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**Mandatory Sentencing Fact Sheet**

**What is Mandatory Sentencing?**

The NT Government has made new laws called Mandatory Sentencing. These laws change the way Magistrates and Judges make punishments for violent trouble. These laws mean that in many cases Magistrate or Judge MUST send a person to prison (Berrimah) if they commit a violent offence.

**What is a violent offence?**

A violent offence means violent trouble where a person has broken the law by hurting someone else physically for example by punching, kicking, spitting, using your body or using a weapon.

The new laws make five different levels of violent offences. There are different punishments for the different levels of violent offences.

**What are the five different levels?**

Level 5 – serious harm or physical harm with weapon

* Serious harm means that the injury could have caused death.
* It is a very serious injury like a broken jaw or a very bad head wound that could cause a long term health problem.
* If a weapon was also used, then the victim’s injury has to be ‘physical harm’, which is an interference with health. Because this is new law, magistrates have different ideas about what this might mean, but the magistrate needs to think about whether any part of the victim’s body could not work properly after they were injured.

A Magistrate or Judge MUST send a person who does physical harm with a weapon or serious harm to prison for:

* At least 3 months – if that person HAS NOT been in trouble before for a violent offence
* At least 12 months – if that person HAS been in trouble before for a violence offence.

Level 4 – Assault on a Worker or a Police Officer

* Physically assaulting someone when they are working for example a Taxi Driver or a security guard.
* Physically assaulting a Police Officer for example by hitting, pushing, spitting or kicking.

The Magistrate or Judge MUST send a person who assaults a worker or a police officer to prison for at least 3 months. It doesn’t matter if a person has or has NOT been in any trouble before.

Level 3 – Aggravated assault

* Physically hurting another person but with extra things happening like a man assaulting a woman, using a weapon or an adult assaulting a child.

A Magistrate or Judge MUST send a person who does an aggravated assault to prison for:

* At least some time but it is up to the judge to decide for how long (in some cases it might be as short as one day) – if that person HAS NOT been in trouble before for a violent offence
* At least 3 months – if that person HAS been in trouble before for a violence offence.

Level 2 – Causing Harm

* When you physically hurt somebody else by hitting, punching or kicking, and
* If that injury is physical harm.

A Magistrate or Judge MUST send them to prison for some time but it is up to the Magistrate or Judge to decide for how long. In some cases this might be as short as one day. It doesn’t matter if a person has or has NOT been in any trouble before.

Level 1 – Other Violent Offences

* Any other violent offences that are not listed above.

If a person HAS been in trouble before for a violent offence the Magistrate or Judge MUST send them to prison for some time but it is up to the Magistrate or Judge to decide for how long. In some cases this might be as short as one day.

If the person has NOT been in trouble before for a violent offence the Magistrate or Judge DOES NOT have to send them to jail but can choose to make any punishment.

**Things you need to know:**

* These new laws are very SERIOUS laws.
* If people do these types of violent offences the Magistrate or Judge does NOT have a choice and MUST send them to prison for the times above (Berrimah).
* If the judge decides there are very special/exceptional circumstances or reasons, the judge MUST send the person to prison for some time but it is up to the Magistrate or Judge to decide for how long.
* These laws apply to all adults.
* These laws generally don’t apply to juveniles, unless their case is in the Supreme Court and the judge decides to use the adult sentences.
* These laws apply to people who do new violent offences/trouble after 1 May 2013.

If you want to know more about these laws, you can contact a legal education lawyer at NAAJA on 89825100 or speak to a lawyer at court.