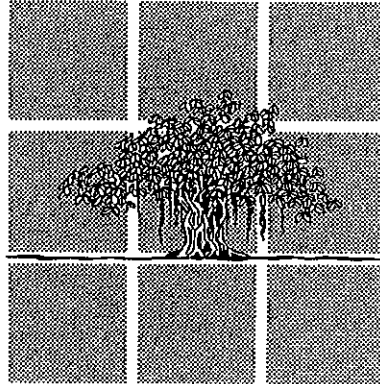


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## THE NORTHERN TERRITORY SENTENCING BILL 1995

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THE NORTHERN TERRITORY  
SENTENCING BILL 1995

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**INTRODUCTION:**

The Northern Territory of Australia Sentencing Bill 1994 was first introduced during the 1994 March sittings. The Bill, after debate, has since changed through a number of amendments and has been reintroduced as the Sentencing Bill (Serial 85) 1995 during the recent May sittings.

Following is an overview and some key articles concerned with the issues raised by the many parts of the Sentencing Bill, especially in respect to Territory Aboriginals and the truth-in-sentencing debate.

These research papers are your own personal copies. Please do not hesitate to call the library on the hot line in the lobby rooms for any further enquiries. For your convenience, during the sittings the library is staffed from 8am to 8pm.

## THE NORTHERN TERRITORY SENTENCING BILL 1995

Daryl Manzie (Attorney General) introduced the Northern Territory Sentencing Bill (Serial 9) during the March 1994 sittings. Manzie stated the Bill "seeks to provide, in a single piece of legislation, a comprehensive statement of sentencing options and procedures...through the introduction of reforms to the sentencing laws, the adoption of truth in sentencing, the reform of certain sexual offences and new provisions relating to the release of prisoners". <sup>1</sup>

The Sentencing Bill was debated in the May 1994 sittings with the opposition claiming it did not take into account the recommendations from the Royal Commission Into Aboriginal Deaths in Custody. Maggie Hickey (Acting Territory Opposition Leader) stated "the proposed changes in the Sentencing Bill will increase the rate of Aboriginal imprisonment. This is clearly at odds with the recommendations of the Royal Commission". <sup>2</sup>

Amendments to the Bill were drafted and it was reintroduced on May 18, 1995. Attorney-General Fred Finch stated that the "Sentencing Bill aims to provide fairness and effectiveness in sentencing and to ensure community confidence in the ability of the criminal justice system to deal with offenders". <sup>3</sup>

The Sentencing Bill is lengthy and contains 11 parts under the headings: Preliminary, General Principles, Sentences, Mental Health Orders, Orders in Addition to Sentence, Making of Sentence and Other Orders, Correction of Sentences, Appeals Against Sentence Imposed on Variation or Breach, Remission of Sentence, Prerogative of Mercy and Miscellaneous.

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<sup>1</sup> Manzie, Daryl (Attorney General). "Sentencing Bill", *Media Release*. 3.3.94. Ref: M-0192-94.

<sup>2</sup> Hickey, Maggie (Deputy Opposition Leader). "Hickey Speaks Up for Aboriginal Territorians", *Media Release*. 28.12.94.

<sup>3</sup> Finch, Fred (Attorney-General). *Media Release*. 19.5.94. Ref: F-0313-95.

The introduction of the Sentencing Bill is an attempt to consolidate the number of existing legislations, including the Criminal Code, the Criminal Law (Conditional Release of Offenders) Act, the Parole of Prisoners Act and the Justices Act.<sup>4</sup>

Fred Finch in his presentation of the Bill outlined the main changes and specific areas that are contained in the new Bill. There are a number of controversial sections in the Bill that have stirred public and political debate, they include:

**\* Truth in Sentencing:**

- Abolition of remissions.
- Non-parole periods whereby a minimum of 50% of a head sentence must be served.
- 70% of non-parole minimum of head sentence in rape cases
- Sentences of less than 12 months will serve full term.

**\* Sexual Assault:**

- Serious sex offenders to serve between 70% and the full term of sentence.

**\* Victims:**

- Fundamental courtesy to the victim of a crime including provision of information and right to apply for restitution and compensation.

**\* Suspended Sentence:**

- The court will have the power to attach conditions, which if broken can empower the court to imprison the offender.

**\* Indefinite Sentence:**

- Available to courts in the case of a violent offence and specific sexual offences.
- Available if offender deemed to be a serious danger to community.

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<sup>4</sup>Northern Territory. Legislative Assembly. *Sentencing Bill 1995*. Presented by Fred Finch (Attorney-General). May 16, 1995. p.60. (Hansard, 1st Session, 7th Assembly, No.10, 1995)

- Release can only be decided by the court after the offender has been deemed to no longer be a danger to the community.
- After release the offender will be subject to an intensive rehabilitation program.

**Pleading Guilty and Providing Assistance:**

- The Bill allows for the offender to benefit from pleading guilty as early as possible as a sign of remorse.
- Providing information that assists authorities also allows for discounts in sentences.
- A Statutory discount for cooperating with authorities.

**Convictions:**

- The court has the discretion to record or not record a conviction.
- The fine conversion option will be stopped and offenders will have to pay fines.

**Aboriginal Customary Law:**

- Due to the complexity of the issues involved the courts will continue to use discretion in relation to taking customary law into account whilst sentencing an offender.<sup>5</sup>

As a complex piece of legislation the Sentencing Bill contains many issues that will be debated by both the Members of the Parliament and the members of the public during 1995. The Northern Territory stands alone in Australia with life sentences meaning life (no parole) and the Sentencing Bill reflects the Government's continuing commitment to treating offenders with lengthy sentences.

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<sup>5</sup> *ibid.*, p.60-70.

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