

TASMANIA

**JUSTICE LEGISLATION MISCELLANEOUS
AMENDMENTS BILL 2019**

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JUSTICE LEGISLATION MISCELLANEOUS AMENDMENTS BILL 2019

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
31 October 2019

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

A BILL FOR

An Act to amend the *Sentencing Act 1997*, the *Criminal Law (Detention and Interrogation) Act 1995* and the *Criminal Code*

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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Justice Legislation Miscellaneous Amendments Act 2019*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

Justice Legislation Miscellaneous Amendments Act 2019
Act No. of 2019

s. 3

Part 2 – Criminal Code Act 1924 Amended

PART 2 – CRIMINAL CODE ACT 1924 AMENDED

3. Principal Act

In this Part, the *Criminal Code Act 1924** is referred to as the Principal Act.

4. Schedule 1 amended (*Criminal Code*)

Schedule 1 to the Principal Act is amended as follows:

- (a) by inserting the following subparagraph before subparagraph (ii) in section 401(3)(a):
 - (i) an order under section 7(eb) of the *Sentencing Act 1997* deferring the sentencing of the person in accordance with Division 1 of Part 8 of that Act or altering the date to which the sentencing of the person is deferred under such an order; and
- (b) by inserting in paragraph (b) “and an order under section 7(eb) of the *Sentencing Act 1997* deferring the sentencing of the person in accordance with Division 1 of Part 8 of that Act or altering the date to which the sentencing of the person is deferred under such an order” after “*Sentencing Act 1997*”.

*No. 69 of 1924

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Act No. of 2019

Part 3 – Criminal Law (Detention and Interrogation) Act 1995 Amended

s. 5

**PART 3 – CRIMINAL LAW (DETENTION AND
INTERROGATION) ACT 1995 AMENDED**

5. Principal Act

In this Part, the *Criminal Law (Detention and Interrogation) Act 1995** is referred to as the Principal Act.

6. Section 4 amended (Detention of person in custody)

Section 4(1) of the Principal Act is amended by inserting “, other than under a warrant issued by a judge of the Supreme Court,” after “person taken into custody”.

*No. 72 of 1995

Justice Legislation Miscellaneous Amendments Act 2019
Act No. of 2019

s. 7

Part 4 – Sentencing Act 1997 Amended

PART 4 – SENTENCING ACT 1997 AMENDED

7. Principal Act

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

8. Section 42AL amended (Power of arrest)

Section 42AL of the Principal Act is amended as follows:

(a) by inserting the following subsection after subsection (3):

(3A) If an offender to whom a home detention order made by a court of petty sessions relates is arrested by a police officer under a warrant issued under subsection (1) or (3) –

(a) the police officer is, as soon as practicable, to bring the offender before a justice or a magistrate; and

(b) a justice or a magistrate may remand the offender in custody, or admit the offender to bail, to appear before the court, at a time specified by the justice or

*No. 59 of 1997

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Part 4 – Sentencing Act 1997 Amended

s. 8

magistrate, so that the application under this Part or the breach of a condition of the order, in relation to which the warrant was issued, may be dealt with.

(b) by omitting paragraphs (a) and (b) from subsection (5) and substituting the following paragraphs:

(a) as soon as practicable, the offender is –

(i) if the order was made by the Supreme Court – to be brought before the Supreme Court; or

(ii) if the order was made by a court of petty sessions – to be brought before a justice or a magistrate –

unless the offender is released by a police officer unconditionally; and

(b) a police officer may release the offender unconditionally; and

(c) by inserting in subsection (5)(d) “, justice or magistrate” after “a court”;

(d) by inserting in subsection (5)(d) “that made the order,” after “before the court”;

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Part 4 – Sentencing Act 1997 Amended

- (e) by inserting in subsection (5)(d) “justice or magistrate, respectively,” after “the court,”.

9. Section 44 amended (Period for payment of fine)

Section 44 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (2A) If a court that orders an offender to pay a fine does not order that the fine be paid within a period of 28 days or less, the court is to be taken to have ordered that the fine be paid within a period of 28 days.

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Part 5 – Concluding Provision

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PART 5 – CONCLUDING PROVISION

10. Repeal of Act

This Act is repealed on the first anniversary of the day on which the last uncommenced provision of this Act commenced.