

EXPLANATORY MEMORANDUM AND CLAUSE NOTES
MANSLAUGHTER LEGISLATION AMENDMENT BILL 2011
EXPLANATORY MEMORANDUM

The Manslaughter Legislation Amendment Bill 2011 increases the maximum penalty for manslaughter from 20 years imprisonment to life imprisonment. This is the penalty that applied prior to the enactment of the *Acts Amendment (Jurisdiction of Courts) Act 1981* (WA). By that Act the maximum penalty was reduced from life imprisonment to 20 years imprisonment with the additional effect that manslaughter cases could also be heard in the District Court. It is thought that the increase in the maximum penalty will also mean that higher penalties will be imposed for manslaughter which is often an alternative to murder – which also attracts a maximum penalty of life imprisonment.

The Bill also amends the *Road Traffic Act 1974* (WA) to provide that in cases where death results from certain cases of dangerous driving that the matters can no longer be heard summarily in the Magistrates Court. Instead they must be heard on indictment in the District Court. The change in venue will also mean increased penalties for dangerous driving causing death.

CLAUSE NOTES

Part 1 – Preliminary matters

Clause 1. Short title

The short title of the Act will be the *Manslaughter Legislation Amendment Act 2011*.

Clause 2. Commencement

Proposed sections 1 and 2 of the Act will come into operation on assent. The rest of the proposed Act will commence on a day, or days, to be fixed by proclamation.

Part 2 – *The Criminal Code* amended

Clause 3. Act amended

Clause 3 provides that this Part amends the *Criminal Code*.

Clause 4. Section 280 amended

Clause 4 amends section 280 of the *Code* to delete “20 years” and insert in its place “life”. The effect of the amendment is that the penalty for manslaughter will be life imprisonment rather than imprisonment for 20 years.

Part 3 *Road Traffic Act 1974* amended

Clause 5. Act amended

Clause 5 provides that this Part amends the *Road Traffic Act 1974*.

Clause 6. Section 59 amended

Clause 6(1) amends the penalty proviso of section 59(1) by inserting words that provide that the summary conviction penalty only applies where the incident does not cause the death of another person. The effect of this is that if a death of another person does occur in a dangerous driving incident that the matter must be dealt with on indictment in the District Court.

Clause 6(2) ensures that the change is not retrospective.

Clause 7. Section 67 amended

Clause 7(1) amends the penalty proviso of Section 67(3a) by inserting words that provide that the summary conviction penalty only applies where the incident does not cause the death of another person. The effect of this is that if the death of another person does occur in a dangerous driving incident, the matter must be dealt with on indictment in the District Court and not summarily against the person involved in the incident who refuses to give a breath, blood or urine sample for analysis.

Clause 7(2) ensures that the change is not retrospective.