

South Australia



**CRIMINAL LAW (SENTENCING) (SENTENCING PRINCIPLES)  
AMENDMENT ACT 1999**

**No. 79 of 1999**

**SUMMARY OF PROVISIONS**

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**ELIZABETHAE II REGINAE**

A.D. 1999

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**No. 79 of 1999**

**An Act to amend the Criminal Law (Sentencing) Act 1988.**

*[Assented to 2 December 1999]*

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Criminal Law (Sentencing) (Sentencing Principles) Amendment Act 1999*.

(2) The *Criminal Law (Sentencing) Act 1988* is referred to in this Act as "the principal Act".

**Commencement**

2. This Act will come into operation on a day to be fixed by proclamation.

**Amendment of s. 3—Interpretation**

3. Section 3 of the principal Act is amended—

(a) by inserting after the definition of "goods" in subsection (1) the following definition:

"home" means a building, structure, vehicle or vessel, or part of a building, structure, vehicle or vessel, used as a place of residence;;

(b) by inserting after the definition of "injury" in subsection (1) the following definition:

"intruder" means a person who commits a criminal trespass;.

**Amendment of s. 10—Matters to which a sentencing court should have regard**

4. Section 10 of the principal Act is amended—

(a) by inserting after paragraph (e) the following paragraph:

(ea) in the case of an offence committed by an intruder in the home of another—the need to give proper effect to the policy stated in subsection (2);;

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(b) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) A primary policy of the criminal law is to protect the security of the lawful occupants of the home from intruders.

**Amendment of s. 11—Imprisonment not to be imposed except in certain circumstances**

5. Section 11 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) A sentence of imprisonment may only be imposed—

(a) if, in the opinion of the court—

(i) the defendant has shown a tendency to violence towards other persons; or

(ii) the defendant is likely to commit a serious offence if allowed to go at large; or

(iii) the defendant has previously been convicted of an offence punishable by imprisonment; or

(iv) any other sentence would be inappropriate, having regard to the gravity or circumstances of the offence; or

(b) if a sentence of imprisonment is necessary to give proper effect to the primary policy stated in section 10(2).

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor