New South Wales

Crimes (Sentencing Procedure) Amendment Bill 2007

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council

Clerk of the Parliaments

2007

New South Wales

Crimes (Sentencing Procedure) Amendment Bill 2007

Act No   , 2007

An Act to amend the *Crimes (Sentencing Procedure) Act 1999* to make further provision with respect to aggravating and mitigating factors in sentencing and standard non-parole periods.

The Legislature of New South Wales enacts:

1   Name of Act

This Act is the *Crimes (Sentencing Procedure) Amendment Act 2007*.

2   Commencement

This Act commences on a day or days to be appointed by proclamation.

3   Amendment of Crimes (Sentencing Procedure) Act 1999 No 92

The *Crimes (Sentencing Procedure) Act 1999* is amended as set out in Schedule 1.

4   Repeal of Act

(1)   This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.

(2)   The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1   Amendments

(Section 3)

[1]   Section 21A Aggravating, mitigating and other factors in sentencing

Insert after section 21A (2) (c):

    (ca)   the offence involved the actual or threatened use of explosives or a chemical or biological agent,

    (cb)   the offence involved the offender causing the victim to take, inhale or be affected by a narcotic drug, alcohol or any other intoxicating substance,

[2]   Section 21A (2) (d)

Insert "(particularly if the offender is being sentenced for a serious personal violence offence and has a record of previous convictions for serious personal violence offences)" after "previous convictions".

[3]   Section 21A (2) (ea) and (eb)

Insert after section 21A (2) (e):

    (ea)   the offence was committed in the presence of a child under 18 years of age,

    (eb)   the offence was committed in the home of the victim or any other person,

[4]   Section 21A (2) (ia) and (ib)

Insert after section 21A (2) (i):

    (ia)   the actions of the offender were a risk to national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004* of the Commonwealth),

    (ib)   the offence involved a grave risk of death to another person or persons,

[5]   Section 21A (2) (o)

Insert after section 21A (2) (n):

    (o)   the offence was committed for financial gain.

[6]   Section 21A (3) (i)

Omit the paragraph. Insert instead:

(i)   the remorse shown by the offender for the offence, but only if:

(i)   the offender has provided evidence that he or she has accepted responsibility for his or her actions, and

(ii)   the offender has acknowledged any injury, loss or damage caused by his or her actions or made reparation for such injury, loss or damage (or both),

[7]   Section 21A (6)

Insert after section 21A (5):

(6)   In this section:

serious personal violence offence means a personal violence offence (within the meaning of section 562A of the *Crimes Act 1900*) that is punishable by imprisonment for life or for a term of 5 years or more.

[8]   Part 4, Division 1A, Table

Insert after item 1A:

1B	Murder—where the victim was a child under 18 years of age	25 years

[9]   Part 4, Division 1A, Table

Insert after item 4:

4A	Section 35 (1) of the *Crimes Act 1900* (reckless causing of grievous bodily harm in company)	5 years
4B	Section 35 (2) of the *Crimes Act 1900* (reckless causing of grievous bodily harm)	4 years
4C	Section 35 (3) of the *Crimes Act 1900* (reckless wounding in company)	4 years
4D	Section 35 (4) of the *Crimes Act 1900* (reckless wounding)	3 years

**[10]	Part 4, Division 1A, Table**

Omit "5 years" from item 9B (the matter relating to section 61M (2) of the *Crimes Act 1900*).

Insert instead "8 years".

**[11]	Part 4, Division 1A, Table**

Omit "car-jacking" wherever occurring in items 14 and 15.

Insert instead "taking motor vehicle or vessel with assault or with occupant on board".

**[12]	Part 4, Division 1A, Table**

Renumber item 15A as item 15B. Insert before that renumbered item:

15A	Section 154G of the *Crimes Act 1900* (organised car or boat rebirthing activities)	4 years

**[13]	Part 4, Division 1A, Table**

Insert before item 16:

15C	Section 23 (2) of the *Drug Misuse and Trafficking Act 1985* (cultivation, supply or possession of prohibited plants), being an offence that involves not less than the large commercial quantity (if any) specified for the prohibited plant concerned under that Act	10 years

**[14]	Part 4, Division 1A, Table**

Insert after item 20:

21	Section 51 (1A) or (2A) of the *Firearms Act 1996* (unauthorised sale of prohibited firearm or pistol)	10 years
22	Section 51B of the *Firearms Act 1996* (unauthorised sale of firearms on an ongoing basis)	10 years
23	Section 51D (2) of the *Firearms Act 1996* (unauthorised possession of more than 3 firearms any one of which is a prohibited firearm or pistol)	10 years

24	Section 7 of the *Weapons Prohibition Act 1998* (unauthorised possession or use of prohibited weapon)—where the offence is prosecuted on indictment	3 years

[15]   Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

> *Crimes (Sentencing Procedure) Amendment Act 2007*

[16]   Schedule 2, Part 17

Insert after Part 16:

Part 17   Provisions consequent on enactment of Crimes (Sentencing Procedure) Amendment Act 2007

57   Existing offences and proceedings

The amendments made to this Act by the *Crimes (Sentencing Procedure) Amendment Act 2007* apply to the determination of a sentence for an offence whenever committed, unless:

(a) the court has convicted the person being sentenced of the offence, or

(b) a court has accepted a plea of guilty and the plea has not been withdrawn,

before the commencement of the amendments.