

# Criminal Law Amendment Bill 2001

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Western Australia

LEGISLATIVE ASSEMBLY

## **Criminal Law Amendment Bill 2001**

**A Bill for**

**An Act to amend —**

- *The Criminal Code*; and
  - *the Sentencing Act 1995*,
- and to consequentially amend various other Acts.**

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the *Criminal Law Amendment Act 2001*.

## **Part 2 — *The Criminal Code* amended**

### **2. *The Criminal Code* amended**

The amendments in this Part are to *The Criminal Code*\*.

5 [\* Reprinted as at 9 February 2001 as the Schedule to the  
*Criminal Code Act 1913* appearing as Appendix B to the  
*Criminal Code compilation Act 1913*.]

### **3. Section 297 amended**

Section 297 is amended by inserting after the second paragraph  
the following paragraph —

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“

If the person harmed is of or over the age of 60 years,  
the offender is liable to imprisonment for 14 years.

”.

### **4. Section 301 amended**

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Section 301 is amended by deleting “misdemeanour, and is  
liable to imprisonment for 5 years.” and the summary  
conviction penalty at the foot of the section and inserting  
instead —

20

“

crime, and is liable —

- (a) if the person wounded is of or over the age of  
60 years, to imprisonment for 7 years; or
- (b) in any other case, to imprisonment for 5 years.

Summary conviction penalty:

25

- (a) in a case to which paragraph (a) above applies:  
imprisonment for 3 years or a fine of \$12 000;  
or
- (b) in a case to which paragraph (b) above applies:  
imprisonment for 2 years or a fine of \$8 000.

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”.

**s. 5**

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**5.            Section 313 amended**

Section 313 is amended by deleting “liable to imprisonment for 18 months or a fine of \$6 000.” and inserting instead —

“

5                    liable —

(a)    if the person assaulted is of or over the age of 60 years, to imprisonment for 3 years or a fine of \$12 000; or

10                  (b)    in any other case, to imprisonment for 18 months or a fine of \$6 000.

”.

**6.            Section 317 amended**

Section 317(1) is amended by deleting “liable to imprisonment for 5 years.” and the summary conviction penalty at the foot of the subsection and inserting instead —

“

liable —

(a)    if the person assaulted is of or over the age of 60 years, to imprisonment for 7 years; or

20                  (b)    in any other case, to imprisonment for 5 years.

Summary conviction penalty:

(a)    in a case to which paragraph (a) above applies: imprisonment for 3 years or a fine of \$12 000; or

25                  (b)    in a case to which paragraph (b) above applies: imprisonment for 2 years or a fine of \$8 000.

”.

**7. Section 317A amended**

Section 317A is amended by deleting “liable to imprisonment for 5 years.” and the summary conviction penalty at the foot of the section and inserting instead —

5

“

liable —

- (a) if the person assaulted is of or over the age of 60 years, to imprisonment for 7 years; or
- (b) in any other case, to imprisonment for 5 years.

10

Summary conviction penalty:

- (a) in a case to which paragraph (a) above applies: imprisonment for 3 years or a fine of \$12 000; or
- (b) in a case to which paragraph (b) above applies: imprisonment for 2 years or a fine of \$8 000.

15

”.

**8. Heading to Chapter XXXVIII amended**

The heading to Chapter XXXVIII is amended by deleting “Stealing with violence:” and inserting instead —

“ **Robbery:** ”.

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**9. Sections 391 to 394 replaced**

Sections 391 to 394 are repealed and the following sections are inserted instead —

“

**391. Definition for sections 392 and 393**

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In sections 392 and 393 —

“**circumstances of aggravation**” means circumstances in which —

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- (a) immediately before or at or immediately after the commission of the offence —
  - (i) the offender is in company with another person or persons;

**s. 9**

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- (ii) the offender does bodily harm to any person; or
- (iii) the offender threatens to kill any person;  
or
- (b) the person to whom violence is used or threatened is of or over the age of 60 years.

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**392. Robbery**

A person who steals a thing and, immediately before or at the time of or immediately after doing so, uses or threatens to use violence to any person or property in order —

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- (a) to obtain the thing stolen; or
- (b) to prevent or overcome resistance to its being stolen,

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is guilty of a crime and is liable —

- (c) if immediately before or at or immediately after the commission of the offence the offender is armed with any dangerous or offensive weapon or instrument or pretends to be so armed, to imprisonment for life;
- (d) if the offence is committed in circumstances of aggravation, to imprisonment for 20 years; or
- (e) in any other case, to imprisonment for 14 years.

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**393. Assault with intent to rob**

A person who, with intent to steal a thing, uses or threatens to use violence to any person or property in order —

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- (a) to obtain the thing intended to be stolen; or



(b) to prevent or overcome resistance to its being stolen,

is guilty of a crime and is liable —

(c) if —

5                   (i) immediately before or at or immediately after the commission of the offence the offender is armed with any dangerous or offensive weapon or instrument or pretends to be so armed; and

10                   (ii) the offence is committed in circumstances of aggravation,

to imprisonment for life;

(d) if —

15                   (i) immediately before or at or immediately after the commission of the offence the offender is armed with any dangerous or offensive weapon or instrument or pretends to be so armed; or

20                   (ii) the offence is committed in circumstances of aggravation,

to imprisonment for 14 years; or

(e) in any other case, to imprisonment for 10 years.

”.

**s. 10**

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**10. Consequential amendments**

(1) The *Bail Act 1982*\* is amended in Schedule 2 item 1 by deleting the entries relating to offences under sections 391 (as read with section 393) and 394 of *The Criminal Code* and inserting instead —

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“

s. 392            Robbery  
s. 393            Assault with intent to rob

”.

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[\* *Reprinted as at 27 August 1999.*  
*For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 32.*]

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(2) The *Criminal Law (Mentally Impaired Defendants) Act 1996*\* is amended in Schedule 1 item 1 by deleting the entries relating to offences under sections 391 (as read with section 393) and 394 of *The Criminal Code* and inserting instead —

“

s. 392            Robbery  
s. 393            Assault with intent to rob

”.

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[\* *Act No. 70 of 1996.*  
*For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 108.*]

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(3) The *Evidence Act 1906*\* is amended in the Second Schedule Part 1 by deleting the entries relating to offences under sections 391 (as read with section 393), 394 and 395 of *The Criminal Code* and inserting instead —

“

s. 392            Robbery  
s. 393            Assault with intent to rob

”.

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[\* *Reprinted as at 4 January 2001.*]

- (4) The *Young Offenders Act 1994*\* is amended in Schedule 2 item 1 by deleting the entries relating to offences under sections 391 (as read with section 393) and 394 of *The Criminal Code* and inserting instead —

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“

- |        |                            |
|--------|----------------------------|
| s. 392 | Robbery                    |
| s. 393 | Assault with intent to rob |

”.

[\* Reprinted as at 8 December 2000.]

10 **11. Section 409 amended**

Section 409(1) is amended by deleting “liable to imprisonment for 7 years.” and the summary conviction penalty at the foot of the subsection and inserting instead —

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liable —

- (g) if the person deceived is of or over the age of 60 years, to imprisonment for 10 years; or
- (h) in any other case, to imprisonment for 7 years.

20

Summary conviction penalty (subject to subsection (2)):

- (a) in a case to which paragraph (g) applies: imprisonment for 3 years or a fine of \$12 000; or
- (b) in a case to which paragraph (h) applies: imprisonment for 2 years or a fine of \$8 000.

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”.

**Part 3 — *Sentencing Act 1995* amended**

**12. Section 6 amended**

Section 6(2)(b) of the *Sentencing Act 1995*\* is amended by inserting after “offence” —

5 “ , including the vulnerability of any victim of the offence ”.

[\* *Reprinted as at 4 May 2001.*]

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