

Serial 114
Criminal Code Amendment Bill 2024
Mr Turner

A Bill for an Act to amend the Criminal Code

NORTHERN TERRITORY OF AUSTRALIA

CRIMINAL CODE AMENDMENT ACT 2024

Act No. [] of 2024

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2024

An Act to amend the Criminal Code

[Assented to [] 2024]
[Introduced [] 2024]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Criminal Code Amendment Act 2024*.

2 Commencement

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

3 Act amended

This Act amends the Criminal Code.

4 Section 170 replaced

Section 170

repeal, insert

170 Child destruction

- (1) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and
 - (b) that conduct causes the loss of a pregnant woman's unborn child; and

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- (c) the person intends to cause:
- (i) the loss of the woman's unborn child by that conduct; or
 - (ii) the death of, or serious harm to, the woman by that conduct.

Maximum penalty: Imprisonment for life.

- (2) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) that conduct causes the loss of a pregnant woman's unborn child; and
 - (c) the person is reckless or negligent as to causing:
 - (i) the loss of the woman's unborn child by that conduct; or
 - (ii) the death of, or serious harm to, the woman by that conduct.

Maximum penalty: Imprisonment for life.

- (3) For this section, a person's conduct causes the loss of a pregnant woman's unborn child if the person's conduct substantially prevents the woman's unborn child from being born alive.

Note for subsection (3)

See section 1C in relation to when the birth of a person occurs.

- (4) In a prosecution for an offence against subsection (1) or (2), a person may be found guilty even if the person did not know that the woman was pregnant when engaging in the conduct that causes the loss of the pregnant woman's unborn child.
- (5) This section does not apply to:
- (a) a person who performs a termination of a pregnancy, or assists in performing a termination of a pregnancy, in accordance with Part 2 of the *Termination of Pregnancy Law Reform Act 2017*; or
 - (b) a person who engages in conduct in good faith for the purpose of preserving the life or health of a pregnant woman or the woman's unborn child; or
 - (c) any conduct of a pregnant woman that results in the loss of the woman's unborn child.

5 Section 184 amended (Endangering life of child by exposure)

Section 184

omit

under the age of 2 years

6 Sections 184A and 184B inserted

After section 184

insert

184A Cruelty to child

- (1) A person commits an offence if:
- (a) the person has care or charge of a child and the person has knowledge of that circumstance; and
 - (b) the person intentionally engages in conduct; and
 - (c) that conduct gives rise to a danger of harm to the child and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 3 years.

- (2) For this section, conduct that may give rise to a danger of harm to a child includes failing to provide the child with adequate food, clothing, medical treatment or accommodation.
- (3) A person does not commit an offence against this section for failing to provide to the child a thing referred to in subsection (2) if the person did not provide the thing because the person could not afford to do so.

184B Unreasonably leaving child unsupervised

- (1) A person commits an offence if:
- (a) the person has care or charge of a child and the person has knowledge of that circumstance; and
 - (b) the child is under the age of 12 years; and
 - (c) the person intentionally leaves the child unsupervised or unattended; and

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- (d) the child is left unsupervised or unattended for an unreasonable period of time.

Maximum penalty: Imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(b) and (d).
- (3) In a prosecution for an offence against this section, whether the period of time the child was left unsupervised or unattended was unreasonable is a matter for the trier of fact.
- (4) In this section:

unreasonable means unreasonable according to the standards of an ordinary person.

7 Section 201A inserted

After section 201

insert

201A Abduction, enticement or detention of child

A person is guilty of an offence if the person, by force or deception, leads, takes or entices away or detains a child:

- (a) intending to unlawfully deprive another person of the lawful care of charge of the child; or
- (b) intending to steal any article on or about the child.

Maximum penalty: Imprisonment for 10 years.

8 Section 317 replaced

Section 317

repeal, insert

317 Charge involving causing death of child

- (1) On an indictment charging a person (the **defendant**) with an offence against section 156, the defendant may alternatively be found guilty of an offence against section 170(1) if:
- (a) the defendant is alleged to have caused the death of a child; and
- (b) the trier of fact is not satisfied beyond reasonable doubt that the child was born alive.

(2) On an indictment charging a person (the **defendant**) with an offence against section 160, the defendant may alternatively be found guilty of an offence against section 170(2) if:

- (a) the defendant is alleged to have caused the death of a child;
and
- (b) the trier of fact is not satisfied beyond reasonable doubt that the child was born alive.

Note for section 317

See section 1C in relation to when the birth of a person occurs.

9 Schedule 1 amended (Provisions of Code to which Part IIAA applies)

(1) Schedule 1

omit

sections 165, 166 and 170)

insert

sections 165 and 166)

(2) Schedule 1, after entry for "Section 180A"

insert

Section 184A (Cruelty to child)

Section 184B (Unreasonably leaving child unsupervised)

10 Repeal of Act

This Act is repealed on the day after it commences.