

Queensland



**CRIMINAL LAW (ESCAPED
PRISONERS) AMENDMENT
ACT 1992**

Act No. 25 of 1992

Queensland



CRIMINAL LAW (ESCAPED PRISONERS) AMENDMENT ACT 1992

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Queensland



**Criminal Law (Escaped Prisoners)
Amendment Act 1992**

Act No. 25 of 1992

**An Act to amend the Criminal Code and the *Vagrants, Gaming and
Other Offences Act 1931***

[Assented to 1 June 1992]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Criminal Law (Escaped Prisoners) Amendment Act 1992*.

PART 2—AMENDMENT OF CRIMINAL CODE

Amendment of s.20 (Calculation of Term of Sentence: Cumulative Sentences: Escaped Prisoners)

2.(1) Section 20 (headnote)—

omit ‘: Escaped Prisoners’.

(2) Section 20 (third sentence)—

omit.

Amendment of heading to Chapter 17 (Escapes: Rescues: Obstructing Officers of Courts)

3. Heading to Chapter 17—

omit ‘RESCUES:’.

Replacement of ss.141–145

4. Sections 141 to 145—

omit, insert—

‘Aiding persons to escape from lawful custody

‘141. A person who—

- (a) aids a person in lawful custody to escape, or to attempt to escape, from lawful custody; or
- (b) conveys anything to a person in lawful custody, or to a place where a person is or will be in lawful custody, with the intention of aiding a person to escape from lawful custody; or
- (c) frees a person from lawful custody without authority;

is guilty of a crime.

Maximum penalty—imprisonment for 7 years.

‘Escape by persons in lawful custody

‘142. A person who escapes from lawful custody is guilty of a crime.

Maximum penalty—imprisonment for 7 years.

‘Permitting escape

‘143. A person who is responsible for keeping another person in lawful custody and permits the other person to escape is guilty of a crime.

Maximum penalty—imprisonment for 7 years.

‘Harbouring escaped prisoners etc.

‘144. A person who harbours, maintains or employs another person knowing that the other person has escaped from lawful custody is guilty of a crime.

Maximum penalty—imprisonment for 2 years.

‘Sentence does not run while prisoner at large

‘145. A person who commits an offence against section 142, on being returned to lawful custody, must serve the imprisonment that the person would have served if the person had not escaped in addition to any punishment imposed for the offence.

‘Sections 141–145 do not apply to certain types of custody**‘145A.** Sections 141 to 145 do not apply to—

- (a) the custody of a person under section 66 of the *Mental Health Act 1974*; or
- (b) the custody of a person who is a child in care within the meaning of the *Children’s Services Act 1965*;

unless the person is held in a prison within the meaning of the *Corrective Services Act 1988*.

‘Evidence of lawful custody

‘145B. Evidence given by a person authorised by the Queensland Corrective Services Commission to give the evidence that a person is, or on a particular date was, in lawful custody is to be admitted as prima facie evidence of the custody.

‘Summary proceedings

‘145C.(1) A proceeding for an offence against section 141, 142, 143 or 144 may be taken—

- (a) by way of summary proceedings under the *Justices Act 1886*; or
- (b) on indictment;

at the election of the prosecution.

‘(2) A proceeding—

- (a) with a view to the summary conviction of a person on a charge of an offence against section 141, 142, 143 or 144; or
- (b) for an examination of witnesses in relation to such a charge;

must be before a Magistrate.

‘(3) If a proceeding for an offence against section 141, 142, 143 or 144 is brought before a justice instead of a Magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

‘(4) A summary proceeding for an offence against section 141, 142, 143

or 144 must not be started more than 1 year after the offence was committed.

‘(5) If a Magistrate hearing and determining a charge of an offence against section 141, 142, 143 or 144 is of the opinion that the charge ought to be prosecuted on indictment, the Magistrate—

- (a) must not determine the charge summarily; and
- (b) must proceed by way of an examination of witnesses in relation to an indictable offence.

‘(6) Despite section 139 of the *Justices Act 1886*, a summary proceeding for an offence against section 141, 142, 143 or 144 may be heard and determined at any place appointed for holding Magistrates Courts regardless of where the offence was committed.

‘(7) If a Magistrate acts under subsection (5)—

- (a) the plea of the person charged at the start of the proceeding must be disregarded; and
- (b) the evidence brought in the proceeding before the Magistrate decided to act under subsection (5) is taken to be evidence in the proceeding with a view to the committal of the person for trial or sentence; and
- (c) before committing the person for trial or sentence the Magistrate must make a statement to the person in accordance with section 104(2)(b) of the *Justices Act 1886*.

‘(8) The maximum penalty that may be imposed for a summary conviction of an offence against—

- (a) section 141, 142 or 143—is imprisonment for 2 years; or
- (b) section 144—is imprisonment for 1 year.’.

**PART 3—AMENDMENT OF VAGRANTS, GAMING
AND OTHER OFFENCES ACT 1931**

Omission of s.30 (Breaking or escaping from prison)

5. Section 30—

omit.