CRIMINAL LAW AMENDMENT BILL 2000

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the Legislation

The objective of this Bill is to amend the Criminal Code, the *Evidence Act 1977* and other Acts in accordance with certain recommendations of the Taskforce on Women and the Criminal Code.

Reasons for the objectives and how they will be achieved

In November 1998, the Taskforce on Women and the Criminal Code was established by the Honourable Matt Foley MLA, Attorney-General and Minister for Justice and Minister for The Arts and the Honourable Judy Spence MLA, Minister for Aboriginal and Torres Strait Islander Policy and Minister for Women's Policy and Minister for Fair Trading.

Its establishment arose out of the Government's pre-election commitment to—

> *Establish a broad based consultative Taskforce to consult widely on the Queensland Criminal Code in relation to its impact on women. The Taskforce will include sexual assault workers, Aboriginal and Torres Strait Islander women, women from non-English speaking backgrounds, disability workers, legal practitioners and police.*

The terms of reference of the Taskforce were broad and required it to report and make recommendations on the three general subject areas of Women as Accused, Women as Victims and Court Practices and Procedures.

The Report of the Taskforce contained numerous recommendations for criminal law reform. It was tabled in Parliament on 14 March 2000.

Administrative cost to Government of implementation

With respect to the prohibition on cross-examination of certain witnesses by an unrepresented accused, there will be cost implications for Legal Aid Queensland, who will be required to provide representation.

The incidence of unrepresented accused in the higher courts is comparatively rare. In the Magistrates Court, the scheme will not apply to summary trials but will apply to committals. An unrepresented accused cannot consent to a "hand up" committal (that is, statements tendered in lieu of oral testimony). For committals, if Legal Aid is unavailable and an accused is otherwise unrepresented, a full evidence committal should be held. However, sometimes a duty lawyer or a private practitioner acting "pro bono" will act for the accused and a "hand up" committal will result. It is difficult therefore to quantify the financial effect of this proposal applying to committals.

Fundamental legislative principles

Does the legislation have sufficient regard for the rights and liberties of individuals?

The prohibition on an unrepresented accused cross-examining certain witnesses in person might be seen as a removal of an existing right. However, the mechanism provided in the Bill balances the removal of that right. The accused will be invited to obtain legal representation, and if he or she chooses not to do so, he or she will be provided with publicly funded legal assistance for the purposes of cross-examination of the protected witness. The scheme is designed to protect the rights of vulnerable witnesses.

A substantially similar scheme has been recommended in Part 1 of the Queensland Law Reform Commission's Report on the *Receipt of Evidence by Queensland Courts: The Evidence of Children*, in relation to child witnesses.

Does the legislation reverse the onus of proof in criminal proceedings without adequate justification?

The new offence in section 323B of the Criminal Code creates a rebuttable presumption that a child was removed from the State with the intention of having female genital mutilation performed on the child, if it is proved that a person took the child from the State, and while outside the State, the child was subjected to female genital mutilation.

It was initially proposed that it would also be an offence to perform female genital mutilation outside Queensland on a person ordinarily resident in Queensland. In that case, it would be unlikely that the person who actually performed the female genital mutilation would ever be amenable to Queensland jurisdiction. Those likely to be charged would be the parents of the child who arranged for the female genital mutilation to be performed outside the State. It would not matter if the child was removed from the State for the purpose of having female genital mutilation performed, or for any other purpose.

Instead, as in other Australian jurisdictions (Victoria, South Australia, the ACT and the Northern Territory), it will be an offence to remove a child from the jurisdiction with the added element that the removal was with the intention of having female genital mutilation performed.

The additional element also creates a rebuttable presumption - in the absence of proof to the contrary, if it is proved that a person took a child from the State, and while outside the State, the child was subjected to female genital mutilation, then the person is presumed to have removed the child from the State for the purposes of having female genital mutilation performed.

If the child was removed for any other purpose, and the female genital mutilation occurred coincidently, then this would be peculiarly within the knowledge of the accused person, and the accused would be in a position to provide evidence to rebut the presumption.

Does the legislation adversely affect rights and liberties and impose obligations, retrospectively?

Section 11 of the Criminal Code ensures that where an existing offence is changed or a new offence created (for example, the offences relating to female genital mutilation), a person cannot be punished for an act unless the act was committed after the law making it an offence came into force.

Changes to procedures (for example, the amendments to the *Evidence Act 1977*, the *Criminal Law (Sexual Offences) Act 1978* and the *Criminal Offence Victims Act 1995*) will have retrospective effect, in that they will apply regardless of when the offence was committed.

In the absence of any indication to the contrary, a "procedural" statute is to be construed as retrospective, that is, it can apply to past events. The High Court considered the issue of "procedural" statutes in ***Rodway v The Queen*** (1990) 169 CLR 515, where it held that—

> *… ordinarily an amendment to the practice or procedure of a court, including the admissibility of evidence and the effect to be given to evidence, will not operate retrospectively so as to impair any existing right. It may govern the way in which the right is to be enforced or vindicated, but that does not bring it within the presumption against retrospectivity. A person who commits a crime does not have a right to be tried in any particular way; merely a right to be tried according to the practice and procedure prevailing at the time of trial. The principle is sometimes succinctly, if somewhat sweepingly, expressed by saying, as did Mellish LJ in the passage cited by Dixon CJ in Maxwell v Murphy, that no one has a vested right in any form of procedure. It is a principle which has been well established for many years*

In ***Rodway*** the High Court was considering the abolition of the corroboration warning, and held that the abolition applied regardless of the fact that the rule was in place at the time the offence was committed. In other words, despite the fact that the warning was required to be given at the time the offence was committed, it did not have to be given at the trial and the accused had not been deprived of a substantive right.

Similarly, in ***R v Truong*** [1999] QCA 21 (19 February 1999) the Queensland Court of Appeal held that changes to the sentencing principles contained in section 9 of the *Penalties and Sentences Act 1992* which imposed stricter sentencing guidelines (imprisonment no longer a last resort for an offence of violence) were procedural provisions only, in that they set out the way in which a judge is to approach the facts and the manner to proceed when passing sentence.

Consultation

The Taskforce on Women and the Criminal Code consulted widely with key interest groups and the general public. It used a number of consultation tools, including distributing six Issues Papers, releasing a legal Discussion Paper, and conducting face to face consultation throughout Queensland. The Taskforce received over 250 submissions. Approximately 500 copies of the Taskforce Report were distributed to an extensive mailing list.

A Consultation Draft of the Bill was distributed on 17 July 2000 to the Chief Justice of the Supreme Court, the President of the Court of Appeal, the Chief Judge of the District Court, the President of the Children's Court, the Chief Stipendiary Magistrate, the Bar Association of Queensland, the Queensland Law Society, the Director of Public Prosecutions, Legal Aid Queensland, the Criminal Lawyers Association, the Queensland Council for Civil Liberties, the Women Lawyers Association, the Women's Legal Service, Youth Advocacy Centre, Queensland Advocacy Inc, the Children's Commission, the Office of the Adult Guardian, various Government Departments and individual Taskforce members.

The Department of Justice and Attorney-General hosted a forum on 28 July 2000 to discuss aspects of the Consultation Draft.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Clause 1 sets out the short title of the Act as the Criminal Law Amendment Act 2000.

Clause 2 provides that the Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF BAIL ACT 1980

Clause 3 provides that this part amends the *Bail Act 1980.*

Clause 4 amends the heading to Part 2.

Clause 5 amends section 8 (Power of court as to bail) to include a reference in section 8(2) to a person who is not released under section 11A.

Clause 6 inserts new sections 11A and 11B which provide a mechanism to allow the police or a court to release, without bail, a person who has, or appears to have, an intellectual impairment. The person may be permitted to go at large, or may be released into the care of another person who ordinarily has the care of the person, or with whom the person resides. The release is conditional on the person surrendering into the custody of the court before which the person is required to appear on the charge.

"Intellectually impaired person" is defined in the same way as in the Criminal Code, section 229F.

This mechanism would only be considered if the person would otherwise be released on bail, but the person does not, or appears not to, understand the nature and effect of entering into a bail undertaking, so that the making of a bail order is inappropriate. All other considerations required by the Act to be taken into account when determining if a person should be released from custody, for example section 16, which sets out when bail should be refused, will still be taken into account before releasing a person under section 11A.

Instead of signing an undertaking, the person is given a "release notice". Section 11B sets out the information that must be contained in the release notice, including a warning that a warrant will issue if the person fails to surrender into the court's custody.

Clause 7 amends section 12 (Restriction on publication of information, evidence and the like given in bail application) to include a release under section 11A.

Clause 8 amends section 15 (Procedure upon application for bail) to include a release under section 11A.

Clause 9 amends section 16 (Refusal of bail) to include in section 16(3) a reference to a release under section 11A.

Clause 10 amends section 18 (Endorsement of decision as to bail on papers and warrant) to include a reference to a release under section 11A. Section 18(1)(b) sets out the matters that must be noted on the papers relating to the person released.

Clause 11 amends section 19B (Review of certain bail decisions) to include a reference to a release under section 11A.

Clause 12 amends section 19C (Review by Supreme Court of magistrate's decision on review) to include a reference to a release under section 11A.

Clause 13 inserts a new section 28C (Warrant for apprehension of person released under section 11A). Failure to appear in court in accordance with a release notice may result in the court issuing a warrant for the arrest of the person, directing that the person be brought before the court. However, unlike a breach of a bail undertaking, no offence is committed by that failure to appear. If the person surrenders into the custody of the court as soon as is practicable after the time for appearance, and the court is given a satisfactory explanation as to why the person failed to appear, then the court may withdraw the warrant.

PART 3—AMENDMENT OF CRIMINAL CODE

Clause 14 provides that this part amends the Criminal Code.

Clause 15 amends section 1 (Construction of terms) by providing a new heading (Definitions). New definitions of vagina, vulva, penis and genitalia include "surgically constructed" organs.

Clause 16 amends section 31 (Justification and excuse – compulsion) by providing a new subsection (1)(d), the defence of "duress". This amendment will allow a wider range of threats to constitute the defence, provided the conduct in question is a reasonable response to the threat.

A person is not criminally responsible for an act or omission if the person does or omits to do an act in order to save himself or herself or another person, or his, her or another person's property, from a threat of serious harm or detriment. The threat must be made by a person in a position to carry out the threat. The conduct must be reasonably proportionate to the harm or detriment threatened, and the person must reasonably believe there is no other way to escape the carrying out of the threat.

The limitations on the use of the defence contained in section 31(2), for example, that it is not available on a charge of murder or grievous bodily harm, will continue to apply.

Clause 17 amends section 215 (Carnal knowledge of girls under 16). This section will now apply to "children" not "girls". The purpose is to ensure that women can be charged with having sexual intercourse with underage boys. The terminology "has carnal knowledge with or of" has been adopted to clarify that the act of carnal knowledge is not limited to the act of sexual intercourse performed by a male.

Clause 18 amends section 228 (Obscene publications and exhibitions) to ensure that the section also covers the distribution of obscene computer images.

Clause 19 inserts new sections 323A and 323B.

Section 323A creates a specific offence outlawing the practice of female genital mutilation or female circumcision. Consent of a person to the procedure is not a defence. The penalty is consistent with the penalty for grievous bodily harm. Legitimate medical procedures are excluded, as are sexual reassignment procedures. It is also not intended that body piercing will be caught by the definition of female genital mutilation.

Section 323B creates a separate offence of removing a child from the State with the intention of having female genital mutilation performed on the child. Unless the contrary is proven, it is to be presumed that the child was removed with that intention, if it is proved the child was removed from the State and while out of the State female genital mutilation was performed on the child.

Clause 20 relocates section 336 (Assault with intent to commit rape) into Chapter 32 (Rape and sexual assaults) and renumbers it as section 351.

Clause 21 omits section 337 (Sexual assaults), which has been redrafted and relocated as section 352.

Clause 22 replaces the Chapter heading to Chapter 32.

Clause 23 renumbers section 349 (Attempt to commit rape) as section 350.

Clause 24 replaces sections 347 (Rape) and 348 (Punishment of rape), with new sections 347 (Definitions for chapter 32), 348 (Meaning of "consent"), and 349 (Rape).

Section 347 provides definitions for Chapter 32.

Section 348 provides a definition of "consent". Consent is defined as "consent freely and voluntarily given by a person with the cognitive capacity to give the consent". The term "cognitive capacity" recognises that a person must have the ability to understand the nature and effect of giving consent, but it does not equate to "legal" capacity. It will bring in the existing case law about an incapacity to consent, for example, due to youth, intellectual impairment or intoxication.

The existing circumstances that vitiate consent have been retained, with the addition of a false and fraudulent representation about the purpose of the act, and a mistaken belief, induced by the accused, that the accused was the complainant's sexual partner.

Section 349 extends the offence of rape to include penetration by the offender of the vagina, vulva and anus of the victim by any body part or object, and penetration of the mouth of the victim by the offender's penis. This conduct was previously included in the offence of sexual assault.

As with the offence of carnal knowledge of children under 16 (clause 17), the terminology "has carnal knowledge with or of" has been adopted to clarify that the act of carnal knowledge is not limited to the act of sexual intercourse performed by a male.

With the exception of carnal knowledge (where both the person penetrating and the person being penetrated might be guilty of rape), only penetration of the victim by the offender is included in rape. Circumstances in which a victim is forced to penetrate the offender with a body part or object, or to penetrate himself or herself, will continue to be regarded as sexual assault.

Other forms of oral sex (excluding penile penetration by the offender of the mouth of the victim) remain in sexual assault with the existing penalty (maximum 14 years).

Clause 25 repeals section 351 (Abduction). Instead, the conduct has been incorporated into the offence of kidnapping (section 354) which at present only covers persons detained and forced to work (see clause 27).

Clause 26 inserts a new section 352 (Sexual assaults). This redrafts the existing section 337 to take into account the removal of the conduct now covered in the offence of rape (see clause 24). The existing penalties have not changed.

Clause 27 replaces the offence of kidnapping, so that it now includes the conduct previously contained in section 351 (see clause 25). Instead of only applying to persons detained and forced to work, the new section will cover a person who forcibly detains or takes another person with intent to gain anything from any person or to procure anything to be done or omitted to be done by any person.

Clause 28 amends section 578 (Charges of offence of sexual nature) to allow rape and incest as alternative verdicts to each other, and to take into account the changes made in Chapter 32 and the amendment to section 215.

Clause 29 inserts a new section 590C (Advance notice of representation if person who made it is unavailable) which is a companion provision for the new scheme to admit hearsay evidence (see Clause 50). If a party to a trial intends to adduce hearsay evidence under section 93B of the *Evidence Act 1977*, notice must be given to the other party or parties, indicating details of the evidence to be led. It will operate similarly to section 590B, which requires parties to give advance notice of an intention to lead expert evidence.

Clause 30 includes in section 592A (Pre-trial directions and rulings) directions or rulings about cross-examination of protected witnesses by unrepresented accused (see clause 47).

Clause 31 amends section 632 (Corroboration) to address the anomaly identified in ***R v Robinson*** (1998) 102 A Crim R 89 namely, that the prohibition on the judge commenting on the possible unreliability of a class of witnesses, presently only covers witnesses who are also complainants.

Clause 32 amends the heading to Chapter 69.

Clause 33 repeals section 684, an archaic provision relating to warrants to search for women and girls detained for immoral purposes.

Clause 34 repeals section 701, an archaic provision relating to orders for custody of girls who have been victims of sexual offences.

Clause 35 inserts a new Chapter 74 and section 711 (Transitional provision for Criminal Law Amendment Act 2000) to clarify that additional alternative verdicts open because of the amendments to section 578 (clause 28) will only apply to an indictment presented after the commencement of the section. For an indictment presented before the commencement of the section, the alternative verdicts open under section 578 are only those available under the section prior to its amendment. This provision does not affect any other power to render an alternative verdict.

Section 711 also addresses the renumbering of section 337 (Sexual assaults) as section 352. Where an offence occurred prior to the commencement of section 711, the reference in section 578 to section 352 is to be read as a reference to section 337 as in force at any time before the commencement of section 711.

PART 4—AMENDMENT OF CRIMINAL LAW (SEXUAL OFFENCES) ACT 1978

Clause 36 provides that this part amends the *Criminal Law (Sexual Offences) Act 1978.*

Clause 37 amends section 3 (Meaning of terms) by changing the heading of the section, by amending the definition of complainant to delete the reference to complainants who are also accomplices, and by taking into account the changes made in Chapter 32 of the Criminal Code.

Clause 38 makes a number of amendments to section 4 (Special rules of evidence concerning sexual offences).

The requirement that the rules relating to sexual history evidence are to apply only to "prescribed sexual offences" has been removed. Instead the rules will apply to all sexual offences.

The prohibition on the use of sexual history evidence in section 4, rule 2 has been extended to the complainant's sexual activities with the accused, so that any questioning about the complainant's sexual activities with the accused will also be subject to the court's leave.

The first paragraph of rule 4 has been redrafted and divided into two rules (rules 4 and 5). The existing rule 5 has been renumbered as rule 6. There is no change to the current law, apart from the addition to rule 4 of an example of an inappropriate inference about general disposition, and, in the new rule 5, the addition of an acknowledgment that a person is not to be regarded as less worthy of belief as a witness merely because the person has engaged in sexual activity.

Clause 39 inserts a new section 14 (Transitional provision for *Criminal Law Amendment Act 2000*) to address the renumbering of section 337 (Sexual assaults) as section 352. Where an offence occurred prior to the commencement of section 14, the reference in section 3 of the Act to a sexual assault defined in the Criminal Code, section 352, is to be read as a reference to a sexual assault defined in the Criminal Code, section 337, as in force at any time before the commencement of section 14.

PART 5—AMENDMENT OF CRIMINAL OFFENCE VICTIMS ACT 1995

Clause 40 provides that this part amends the *Criminal Offence Victims Act 1995.*

Clause 41 amends section 14 (Information during sentencing of impact of crime on victim) by making it clear that it is not mandatory for a victim to give the prosecutor details of the harm suffered by the victim, and the absence of those details at sentence does not of itself give rise to an inference that an offence has had little or no impact on the victim.

PART 6—AMENDMENT OF EVIDENCE ACT 1977

Clause 42 provides that this part amends the *Evidence Act 1977.*

Clause 43 inserts in section 3 (Definitions) a definition of "intellectually impaired person". This definition is the same as that used in section 229F of the Criminal Code and in section 93A of the *Evidence Act 1977*. The latter definition is being relocated to section 3.

Clause 44 extends sections 9 and 9A so that the scheme that allows a child to give unsworn evidence will also apply to any person who does not understand the nature of an oath (for example, a person with an intellectual disability). In all other respects there is no change to the existing law.

Clause 45 replaces sections 20 and 21.

Section 20 provides that the court may disallow, or inform the witness he or she need not answer, a question as to credit if the court considers an admission of the question's truth would not materially impair confidence in the reliability of the witness's evidence.

Section 21 provides that the court may disallow, or inform the witness he or she need not answer, a question the court considers uses inappropriate language or is misleading, confusing, annoying, harassing, intimidating, offensive, oppressive or repetitive. In deciding whether to exercise this discretion, the court is to take into account any mental, intellectual or physical impairment the witness has or appears to have, and any other relevant matter (such as age, education, level of understanding, cultural background, or relationship to any party in the proceeding).

Clause 46 amends section 21A to expand the factors that a court is to take into account in declaring a person to be a special witness. Additional factors include – age, level of understanding, relationship to any party in the proceeding and the nature and subject matter of the evidence. The court is also empowered to order rest breaks for the special witness and direct that questions be kept simple.

Clause 47 inserts a new part 2, division 6 – Cross-examination of protected witnesses.

Sections 21L to 21S provide a new scheme to prohibit an unrepresented accused from cross-examining, in person, children, intellectually impaired persons, and victims of sexual or violent crime. A grant of legal aid will be given to allow cross-examination of the witness by counsel.

The elements of the scheme are as follows—

- The division applies to trials and sentences on indictment and committals. Summary trials have been excluded
- There is an absolute prohibition on cross-examination in person of witnesses under 16 and of intellectually impaired persons.
- There is also an absolute prohibition on cross-examination in person of complainants in sexual offences and serious offences of violence.
- Further, the court has a discretion to prevent the cross-examination of other complainants in less serious offences involving assaults or threats. For these offences, the court must consider that the witness would be likely to be disadvantaged as a witness or be likely to suffer severe emotional trauma if cross-examined by the accused in person.

- Where a court rules that a case involves a "protected witness", then the court will advise the accused that he or she will be prevented from cross-examining the witness in person, and that legal assistance will be provided for cross-examination if the accused does not obtain legal representation.
- The accused is required to advise the court by a particular date and time that he or she has arranged for legal representation for the trial, has arranged for legal representation for the cross-examination, or does not want the witness for cross-examination.
- If the court does not receive the above advice from the accused, then the court will order that the accused be given legal assistance by Legal Aid.
- A lawyer appointed in this way is the accused's legal representative only for the purposes of cross-examination of the protected witness.
- The jury will be warned that no inference adverse to the accused can be drawn from the fact that the accused has been prevented from cross-examining in person.

Clause 48 amends the heading to Part 6 of the Act.

Clause 49 amends section 93A (Statement made before proceeding by child under 12 years or intellectually impaired person) by omitting the definition of "intellectually impaired person", as this is now contained in section 3 (see clause 43).

Clause 50 provides an exception to the hearsay rule in certain criminal proceedings. The scheme is based to an extent on the New South Wales and Commonwealth Evidence Act provisions, with some significant modifications. The New South Wales and Commonwealth Evidence Acts were enacted in response to the Australian Law Reform Commission Report on Evidence.

Unlike the New South Wales and Commonwealth Acts, it is not intended that these provisions will operate as a Code in relation to the admissibility of hearsay evidence generally. It is for this reason, for example, that no definition of the hearsay rule is provided. These provisions only apply to particular representations rendered inadmissible by the hearsay rule. If a representation is admissible on any other basis, this scheme will not apply.

The proposal applies to statements and conduct, so the term "representation" is used.

The elements of the scheme are as follows—

- It applies only to prescribed criminal proceedings, that is, a criminal proceeding against a person for an offence defined in the Criminal Code, chapters 28 to 32.
- It applies if a person had personal knowledge of a fact, made a representation, and is unavailable to give evidence about the fact.
- The person is unavailable if he or she is dead, or is mentally or physically incapable of giving the evidence.
- A representation includes an express or implied representation, whether oral or written; a representation to be inferred from conduct; a representation not intended to be communicated (such as a diary entry); and a representation that is not communicated (such as a letter written but not sent).
- The hearsay rule does not apply to evidence of the representation given by a person who saw, heard or otherwise perceived the representation, if the representation was—
  - made when or shortly after the asserted fact happened and in circumstances making it unlikely that it is a fabrication (for example, ***Ratten v The Queen*** [1972] AC 378); or
  - made in circumstances making it highly probable that it is reliable (for example, ***Walton v The Queen*** (1989) 166 CLR 283); or
  - against the interests of the person who made it.
- If hearsay evidence is admitted under this provision, the hearsay rule does not apply to other evidence adduced by another party about the same matter. This might be a different version of the same representation, or another representation about the same matter.
- Unless there are good reasons for not doing so, the jury is to be warned that hearsay evidence may be unreliable, of the factors that may cause it to be unreliable, and the need for caution before accepting it.

- The other provisions in the Act relating to the court's discretion to reject otherwise admissible evidence in criminal proceedings (for example, sections 98 and 130) will also apply.

Clause 51 amends section 98 to ensure that the court's power to reject evidence extends to a representation otherwise admissible under section 93B.

PART 7—AMENDMENT OF LEGAL AID QUEENSLAND ACT 1997

Clause 52 provides that this part amends the *Legal Aid Queensland Act 1997*.

Clause 53 inserts a new heading to Part 2, division 3.

Clause 54 inserts a new section 21A which requires Legal Aid to give free legal assistance for the cross-examination of a "protected witness", if ordered by the court under section 21O of the *Evidence Act 1977*.

PART 8—AMENDMENT OF PENALTIES AND SENTENCES ACT 1992

Clause 55 provides that this part amends the *Penalties and Sentences Act 1992*.

Clause 56 amends section 162 to take into account the renumbering and relocation of sections in Chapter 32 of the Criminal Code.

Clause 57 inserts a new section 208 (Transitional provisions for *Criminal Law Amendment Act 2000*) to address the amendment, renumbering and repeal of various sections of the Criminal Code. Where an offence occurred prior to the commencement of section 208, the reference to a listed section of the Criminal Code in section 162 and in the schedule is to be read as a reference to the section as in force at any time before the commencement of section 208.

Clause 58 amends the schedule (Serious violent offences) to take into account the amendment, renumbering and repeal of various sections of the Criminal Code.