

COURT JURISDICTION LEGISLATION AMENDMENT BILL 2017

EXPLANATORY MEMORANDUM

Overview of the Bill

The Court Jurisdiction Legislation Amendment Bill 2017 seeks to amend the *District Court of Western Australia Act 1969* and the *Criminal Code* to alter the criminal jurisdiction boundaries between the Supreme Court, the District Court and the Magistrates Court.

Part 2 of the Bill contains the amendments to the *District Court of Western Australia Act 1969* to confer jurisdiction upon the District Court to try an accused for indictable offences other than homicide offences and offences prescribed by the regulations.

Part 3 of the Bill contains the amendments to the *Criminal Code*. Those amendments relate to certain offences that are each-way offences; that is, offences that may be tried in either the Magistrates Court or the District Court. The effect of the amendments is to enable certain offences that currently may only be tried in the District Court, to be determined in the Magistrates Court where it is appropriate to do so. The amendments do not take away the jurisdiction of the District Court to determine those cases where the seriousness of the particular offence warrants that occurring.

Part 1 - Preliminary

Clause 1 Short title

Clause 1 provides that the Bill, once enacted, will be known as the *Court Jurisdiction Legislation Amendment Act 2017*.

Clause 2 Commencement

Clause 2 provides for the commencement of the Act.

Part 1 comes into effect on the day the Act receives Royal assent. The rest of the Act will come into operation on a day fixed by proclamation. Different days may be fixed for different provisions of the Act.

Part 2 - *District Court of Western Australia Act 1969* amended

Clause 3 Act amended

This clause provides that Part 2 will amend the *District Court of Western Australia Act 1969*.

Clause 4 Section 42 amended

Section 42(2) is amended to provide that the District Court does not have jurisdiction to try an accused person for offences against sections 279, 280, 283, 288 or 290 of the *Criminal Code*.

These offences are:

- (a) Section 279 – Murder
- (b) Section 280 – Manslaughter
- (c) Section 283 – Attempt to unlawfully kill
- (d) Section 288 – Procuring, Assisting suicide
- (e) Section 290 – Preventing birth of a live child

All other *Criminal Code* offences remain within the District Court's jurisdiction which, by s 42(1), is otherwise the same as the jurisdiction of the Supreme Court.

Section 42(2) will also provide that the regulations may prescribed offences, or a class of offences, to be outside the District Court's jurisdiction and, therefore, within the exclusive jurisdiction of the Supreme Court.

Clause 5 Section 89A amended

Section 89A is amended to insert s 89A(1A), to enable the Governor to make regulations prescribing matters required or permitted under the Act , or necessary or convenient for giving effect to the Act.

This is required to enable regulations giving effect to s42(2)(b).

Consequential changes are made to s 89A(1) and (2).

Part 3 – *Criminal Code* amended

Clause 6 Act amended

This clause provides that Part 3 will amend the *Criminal Code*.

Clause 7 Section 338B amended

This clause amends s 338B of the Criminal Code to enable all charges of unlawful threats, including threats to kill, to be either-way offences so that they can be dealt with in the Magistrates Court where it is appropriate to do so.

It does this by prescribing a summary conviction penalty in relation to all unlawful threats. The summary conviction penalty for an unlawful threat to kill is imprisonment for 3 years and a fine of \$36,000.

Clause 8 Section 401 amended

This clause amends s 401(3) to enable the offence of burglary relating to property to be tried in the Magistrates Court if the value the property does not exceed \$50,000. The current value is \$10,000.

Clause 9 Section 409 amended

This clause amends s 409(2) to enable the offence of fraud to be tried in the Magistrates Court if the value the property does not exceed \$50,000. The current value is \$10,000.

Clause 10 Section 426 amended

This clause amends s 426(2) to enable the stealing and analogous offences to be tried in the Magistrates Court if the value the property does not exceed \$50,000. The current value is \$10,000.

Clause 11 Section 527 amended

This clause amends s 527(2) to enable the offence of fraudulent dealing by a judgement debtor to be tried in the Magistrates Court if the value the property does not exceed \$50,000. The current value is \$10,000.