

Queensland



EVIDENCE AMENDMENT BILL 2000

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2000

A BILL

FOR

An Act to amend the *Evidence Act 1977*

	The Parliament of Queensland enacts—	1
	Short title	2
Clause	1. This Act may be cited as the <i>Evidence Amendment Act 2000</i> .	3
	Commencement	4
Clause	2. This Act commences on a day to be fixed by proclamation.	5
	Act amended	6
Clause	3. This Act amends the <i>Evidence Act 1977</i> .	7
	Insertion of new s 132C	8
Clause	4. After section 132B—	9
	<i>insert—</i>	10
	‘Fact finding on sentencing	11
	‘132C.(1) This section applies to any sentencing procedure in a criminal proceeding.	12 13
	‘(2) The sentencing judge or magistrate may act on an allegation of fact that is admitted or not challenged.	14 15
	‘(3) If an allegation of fact is not admitted or is challenged, the sentencing judge or magistrate may act on the allegation if the judge or magistrate is satisfied on the balance of probabilities that the allegation is true.	16 17 18
	‘(4) For subsection (3), the degree of satisfaction required varies according to the consequences, adverse to the person being sentenced, of finding the allegation to be true.	19 20 21
	‘(5) In this section—	22
	“allegation of fact” includes the following—	23

Evidence Amendment

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|--|--|--------|
| | (a) information under the <i>Penalties and Sentences Act 1992</i> , section 15; ¹ | 1
2 |
| | (b) information under the <i>Juvenile Justice Act 1992</i> , section 109(3) or in a presentence report under section 110 of that Act; ² | 3
4 |
| | (c) information under the <i>Criminal Offence Victims Act 1995</i> , section 14; ³ | 5
6 |
| | (d) other information or evidence.’. | 7 |

	Insertion of new pt 9	8
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Clause	5. After section 135—	9
	<i>insert—</i>	10

	‘PART 9—TRANSITIONAL PROVISION	11
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	‘Transitional—Evidence Amendment Act 2000	12
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	‘ 136.(1) Section 132C applies to a sentencing procedure regardless of whether the offence or the conviction for the offence giving rise to the sentencing procedure happened before or after the commencement of this section.	13 14 15 16
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	‘(2) In this section—	17
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	“ conviction ” means a finding of guilt, or the acceptance of a plea of guilty, by a court.	18 19
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	“ sentencing procedure ” means a sentencing procedure started after the commencement of this section.’.	20 21
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¹ *Penalties and Sentences Act 1992*, section 15 (Information on sentence)

² *Juvenile Justice Act 1992*, section 109 (Sentencing principles) or 110 (Presentence report)

³ *Criminal Offence Victims Act 1995*, section 14 (Information during sentencing of impact of crime on victim)

