

Serial 4
Sentencing Amendment (Violent Offences) Bill 2008
Mr Mills

A Bill for an Act to amend the *Sentencing Act*

NORTHERN TERRITORY OF AUSTRALIA

SENTENCING AMENDMENT (VIOLENT OFFENCES) ACT 2008

Act No. [] of 2008

TABLE OF PROVISIONS

1	Short title	1
2	Act amended	1
3	Repeal and substitution of section 78BA	1
	78BA Imprisonment for violent offences	



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2008

An Act to amend the *Sentencing Act*

[Assented to [] 2008]
[Second reading [] 2008]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Sentencing Amendment (Violent Offences) Act 2008*.

2 Act amended

This Act amends the *Sentencing Act*.

3 Repeal and substitution of section 78BA

Section 78BA

repeal, substitute

78BA Imprisonment for violent offences

(1) This section applies to a person who is found by a court to be guilty of a violent offence (the **current offence**) if:

(a) the person has been found guilty of a previous violent offence;
or

-
- (b) the person:
 - (i) is an adult who has not been found guilty of a previous violent offence; and
 - (ii) has caused serious harm when committing the current offence.
 - (2) The court must:
 - (a) record a conviction; and
 - (b) sentence the person to a term of imprisonment.
 - (3) The court:
 - (a) must not suspend any part of the sentence for the current offence if the person has, within 10 years before committing the current offence, been found guilty of a previous violent offence; and
 - (b) otherwise – may suspend the sentence in part (but not wholly).
 - (4) The sentence must include a minimum term of actual imprisonment as follows:
 - (a) 12 months – if the person:
 - (i) is an adult who has been found guilty of a previous violent offence; and
 - (ii) has caused serious harm when committing the current offence;
 - (b) 6 months – if the person:
 - (i) is an adult who has not been found guilty of a previous violent offence; and
 - (ii) has caused serious harm when committing the current offence;
 - (c) 3 months if:
 - (i) the person is an adult who has been found guilty of a previous violent offence; and
 - (ii) paragraph (a) does not apply; and

-
- (iii) there are aggravating factors in relation to the commission of the current offence (see sections 5(2)(f) and 6A);
 - (d) 1 month if:
 - (i) the person is an adult who has been found guilty of a previous violent offence; and
 - (ii) neither paragraph (a) nor (c) apply; and
 - (iii) the person has caused harm when committing the current offence.
 - (5) In any other cases, the term of actual imprisonment is to be a period decided by the court.
 - (6) If a court finds a person guilty of more than 1 violent offence, the court may count them as a single offence for this section if the court considers they were part of the same incident, having regard to:
 - (a) when and where the offences were committed; and
 - (b) any other circumstances the court considers relevant.

Example

A person is found guilty of assaulting 2 people and causing serious harm to them. If the court considers the assaults occurred as part of the same incident, and the person has not previously been found guilty of a previous violent offence, the court may apply subsection (4)(b) rather than subsection (4)(a) when sentencing the person.

- (7) The person is taken to have been found guilty of a previous violent offence:
 - (a) only if the person:
 - (i) committed the previous violent offence as an adult; or
 - (ii) was sentenced for the previous violent offence by the Supreme Court; and
 - (b) whether a court found the person guilty of the previous violent offence before, on or after the commencement of this section.
- (8) This section does not affect the power of the court to make additional orders in relation to sentencing the person for the current offence under this or another Act.

(9) In this section:

harm, see section 1A of the Criminal Code.

previous violent offence means any of the following:

- (a) a violent offence;
- (b) an offence substantially corresponding to a violent offence against a law, or a repealed law, of the Territory or another jurisdiction (including a jurisdiction outside Australia).

serious harm, see section 1 of the Criminal Code.