *substitute*

12 15 years

13 **9 Assault with intent to commit certain indictable offences**  
14 **Section 22**

15 *omit last mention of*

16 5 years

17 *substitute*

18 10 years

19 **10 Acts endangering life etc**  
20 **Section 27 (3)**

21 *omit*

22 10 years

23 *substitute*

24 20 years



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1	<b>11</b>	<b>Section 27 (4)</b>
2		<i>omit</i>
3		15 years
4		<i>substitute</i>
5		25 years
6	<b>12</b>	<b>Acts endangering health etc</b>
7		<b>Section 28 (2)</b>
8		<i>omit</i>
9		5 years
10		<i>substitute</i>
11		10 years
12	<b>13</b>	<b>Culpable driving of motor vehicle</b>
13		<b>Section 29 (2)</b>
14		<i>omit</i>
15		7 years
16		<i>substitute</i>
17		15 years
18	<b>14</b>	<b>Section 29 (3)</b>
19		<i>omit</i>
20		4 years
21		<i>substitute</i>
22		10 years

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- 1 **15 Section 29 (8) (a)**
- 2 *substitute*
- 3 (a) the liability of a person to be convicted of murder or
- 4 manslaughter or any other offence; or
- 5 **16 Possession of object with intent to kill etc**
- 6 **Section 33**
- 7 *omit*
- 8 5 years
- 9 *substitute*
- 10 10 years
- 11 **17 New sections 35A to 35C**
- 12 *insert*
- 13 **35A Assault, stalking etc of police officer**
- 14 (1) A person commits an offence if—
- 15 (a) the person assaults or stalks, harasses or intimidates another
- 16 person; and
- 17 (b) the other person is a police officer acting in the course of the
- 18 officer's duty.
- 19 Maximum penalty: imprisonment for 7 years.
- 20 (2) A person commits an offence if—
- 21 (a) the person assaults another person, and by the assault occasions
- 22 actual bodily harm; and

- 1 (b) the other person is a police officer acting in the course of the  
2 officer's duty.
- 3 Maximum penalty: imprisonment for 7 years.
- 4 (3) A person commits an offence if—
- 5 (a) either—
- 6 (i) the person wounds another person; or
- 7 (ii) the person assaults another person, and by the assault  
8 occasions grievous bodily harm; and
- 9 (b) the other person is a police officer acting in the course of the  
10 officer's duty.
- 11 Maximum penalty: imprisonment for 20 years.
- 12 (4) Strict liability applies to subsections (1) (b), (2) (b) and (3) (b).
- 13 (5) For this section, an action is taken to be done to a police officer  
14 acting in the course of the officer's duty, even if the officer is not on  
15 duty at the time, if it is carried out—
- 16 (a) as a consequence of, or in retaliation for, something done by  
17 the officer in the course of the officer's duty; or
- 18 (b) because the officer is a police officer.
- 19 (6) In a prosecution for an offence against subsection (1) in relation to  
20 the stalking, harassing or intimidating of a police officer, it is not  
21 necessary to prove that the officer apprehended or feared harm or  
22 was harassed.
- 23 (7) In this section:
- 24 ***police officer*** means a member of any Commonwealth, State or  
25 Territory police force or service.
- 26 ***stalk***—see section 35 (2).

1     **35B       Obtaining personal information about police officer**

2             (1) A person commits an offence if—

3                 (a) the person obtains personal information about a police  
4                     officer—

5                         (i) as a consequence of, or in retaliation for, something done  
6                             by the officer in the course of the officer's duty; or

7                         (ii) because the officer is a police officer; and

8                 (b) the person intends to use the information, or allow its use, to  
9                     assault, stalk, harass or otherwise harm the officer.

10             Maximum penalty: imprisonment for 2 years.

11             (2) In this section:

12                 *harm*—see section 35 (6).

13                 *police officer* means a member of any Commonwealth, State or  
14                     Territory police force or service.

15                 *stalk*—see section 35 (2).

16     **35C       Stalking etc person associated with police officer**

17             (1) A person commits an offence if—

18                 (a) the person stalks someone (the *person stalked*) who is or has  
19                     been personally associated with a police officer; and

20                 (b) the person intends to cause the person stalked harm or  
21                     apprehension or fear of harm; and

22                 (c) the stalking is—

23                         (i) as a consequence of, or in retaliation for, something done  
24                             by the officer in the course of the officer's duty; or

- 1 (ii) because the officer is a police officer.
- 2 Maximum penalty: imprisonment for 7 years.
- 3 (2) A person commits an offence if—
- 4 (a) the person obtains personal information about someone who is
- 5 or has been personally associated with a police officer; and
- 6 (b) the person obtains the information—
- 7 (i) because the officer is a police officer; and
- 8 (ii) the person intends to use the information, or allow its use,
- 9 to cause the officer to fear personal harm or harm to a
- 10 person who is or has been personally associated with the
- 11 officer.
- 12 Maximum penalty: imprisonment for 2 years.
- 13 (3) Without limiting subsection (1), a person is taken to have the intent
- 14 mentioned in the subsection if the person knows that, or is reckless
- 15 about whether, stalking the other person would be likely to cause
- 16 apprehension or fear of harm in the person stalked.
- 17 (4) In a prosecution for an offence against subsection (1), it is not
- 18 necessary to prove that the person stalked apprehended or feared
- 19 harm.
- 20 (5) In this section:
- 21 ***domestic relationship***—see the *Domestic Relationships Act 1994*,
- 22 section 3 (1).
- 23 ***harm***—see section 35 (6).
- 24 ***member of the family***, of a police officer, means a parent,
- 25 step-parent, parent-in-law, grandparent, child, stepchild, grandchild,
- 26 son-in-law, daughter-in-law, brother, sister, half-brother, half-sister,
- 27 brother-in-law, sister-in-law, uncle, aunt, nephew, niece or cousin of
- 28 the officer or of a person married to, or in a domestic relationship
- 29 with, the officer.
-

Section 18

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- 1            *personally associated*—a person is *personally associated* with a  
2            police officer if the person—
- 3            (a) is married to or in a domestic relationship with the officer; or
- 4            (b) has an intimate relationship with the officer, whether or not of  
5            a sexual nature; or
- 6            (c) is living in the same household or residential facility as the  
7            officer; or
- 8            (d) is in a relationship with the officer that involves dependence or  
9            ongoing paid or unpaid care; or
- 10           (e) is a member of the family of the officer.
- 11           *police officer* means a member of any Commonwealth, State or  
12           Territory police force or service.
- 13           *stalk*—see section 35 (2).

14           **18           Abduction of young person**  
15           **Section 37**

- 16           *omit*
- 17           5 years
- 18           *substitute*
- 19           10 years

20           **19           Neglect etc of children**  
21           **Section 39 (1), penalty**

- 22           *substitute*
- 23           Maximum penalty: 500 penalty units, imprisonment for 5 years or  
24           both.

1	<b>20</b>	<b>Section 39 (3), penalty</b>	
2		<i>substitute</i>	
3		Maximum penalty: 500 penalty units, imprisonment for 5 years or	
4		both.	
5	<b>21</b>	<b>Alternative verdicts for certain offences against the</b>	
6		<b>person</b>	
7		<b>Table 49, item 10</b>	
8		<i>omit</i>	
9	<b>22</b>	<b>Table 49, item 11</b>	
10		<i>renumber as item 10</i>	
11	<b>23</b>	<b>Table 49, new items</b>	
12		<i>insert</i>	
	11	section 35A (1) (a) (Assault, stalking etc of police officer) if the offence charged is assault	section 26
	12	section 35A (1) (a) if the offence charged is stalking	section 35
	13	section 35A (2)	(a) section 23 (b) section 24 (c) section 26
	14	section 35A (3) (a) (i)	section 21
	15	section 35A (3) (a) (ii)	(a) section 20 (b) section 21 (c) section 23 (d) section 24 (e) section 25 (f) section 26

Section 24

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1 **24 Sexual assault in the first degree**  
2 **Section 51 (1)**

3 *omit*

4 17 years

5 *substitute*

6 25 years

7 **25 Section 51 (2)**

8 *omit*

9 20 years

10 *substitute*

11 life

12 **26 Sexual assault in the second degree**  
13 **Section 52 (1)**

14 *omit*

15 14 years

16 *substitute*

17 20 years

18 **27 Section 52 (2)**

19 *omit*

20 17 years

21 *substitute*

22 25 years



1 **28 Sexual assault in the third degree**  
2 **Section 53 (1)**

3 *omit*

4 12 years

5 *substitute*

6 15 years

7 **29 Section 53 (2)**

8 *omit*

9 14 years

10 *substitute*

11 18 years

12 **30 Sexual intercourse without consent**  
13 **Section 54 (1)**

14 *omit*

15 12 years

16 *substitute*

17 15 years

18 **31 Section 54 (2)**

19 *omit*

20 14 years

21 *substitute*

22 18 years

Section 32

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1 **32 Sexual intercourse with young person**  
2 **Section 55 (1)**

3 *omit*

4 17 years

5 *substitute*

6 20 years

7 **33 Maintaining a sexual relationship with young person**  
8 **Section 56 (5)**

9 *omit*

10 7 years

11 *substitute*

12 10 years

13 **34 Act of indecency in the first degree**  
14 **Section 57**

15 *omit*

16 15 years

17 *substitute*

18 20 years

19 **35 Act of indecency in the second degree**  
20 **Section 58**

21 *omit*

22 12 years

23 *substitute*

24 15 years

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1	<b>36</b>	<b>Acts of indecency with young people</b>
2		<b>Section 61 (1)</b>
3		<i>omit</i>
4		12 years
5		<i>substitute</i>
6		15 years
7	<b>37</b>	<b>Abduction</b>
8		<b>Section 63</b>
9		<i>omit</i>
10		10 years
11		<i>substitute</i>
12		15 years
13	<b>38</b>	<b>Possessing child pornography</b>
14		<b>Section 65 (1), penalty</b>
15		<i>substitute</i>
16		Maximum penalty: 700 penalty units, imprisonment for 7 years or
17		both.
18	<b>39</b>	<b>Using the Internet etc to deprave young people</b>
19		<b>Section 66 (1), penalty, paragraph (a)</b>
20		<i>omit</i>
21		5 years
22		<i>substitute</i>
23		7 years

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1	<b>40</b>	<b>Section 66 (1), penalty, paragraph (b)</b>
2		<i>omit</i>
3		10 years
4		<i>substitute</i>
5		12 years
6	<b>41</b>	<b>Section 66 (2), penalty</b>
7		<i>substitute</i>
8		Maximum penalty: 200 penalty units, imprisonment for 7 years or
9		both.
10	<b>42</b>	<b>Aiding prisoner to escape</b>
11		<b>Section 159</b>
12		<i>omit</i>
13		5 years, a fine of \$10 000
14		<i>substitute</i>
15		7 years, a fine of 200 penalty units
16	<b>43</b>	<b>Escaping</b>
17		<b>Section 160</b>
18		<i>omit</i>
19		5 years, a fine of \$10 000
20		<i>substitute</i>
21		10 years, a fine of 200 penalty units

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1	<b>44</b>	<b>Accessory after the fact</b>
2		<b>Section 181 (a)</b>
3		<i>substitute</i>
4		(a) if the firstmentioned offence is the crime of murder—
5		imprisonment for life; or
6	<b>45</b>	<b>Summary disposal of certain cases</b>
7		<b>Section 375 (1) (b)</b>
8		<i>substitute</i>
9		(b) an offence punishable by imprisonment for not longer than
10		15 years.
11	<b>46</b>	<b>Section 375 (2) (c)</b>
12		<i>omit</i>
13		\$10 000
14		<i>substitute</i>
15		\$50 000
16	<b>47</b>	<b>Section 375 (10)</b>
17		<i>omit</i>
18		2 years nor impose a fine exceeding \$5 000
19		<i>substitute</i>
20		5 years nor impose a fine exceeding 100 penalty units

- 1 **48 Section 375 (11)**
- 2 *omit*
- 3 6 months nor impose a fine exceeding \$1 000
- 4 *substitute*
- 5 2 years nor impose a fine exceeding 50 penalty units

## Part 3 Criminal Code 2002

### 49 Legislation amended—pt 3

This part amends the *Criminal Code 2002*.

### 50 New section 318A

*insert*

#### 318A Carjacking

(1) A person commits an offence if the person—

- (a) assaults someone else with intent to take a motor vehicle; and
- (b) takes and drives the motor vehicle, or takes the motor vehicle for the purpose of driving it, without the consent of the owner or person in lawful possession of the motor vehicle.

Maximum penalty: imprisonment for 10 years.

(2) A person commits an offence if the person—

- (a) takes and drives a motor vehicle, or takes a motor vehicle for the purpose of driving it, without the consent of the owner or person in lawful possession of the motor vehicle; and
- (b) someone else is in or on the motor vehicle.

Maximum penalty: imprisonment for 10 years.

(3) A person commits an offence against this subsection if the person commits an offence against subsection (1) or (2) in circumstances of aggravation.

Maximum penalty: imprisonment for 14 years.

Section 51

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- 1           (4) For subsection (3), a person commits an offence in *circumstances of*  
2           *aggravation* if—  
3           (a) the person is in company with someone else; or  
4           (b) the person is armed with an offensive weapon or instrument; or  
5           (c) the person inflicts actual bodily harm on someone else.  
6           (5) In this section:  
7           *motor vehicle*—see *Road Transport (General) Act 1999*, dictionary.

8   **51       False accounting**  
9   **Section 350 (1), penalty**

10           *substitute*  
11           Maximum penalty: 1 000 penalty units, imprisonment for 10 years  
12           or both.

13   **52       False statement by officer of body**  
14   **Section 351 (1), penalty**

15           *substitute*  
16           Maximum penalty: 1 000 penalty units, imprisonment for 10 years  
17           or both.



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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2005.

**2 Notification**

Notified under the Legislation Act on 2005.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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