

NORTHERN TERRITORY OF AUSTRALIA

YOUTH JUSTICE AMENDMENT ACT 2019

Act No. 7 of 2019

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 7 of 2019

An Act to amend the *Youth Justice Act 2005*

[Assented to 28 March 2019]
[Introduced 19 March 2019]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Youth Justice Amendment Act 2019*.

2 Commencement

This Act is taken to have commenced on 24 May 2018.

3 Act amended

This Act amends the *Youth Justice Act 2005*.

4 Section 5 amended

Section 5(1)

insert

emergency situation includes a situation in which there is an imminent risk of a youth:

- (a) inflicting self-harm; or
- (b) harming another person; or
- (c) seriously damaging property.

5 Section 10 amended (Use of force generally)

- (1) Section 10(1)(a), after "other"

insert

reasonably

- (2) Section 10(1)(b)(iii)

omit

all words after "than"

insert

the person considers to be necessary and reasonable in the circumstances as perceived by the person; and

- (3) After section 10(2)

insert

- (3) For subsection (1)(b)(iii), a person considering what force is necessary and reasonable in the circumstances may have regard to the age, gender, physical and mental health, or background of the youth in relation to whom the force is to be used.

6 Section 153 amended (Prohibited actions)

Section 153(2)(c)

omit, insert

- (c) the use of force or a restraint for the purpose of disciplining a detainee;

7 Section 154 amended (Use of force)

- (1) Section 154(1)

omit

all words from "may" to "if"

insert

or a person authorised by the superintendent may use force if the superintendent or authorised person believes on reasonable grounds that force is necessary to

(2) Section 154(1)(a)

omit

the force is necessary to

(3) Section 154(1)(a)(iii)

omit

and

insert

or

(4) Section 154(1)(b)

omit, insert

(b) prevent a detainee from engaging in conduct that would:

(i) endanger the safety of any person who is within the precincts of the detention centre, including the detainee;
or

(ii) seriously threaten the security of the detention centre.

(5) Section 154(2)

omit

all words from "uses" to "of force,"

insert

or authorised person uses force

8 Section 155 amended (Use of restraint devices)

(1) Section 155(1) and (2)

omit, insert

(1) The superintendent of a detention centre or a person authorised by the superintendent may appropriately use an approved restraint on a detainee if the superintendent or authorised person believes on reasonable grounds that restraint is necessary to:

(a) prevent an imminent risk of the detainee:

(i) inflicting self-harm; or

(ii) harming another person; or

(iii) seriously damaging property; or

(b) prevent the detainee from engaging in conduct that would:

(i) endanger the safety of any person who is within the precincts of the detention centre, including the detainee; or

(ii) seriously threaten the security of the detention centre.

(2) The superintendent of a detention centre or a person authorised by the superintendent may appropriately use an approved restraint on a detainee if:

(a) the superintendent or authorised person believes on reasonable grounds that the detainee is likely to attempt to escape the detention centre; or

(b) the detainee is being escorted outside the detention centre and the superintendent or authorised person believes on reasonable grounds that the detainee is likely to attempt to escape.

(2) Section 155(3), definition ***appropriate***

omit

all words from "***appropriate***" to "using the"

insert

appropriately use means using a

9 Section 155A amended (Separation of detainees)

(1) Before section 155A(1)

insert

(1AA) This section applies in relation to the separation of a detainee from other detainees except in the following circumstances:

(a) when the detainee is securely accommodated in the detainee's room:

(i) overnight; or

(ii) during a reasonable and necessary lockdown period of the detention centre; or

(iii) during an emergency situation;

(b) when the detainee may be separated from other detainees having regard to the age or gender of the detainee;

(c) any other circumstances prescribed by the Regulations.

(2) Section 155A(3)

omit

An

insert

Subject to subsection (3A), an

(3) Section 155A(3)(a)

omit

unless an emergency situation exists –

(4) After section 155A(3)

insert

(3A) However, if both of the following apply, the authorisation may only be given if no other course of action is reasonably practicable:

(a) an emergency situation exists;

(b) a detainee is required to be separated other than in the detainee's room as mentioned in subsection (1AA).

10 Section 161 amended (Search of detainees)

(1) Section 161(1), after "search"

insert

or a pat down search

(2) Section 161(2)

omit

all words from "the detainee" to "possession"

insert

a screening search or a pat down search of the detainee is necessary:

(a) to ensure the safety of any person who is within the precincts of the detention centre, including the detainee; or

(b) to ensure the security of the detention centre.

11 Section 168A inserted

After section 168, in Part 8, Division 4

insert

168A Transfer of detainee to another detention centre

The superintendent of a detention centre may determine, as the superintendent considers appropriate, that a detainee held in a detention centre is to be transferred to another detention centre.

12 Repeal of Act

This Act is repealed on the day after it commences.