



LEGISLATION

Principal Act: Criminal Code Act
Assembly: Twelfth

► **BILL:**

▼ **Text of Bill:**

Word Version:



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▼ **Text of Explanatory Statement**

2014

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

**CRIMINAL CODE AMENDMENT (PRESUMPTION OF
JOINT TRIALS) BILL 2014**

SERIAL NO. 75

EXPLANATORY STATEMENT

GENERAL OUTLINE

The Criminal Code Amendment (Presumption of Joint Trials) Bill 2014 will amend the Criminal Code to insert a statutory presumption that, where an accused is charged on an indictment with multiple charges of sexual offences alleged to have been committed against different complainants, prima facie the charges will be tried together.

The Bill also provides that the presumption is not rebutted merely because the evidence of one complainant is not cross-admissible in relation to a charge committed against another complainant, nor because there is a possibility of collusion or suggestion between the complainants.

The Bill is intended to displace the common law position, which is where

evidence of the multiple complainants is not cross-admissible in relation to the charges, there is a presumption that the charges should be severed and separate trials ordered.

NOTES ON CLAUSES

Clause 1. Short Title

This is a formal clause which provides for the citation of the Bill. The Bill when passed may be cited as the *Criminal Code Amendment (Presumption of Joint Trials) Act 2014*.

Clause 2. Commencement

The *Criminal Code Amendment (Presumption of Joint Trials) Act 2014* once enacted will commence on the day fixed by the Administrator by *Gazette* notice.

Clause 3. Criminal Code amended

The *Criminal Code Amendment (Presumption of Joint Trials) Act 2014* once enacted will amend the Criminal Code.

Clause 4. Section 309 amended

Clause 4 of the Bill amends section 309 of the Criminal Code. That section provides for the circumstances where one person may be charged with more than one offence on the one indictment.

The Bill will insert new subsection (1A) which clarifies subsection (1), and which provides that, to avoid any doubt, charges for more than one offence may be joined on the same indictment even if the offences were committed against different persons.

Clause 5. Section 341 amended

Clause 5 of the Bill amends section 341 to add new subsection (1A) which makes section 341(1) apply subject to section 341A.

Clause 6. Section 341A inserted

Clause 6 of the Bill inserts new section 341A after section 341 of the Criminal Code.

New section 341A(1) creates a new presumption of joint trials for sexual offences involving different complainants. It provides that where a person is charged with more than one sexual offence which are properly joined on an indictment, those charges are to be tried together.

New section 341A(2) states that the presumption in subsection (1) is not rebutted

merely because:

(a) evidence in relation to one charge is not admissible in relation to another charge; or

(b) there is a possibility that evidence may be the result of collusion or suggestion.

New section 341A(3) defines 'sexual offence' for the section as having the same definition as in section 3 of the *Sexual Offences (Evidence and Procedure) Act*. Sexual offence in that Act is defined as an indictable offence involving:

(a) sexual intercourse or sexual penetration; or

(b) a sexual relationship; or

(c) sexual abuse; or

(d) indecent touching or an indecent assault; or

(e) any other indecent act directed against a person or committed in the presence of a child; or

(f) the making, collection, exhibition or display of an indecent object or indecent material; or

(g) sexual servitude or any other form of sexual exploitation; or

(h) an attempt to commit, an act of procuring, or any other act preparatory to the commission of, any of the above.

Clause 7. Part XI, Division 6 inserted

Clause 7 inserts new Division 9 into Part XI of the Criminal Code to provide for the transitional provisions for the *Criminal Code Amendment (Presumption of Joint Trials) Act 2014* once enacted.

New section 452 of the Criminal Code makes it clear that the new section 341A applies to an indictment presented or filed in the Supreme Court on or after commencement of the Act, even if an offence charged in the indictment is alleged to have been committed before the commencement of the Act

Clause 8. Expiry of Act

Clause 8 provides that the *Criminal Code Amendment (Presumption of Joint Trials) Act 2014* expires the day after it commences.

► Text of Second Reading Speech:

▶ **ACT:**

▼ **Text of Act:**

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NORTHERN TERRITORY OF AUSTRALIA

**CRIMINAL CODE AMENDMENT (PRESUMPTION OF JOINT TRIALS) ACT
2014**

Act No. 22 of 2014

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2014

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 22 of 2014

An Act to amend the Criminal Code

[Assented to 2 June 2014]
[Second reading 27 March 2014]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Criminal Code Amendment (Presumption of Joint Trials) Act 2014*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Criminal Code amended

This Act amends the Criminal Code.

4 Section 309 amended

After section 309(1)

insert

(1A) To avoid doubt, charges for more than one offence may be joined in the same indictment even if the offences are alleged to have been committed against different persons.

5 Section 341 amended

After section 341(1)

insert

(1A) Subsection (1) applies subject to section 341A.

6 Section 341A inserted

After section 341

insert

341A Presumption of joint trial of sexual offences

(1) Despite any rule of law to the contrary, if an accused person is charged with more than one sexual offence in the same indictment, it is presumed that the charges are to be tried together.

(2) The presumption is not rebutted merely because:

(a) evidence on one charge is not admissible on another charge;
or

(b) there is a possibility that evidence may be the result of collusion or suggestion.

(3) In this section:

sexual offence, see section 3 of the *Sexual Offences (Evidence and Procedure) Act*.

7 Part XI, Division 9 inserted

After section 451

insert

Division 9 Criminal Code Amendment (Presumption of Joint Trials) Act 2014

452 Application of presumption

Section 341A, as inserted by the *Criminal Code Amendment (Presumption of Joint Trials) Act 2014*, applies in relation to an indictment presented or filed in court after the commencement of that Act, even if an offence charged in the indictment is alleged to have been committed before the commencement of that Act.

8 Expiry of Act

This Act expires on the day after it commences.