

TASMANIA

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**JUSTICE LEGISLATION MISCELLANEOUS  
AMENDMENTS BILL 2019**

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**CONTENTS**

**PART 1 – PRELIMINARY**

1. Short title
2. Commencement

**PART 2 – CRIMINAL CODE ACT 1924 AMENDED**

3. Principal Act
4. Section 401 amended (Right of appeal)

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

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

**PART 4 – SENTENCING ACT 1997 AMENDED**

7. Principal Act
8. Section 42AL amended (Power of arrest)
9. Section 44 amended (Period for payment of fine)

**PART 5 – CONCLUDING PROVISION**

10. Repeal of Act

*consultation draft*

**JUSTICE LEGISLATION MISCELLANEOUS  
AMENDMENTS BILL 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

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**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. Section 401 amended (Right of appeal)**

Section 401(3) of the Principal Act is amended as follows:

- (a) by inserting the following subparagraph before subparagraph (ii) in paragraph (a):
  - (i) an order under the *Sentencing Act 1997* deferring the sentencing of the person under 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 the *Sentencing Act 1997* deferring the sentencing of the person under 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*”.

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\*No. 69 of 1924

*Justice Legislation Miscellaneous Amendments Act 2019*  
*Act No. of 2019*

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

s. 5

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**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”.

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\*No. 72 of 1995

## **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

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\*No. 59 of 1997

*Justice Legislation Miscellaneous Amendments Act 2019*  
*Act No. of 2019*

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 or, if a police officer may admit the offender to bail, is admitted to bail by a police officer; and

(b) a police officer may release the offender unconditionally, or, if a police officer may admit the offender to bail, may admit the offender to bail; and

*Justice Legislation Miscellaneous Amendments Act 2019*  
*Act No. of 2019*

s. 9

Part 4 – Sentencing Act 1997 Amended

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- (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”;
- (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.



*Justice Legislation Miscellaneous Amendments Act 2019*  
*Act No. of 2019*

Part 5 – Concluding Provision

s. 10

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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.

consultation draft