

Serial 1
Sentencing Amendment Bill 2024
Ms Boothby

A Bill for an Act to amend the *Sentencing Act 1995*

NORTHERN TERRITORY OF AUSTRALIA

SENTENCING AMENDMENT ACT 2024

Act No. [] of 2024

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2024

An Act to amend the *Sentencing Act 1995*

[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 *Sentencing 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 *Sentencing Act 1995*.

4 Part 3, Division 6A heading amended (Mandatory imprisonment for certain offences)

Part 3, Division 6A, heading

omit

imprisonment

insert

sentencing

**5 Part 3, Division 6A, Subdivision 2 heading amended
(Mandatory imprisonment)**

Part 3, Division 6A, Subdivision 2, heading

omit

imprisonment

insert

sentencing

6 Sections 78DAA and 78DAB inserted

After section 78D

insert

78DAA Offence against section 188A of Criminal Code – imprisonment

- (1) A court must sentence an offender in accordance with this section if the court finds the offender guilty of an offence against section 188A of the Criminal Code.
- (2) The court must impose a term of actual imprisonment in relation to the offender if:
 - (a) the victim suffered physical harm as a result of the offence; and
 - (b) the offender has previously been convicted of a violent offence (whenever committed).

78DAB Offence against section 188A of Criminal Code – community correction order

- (1) The court must sentence an offender in accordance with this section if:
 - (a) the court finds the offender guilty of an offence against section 188A of the Criminal Code; and
 - (b) the victim suffered physical harm as a result of the offence; and
 - (c) the court is not required to impose a term of actual imprisonment under section 78DAA in relation to the offender; and

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- (d) the court has decided not to impose a custodial order under Division 5 for the offence.
- (2) The court must:
- (a) make a community correction order in relation to the offender (with or without recording a conviction); and
- (b) if the conditions mentioned in section 36 can be satisfied in relation to the offender – impose a condition mentioned in section 34(1)(a) on the community correction order.

7 Section 78DA amended (Offence against section 189A of Criminal Code)

- (1) Section 78DA, heading
- omit*
- Code**
- insert*
- Code – imprisonment**
- (2) After section 78DA(3)
- insert*
- (3A) The court must impose a minimum sentence of 3 months actual imprisonment in relation to the offender if the circumstances mentioned in section 189A(2)(ab) of the Criminal Code apply in relation to the offence but the court is not required to impose a minimum sentence under subsection (2) or (3).
- (3) Section 78DA(4)
- omit*
- subsection (2) or (3)
- insert*
- subsection (2), (3) or (3A)

8 Section 78DBA inserted

After section 78DA

insert

78DBA Offence against section 189A of Criminal Code – community correction order

- (1) The court must sentence an offender in accordance with this section if:
 - (a) the court finds the offender guilty of an offence against section 189A of the Criminal Code; and
 - (b) the court is not required to impose a minimum sentence of actual imprisonment or impose a term of actual imprisonment under section 78DA in relation to the offender; and
 - (c) the court has decided not to impose a custodial order under Division 5 for the offence.
- (2) The court must:
 - (a) make a community correction order in relation to the offender (with or without recording a conviction); and
 - (b) if the conditions mentioned in section 36 can be satisfied in relation to the offender – impose a condition mentioned in section 34(1)(a) on the community correction order.

9 Part 12, Division 15 inserted

After section 156

insert

Division 15 Transitional matters for Sentencing Amendment Act 2024**157 Mandatory sentencing before and after commencement**

- (1) Sections 78DAA, 78DAB and 78DBA, as inserted by the amending Act, apply in relation to the sentencing of an offender for an offence committed after the commencement.
- (2) Section 78DA, as in force before the commencement, continues to apply in relation to the sentencing of an offender for an offence committed before commencement.

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- (3) Section 78DA, as amended by the amending Act, applies in relation to the sentencing of an offender for an offence committed after the commencement.
- (4) For this section, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.
- (5) In this section:

amending Act means the *Sentencing Amendment Act 2024*.

commencement means the commencement of section 3 of the amending Act.

10 Repeal of Act

This Act is repealed on the day after it commences.