

TASMANIA

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**SENTENCING AMENDMENT (CRIMINAL  
CONVICTION LEVY) BILL 2015**

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**SENTENCING AMENDMENT (CRIMINAL  
CONVICTION LEVY) BILL 2015**

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

**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 (Criminal Conviction Levy) Act 2015*.

**2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

**3. Principal Act**

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

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\*No. 59 of 1997

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**4. Section 95A inserted**

Before section 96 of the Principal Act, the following section is inserted in Part 12:

**95A. Criminal conviction levy**

(1) In this section –

*criminal conviction levy* means a levy that an offender is liable to pay to the Crown under subsection (2);

*levy offence* means an offence for which an offender is liable to pay a criminal conviction levy, other than an offence specified in subsection (3).

(2) An offender who is sentenced by a court in respect of an offence is liable to pay a criminal conviction levy to the Crown.

(3) Despite subsection (2), an offender is not liable to pay a criminal conviction levy in respect of an offence if –

(a) before being sentenced for the offence, the offender –

(i) was accepted, in respect of the offence, into the mental health and cognitive disability diversion program operated by the Magistrates Court; and

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- (ii) has completed that program to the satisfaction of the court imposing the sentence; or
  - (b) the sentence imposed on the offender for the offence –
    - (i) includes a sentence of a term of imprisonment that is not wholly, or partly, suspended; or
    - (ii) includes a drug treatment order under Part 3A; or
    - (iii) includes a rehabilitation program order; or
    - (iv) is recorded under the *Youth Justice Act 1997*; or
  - (c) proceedings for that offence commenced before the commencement of the *Sentencing Amendment (Criminal Conviction Levy) Act 2015*.
- (4) The amount of the criminal conviction levy payable in respect of an offence is –
- (a) if the sentence for the offence is imposed by a court of petty sessions, \$50 per complaint that specifies a levy offence; or

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- (b) if the sentence for the offence is imposed by the Supreme Court, \$150 per indictment that specifies a levy offence; or
  - (c) such other amount as may be prescribed.
- (5) The court imposing a sentence for a levy offence may order that an offender is not liable to pay the criminal conviction levy in respect of that offence, if –
  - (a) the court is satisfied that paying the levy would cause unreasonable hardship to the offender; or
  - (b) the court –
    - (i) has, as part of the same proceedings, also sentenced the offender for an offence to which subsection (3) applies; and
    - (ii) considers it unreasonable in the circumstances for the offender to pay the criminal conviction levy in addition to the sentence imposed in respect of that other offence.
- (6) If more than one levy offence is being dealt with in the same proceedings, a

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court imposing sentences for those offences may, if it considers it appropriate in the circumstances, order that the offender is liable to pay the criminal conviction levy once in respect of all those offences.

- (7) A criminal conviction levy payable in respect of a levy offence is to be paid within 28 days after the completion of all court proceedings instituted in respect of the offence.
- (8) The liability to pay the criminal conviction levy is to be entered into any record of conviction and sentence made by the court for each levy offence.
- (9) A criminal conviction levy payable in respect of a levy offence is in addition to any pecuniary penalty or order for the payment of compensation that may be imposed in respect of the offence.
- (10) In determining the sentence to be imposed for a levy offence, a court must not take into account the potential liability of an offender to pay the criminal conviction levy for that offence.
- (11) For the purposes of the *Monetary Penalties Enforcement Act 2005*, a criminal conviction levy payable under this section may be enforced as a fine under that Act as if the sentence were an order.

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**5. Repeal of Act**

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

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