



Queensland

Penalties and Sentences (Sentencing Advisory Council) Amendment Bill 2005



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2005

A Bill

for

An Act to amend the *Penalties and Sentences Act 1992*

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The Parliament of Queensland enacts—

1

Clause 1 Short title

2

This Act may be cited as the *Penalties and Sentences
(Sentencing Advisory Council) Amendment Act 2005*.

3

4

Clause 2 Commencement

5

This Act commences on a day to be fixed by proclamation.

6

Clause 3 Act amended

7

This Act amends the *Penalties and Sentences Act 1992*.

8

Clause 4 Amendment of long title

9

Long title, after ‘offenders’—

10

insert—

11

‘, and for other purposes’.

12

Clause 5 Insertion of new pt 12

13

After section 196—

14

insert—

15

‘Part 12 Sentencing Advisory Council

16

**‘Division 1 Establishment and functions of
Sentencing Advisory Council**

17

18

‘197 Establishment of Sentencing Advisory Council

19

‘The Sentencing Advisory Council is established.

20

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‘198	Functions of the council	1
	‘The functions of the council are—	2
	(a) to state in writing to the Court of Appeal its views in relation to the application by courts of the sentencing guidelines and principles in section 9; and	3 4 5
	(b) to provide statistical information on sentencing, including information on current sentencing practices, to members of the judiciary and other interested persons; and	6 7 8 9
	(c) to conduct research, and disseminate information to members of the judiciary and other interested persons, on sentencing matters; and	10 11 12
	(d) to gauge public opinion on sentencing matters; and	13
	(e) to consult, on sentencing matters, with government departments and other interested persons and bodies as well as the general public; and	14 15 16
	(f) to advise the Minister on sentencing matters.	17
‘199	Council may use expert advisors	18
	‘In performing its functions, the council may obtain expert help from anyone whom the council considers to be appropriately qualified to help.	19 20 21
‘200	Administrative support for council	22
	‘The department must ensure the council has the administrative support services reasonably required for the council to carry out its functions effectively and efficiently.	23 24 25

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‘Division 2	Membership	1
‘201	Membership of council	2
‘(1)	The council consists of at least 9, but not more than 12, members appointed by the Governor in Council by gazette notice.	3 4 5
‘(2)	The members of the council are to consist of—	6
(a)	2 persons who, in the Minister’s opinion, have broad experience in community issues affecting courts; and	7 8
(b)	1 person who has experience as a senior member of the academic staff of a tertiary educational institution; and	9 10
(c)	1 person who is a member of a victim of crime support or advocacy group; and	11 12
(d)	1 person who, in the Minister’s opinion, is a highly experienced prosecution lawyer; and	13 14
(e)	1 person who, in the Minister’s opinion, is a highly experienced defence lawyer; and	15 16
(f)	at least 3, but not more than 6, other persons who have experience in the operation of the criminal justice system.	17 18 19
‘202	Conditions of appointment	20
‘(1)	A member of the council holds office for the term, not more than 3 years, stated in the member’s instrument of appointment.	21 22 23
‘(2)	A member is entitled to the fees and allowances fixed by the Governor in Council, and otherwise holds office under the conditions of appointment fixed by the Governor in Council.	24 25 26
‘203	Vacation of office of council member	27
	‘The office of a member of the council becomes vacant if the appointed member—	28 29

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- (a) resigns office by signed notice given to the Minister; or 1
- (b) is removed from office as a member under 2
section 203A. 3

‘203A Removal from office of council members 4

‘The Governor in Council may remove an appointed member 5
from office if— 6

- (a) the member is mentally or physically incapable of 7
performing the member’s duties; or 8
- (b) the member is convicted of an indictable offence; or 9
- (c) the Governor in Council is satisfied the member has 10
neglected the member’s duties or performed the 11
member’s duties incompetently or inefficiently; or 12
- (d) the member is otherwise unsuitable to continue as a 13
member; or 14
- (e) for a member appointed because of the member’s 15
membership of an entity—the member ceases to be a 16
member of the entity. 17

‘Division 3 Proceedings 18

‘203B Conduct of business 19

‘Subject to this division, the council may conduct its business, 20
including its meetings, in the way it considers appropriate. 21

‘203C Quorum 22

‘A quorum for a meeting of the council is the number equal to 23
half the number of its members or, if half the number of 24
members is not a whole number, the next highest whole 25
number. 26

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‘203D Presiding at meetings	1
‘(1) The chairperson is to preside at all meetings of the council at which the chairperson is present.	2 3
‘(2) If the chairperson is not present at a meeting, a member of the council chosen by the members present is to preside.	4 5
‘203E Conduct of meetings	6
‘(1) A question at a council meeting is decided by a majority of the votes of the members present.	7 8
‘(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.	9 10 11
‘(3) A member present at the meeting may abstain from voting.	12
‘(4) The council may hold meetings, or permit members to take part in meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.	13 14 15 16
<i>Example of use of technology—</i>	17
teleconferencing	18
‘(5) A member who takes part in a meeting under subsection (4) is taken to be present at the meeting.	19 20
‘203F Minutes	21
‘The council must keep minutes of its proceedings.	22
‘203G Disclosure of interests by council members	23
‘(1) This section applies to a member of the council if—	24
(a) the member has an interest in a matter being considered, or about to be considered, by the council; and	25 26
(b) the interest could conflict with the proper performance of the member’s duties about the consideration of the matter.	27 28 29

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- ‘(2) As soon as practicable after the relevant facts come to the member’s knowledge, the member must disclose the nature of the interest to a meeting of the council. 1
2
3
Maximum penalty—50 penalty units. 4
- ‘(3) Unless the council otherwise directs, the member must not— 5
(a) be present when the council considers the matter; or 6
(b) take part in a decision of the council about the matter. 7
Maximum penalty—50 penalty units. 8
- ‘(4) The member must not be present when the council is considering whether to give a direction under subsection (3). 9
10
Maximum penalty—50 penalty units. 11
- ‘(5) If there is another member who must, under subsection (2), also disclose an interest in the matter, the other member must not— 12
13
14
(a) be present when the council is considering whether to give a direction under subsection (3); or 15
16
(b) take part in making the decision about giving the direction. 17
18
Maximum penalty—50 penalty units. 19
- ‘(6) A disclosure under subsection (2) must be recorded in the council’s minutes. 20
21

‘Division 4 Miscellaneous 22

‘203H Reporting 23

- ‘(1) The parliamentary committee may, by written notice given to the council, require the council to give the parliamentary committee a report on the exercise of the council’s functions under this Act. 24
25
26
27
- ‘(2) The council must comply with a requirement made under subsection (1). 28
29
- ‘(3) In this section— 30

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parliamentary committee means the Legal, Constitutional and 1
Administrative Review Committee established under the 2
Parliament of Queensland Act 2001, section 80.¹. 3

1 *Parliament of Queensland Act 2001*, section 80 (Establishment of statutory committees)