

**CRIMINAL CODE.**

11° Elizabeth II., No. XXXV.

---

**No. 35 of 1962.**

---

**AN ACT to amend the Criminal Code.**

[Assented to 29th October, 1962.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and citation.

1. (1) This Act may be cited as the *Criminal Code Amendment Act, 1962*.

Vol. 8 of the  
Reprinted  
Acts  
approved for  
reprint  
29th June,  
1955.

(2) In this Act "Code" means the Criminal Code, as contained in the Schedule to the Criminal Code Act, 1913, Act No. 28 of 1913 and as amended by Acts Nos. 32 of 1918, 51 of 1932, 15 of 1942, 40 of 1945, 27 of 1952, 55 of 1953, 20, 63 and 73 of 1954, 11, 43 and 74 of 1956, 50 of 1957, 25 and 50 of 1960 and 28 of 1961.

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

3. Section one hundred and forty-nine of the Code is repealed and re-enacted with amendments as follows: S 149 repealed and re-enacted.

149. Any person who—

(a) rescues, or wilfully permits the escape of, a person who is in custody, or is detained, pursuant to any law relating to mental disorder; or

(b) conceals a person who—

(i) is rescued or escapes from that custody or detention; or

(ii) is absent without leave, within the meaning of any law relating to mental disorder,

is guilty of a misdemeanour and is liable to imprisonment with hard labour for three years.

Rescuing, permitting escape of or concealing a person subject to any law relating to mental disorder.  
Code s. 149.

4. Section three hundred and thirty-four of the Code is amended, by inserting after the word, “certificate”, where occurring in lines two, five, eight and nine, the words, “or other document”, in each case. S. 334 amended.

5. Section three hundred and thirty-five of the Code is amended, by inserting after the word, “person”, in line three and, where secondly occurring, in line nine and in line eleven and after the word, “is” in line twelve, the words, “detained or”, in each case. S. 335 amended.

6. Section three hundred and thirty-six of the Code is repealed and re-enacted with amendments, as follows: S. 336 repealed and re-enacted.

336. Any person who, by the production of a false certificate or other document, knowingly and wilfully, procures any person, not suffering from mental disorder, to be apprehended or

Procuring the apprehension or detention of a person not suffering from mental disorder.  
Code s. 336.

detained, pursuant to any law relating to mental disorder, upon insufficient or unreasonable grounds, is guilty of a misdemeanour and is liable to imprisonment with hard labour for three years.

S. 337  
repealed and  
re-enacted.

7. Section three hundred and thirty-seven of the Code is repealed and re-enacted with amendments, as follows:

Unlawful  
custody of  
persons  
suffering  
from  
mental  
disorder.  
Code s. 337.

337. Any person who detains, or assumes the custody of, a person suffering from mental disorder, contrary to the provisions of any law relating to mental disorder, is guilty of a misdemeanour and is liable to imprisonment for two years.

S. 669A  
added.

8. The Code is amended by adding, immediately after section six hundred and sixty-nine, the following section:

Convicted  
inebriates.

669A. (1) Where a person is convicted summarily, by a court comprising a stipendiary magistrate, or on indictment, of an offence, and drunkenness is an element, or was a contributing cause, of the offence, the court, if satisfied that the offender is an inebriate, may, in its discretion, order the offender to be placed, for a period not exceeding twelve months, in an institution established for the reception of convicted inebriates.

(2) A court shall not be deemed to have satisfied itself that an offender is an inebriate unless—

- (a) the Judge or magistrate has inspected, or appointed some person to inspect and report on, the offender;
- (b) there is produced to the court the certificate of a legally qualified medical practitioner that the offender is, in the opinion of the medical practitioner, an inebriate; and

- (c) the certificate mentioned in paragraph (b) of this subsection is corroborated by the evidence of some person other than the medical practitioner by whom it is given.

(3) Every medical practitioner who signs a certificate under, and for the purposes of, this section shall specify therein the facts upon which he has formed the opinion that the offender is an inebriate and shall distinguish, in the certificate, facts observed by him from facts communicated to him by others; and a certificate which purports to be founded only on facts communicated by others is invalid for the purposes of this section.

(4) The period for which an offender is placed in an institution under subsection (1) of this section may be extended by a Judge for a further period not exceeding twelve months.

(5) for the purposes of this section, "inebriate" means a person who habitually uses intoxicating liquor to excess.

---