

TASMANIA

**SENTENCING AMENDMENT (SENTENCES OF
IMPRISONMENT) BILL 2017**

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SENTENCING AMENDMENT (SENTENCES OF IMPRISONMENT) BILL 2017

(Brought in by the Minister for Justice, the Honourable Elise Nicole Archer)

A BILL FOR

An Act to amend the *Sentencing Act 1997*

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 *Sentencing Amendment (Sentences of Imprisonment) Act 2017*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Principal Act

In this Act, the *Sentencing Act 1997** is referred to as the Principal Act.

*No. 59 of 1997

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4. Section 92A inserted

After section 92 of the Principal Act, the following section is inserted in Division 2:

92A. Certain matters to be specified when sentence of imprisonment imposed, confirmed or activated

(1) If a court –

- (a) on conviction or on the determination of an appeal, imposes a sentence of imprisonment on an offender, other than a sentence of imprisonment that is wholly suspended or that is imposed in accordance with section 27F; or
- (b) on appeal, confirms the imposition on an offender of a sentence, other than a sentence of imprisonment that is wholly suspended or that is imposed in accordance with section 27F –

the court, when imposing or confirming the sentence –

- (c) is to specify the term of imprisonment that is being imposed or confirmed; and
- (d) if it suspends part of the sentence, is to specify the period, of the term of imprisonment that is

being imposed or confirmed, that
is so suspended; and

- (e) is to specify whether the sentence
of imprisonment being imposed
or confirmed is to be served
cumulatively on, or is to be
served concurrently with, any
other sentence of imprisonment
or detention that is uncompleted
and that the offender is then
serving or liable to serve; and

- (f) is to specify that –

- (i) the offender is not eligible
for parole in respect of the
sentence of imprisonment
being imposed or
confirmed; or

- (ii) the offender is not eligible
for parole, in respect of
the sentence of
imprisonment being
imposed or confirmed,
before the expiration of a
period specified in that
sentence.

- (2) If a court –

- (a) activates, under section 27(4B),
(4C) or (4E), all or part of a
sentence of imprisonment that has
been suspended; or

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- (b) activates, under section 27O(1)(b)(i) or section 27Q(2)(a), all or part of a sentence of imprisonment that has been suspended –

the court, when activating the sentence of imprisonment –

- (c) is to specify the term of imprisonment that is being activated; and
- (d) is to specify whether the sentence of imprisonment being activated is to be served cumulatively on, or is to be served concurrently with, any other sentence of imprisonment or detention that is uncompleted and that the offender is then serving or liable to serve; and
- (e) is to specify that –
 - (i) the offender is not eligible for parole in respect of the sentence of imprisonment being activated; or
 - (ii) the offender is not eligible for parole in respect of the sentence of imprisonment being activated before the expiration of a period specified in that sentence.

- (3) If subsection (1) or (2) applies to a court when imposing, confirming or activating a sentence and there is more than one sentence of imprisonment that is being imposed, confirmed or activated by the court, the court, in addition to the requirements of subsection (1) or (2) –
 - (a) is to specify the total term of imprisonment that the offender is liable to serve for all the sentences of imprisonment that are being imposed, confirmed or activated; and
 - (b) is to specify the following:
 - (i) the sentences of imprisonment, if any, that are being imposed, confirmed or activated, in respect of which the offender is not eligible for parole;
 - (ii) the period, in relation to the sentences of imprisonment that are being imposed, confirmed or activated, before the expiration of which the offender is not eligible for parole.
- (4) Nothing in this section is to be taken to confer a power to make a sentence.

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- (5) A failure by a court to comply with this section in relation to a sentence of imprisonment is not to be taken to invalidate the sentence.

5. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.