

TASMANIA

COSTS OF CRIMINAL CONVICTIONS BILL 2015

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COSTS OF CRIMINAL CONVICTIONS BILL 2015

*(Brought in by the Minister for Health, the Honourable
Michael Darrel Joseph Ferguson)*

A BILL FOR

An Act to recover some of the general costs of law enforcement and administration from persons sentenced for offences

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Costs of Criminal Convictions Act 2015*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Purpose of Act

The purpose of this Act is to recover some of the general costs of law enforcement and administration from persons sentenced for offences.

4. Interpretation

In this Act –

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court has the same meaning as in the *Sentencing Act 1997*;

offender means a person who is convicted of an offence whether or not a conviction is recorded in respect of the offence;

offender levy means a levy payable under section 5(1);

sentence means any penalty or term of imprisonment ordered to be paid or served, or any other order made, by a court after an offender is convicted of an offence, whether or not a conviction is recorded in respect of the offence.

5. Levy payable to recover costs

- (1) On being sentenced for an offence, an offender must pay a levy to the Crown for the purposes of this Act.
- (2) Subsection (1) does not apply to an offender being sentenced for an offence if –
 - (a) the offender is being sentenced for the offence by the Magistrates Court (Youth Justice Division); or
 - (b) the offence was committed by the offender before the offender had attained the age of 18 years; or
 - (c) proceedings for the offence were commenced before the commencement of this Act.

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- (3) The amount of the offender levy is –
 - (a) if the offender is sentenced for the offence by a court of petty sessions, \$50;
or
 - (b) if the offender is sentenced for the offence by the Supreme Court, \$150.
- (4) An offender levy specified in subsection (3) is a fixed dollar amount and is not subject to the *Fee Units Act 1997*.
- (5) If a court sentences an offender for more than one offence in the same sentencing proceeding, only one offender levy is payable by the offender in respect of those offences.
- (6) If an offender is liable to pay the offender levy, that liability is to be entered into any record of conviction and sentence made by the court for each offence in respect of which the offender was sentenced in the same sentencing proceeding.
- (7) An offender levy payable in respect of an offence is in addition to any pecuniary penalty or order for the payment of compensation that may be imposed in respect of the offence.
- (8) In determining the sentence to be imposed for an offence, a court must not take into account the potential liability of the offender being sentenced to pay the offender levy for that offence.
- (9) For the purposes of the *Monetary Penalties Enforcement Act 2005*, an offender levy payable

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under this Act in respect of an offence may be enforced as a fine under that Act as if the sentence for the offence were an order.

6. Payment of offender levy

- (1) Unless otherwise ordered under subsection (2), an offender levy payable under this Act in respect of an offence is to be paid within 28 days after the completion of all court proceedings in respect of the offence.
- (2) A court that sentences an offender for an offence may make an order that the offender levy payable in respect of the offence is to be paid as specified in the order.
- (3) An order under subsection (2) may be made so as to apply from –
 - (a) the date on which the offender is convicted of the offence; or
 - (b) if the offender is sentenced for a term of imprisonment that is not wholly suspended, the date on which the offender is released in respect of that term of imprisonment.

7. Resentencing for offence where offender levy payable

- (1) If –

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- (a) an offender is sentenced for an offence and the offender levy is payable in respect of the offence; and
- (b) a court, however constituted, subsequently resentsences the offender for that offence –

the offender is still liable to pay the offender levy in respect of the initial sentence for the offence but is not liable to pay an offender levy in respect of the resentence.

- (2) For the purposes of this section, a court resentsences an offender for an offence if the court –
 - (a) substitutes another sentence in place of the initial sentence for the offence; or
 - (b) has further dealings with the offender in respect of the offence, including making a further order; or
 - (c) confirms, varies or amends the sentence, or an order, made as part of the initial sentence for the offence.

8. Regulations

The Governor may make regulations for the purposes of this Act.

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9. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Justice; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.