



New South Wales

# **Children (Detention Centres) Amendment Bill 1999**

## **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

## **Overview of Bill**

The objects of this Bill are as follows:

- (a) to require a person who is of or above the age of 18 years and who has been ordered to serve a sentence of imprisonment for an offence committed while in juvenile detention to serve the balance of any unexpired term of a detention order to which the person is subject in prison,
- (b) to provide that such a person may apply to the Children's Court for an order directing that the person be returned to a detention centre to serve the balance of that term of detention if the Children's Court is of the opinion that the person is suitable for detention in a detention centre,
- (c) to make consequential amendments.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Children (Detention Centres) Act 1987* set out in Schedule 1.

## Schedule 1 Amendments

**Schedule 1 [2]** inserts proposed section 28BA in the *Children (Detention Centres) Act 1987* to give effect to the objects described in paragraphs (a) and (b) above.

**Schedule 1 [1], [3] and [4]** contain the consequential amendments to the *Children (Detention Centres) Act 1987* referred to in paragraph (c) above.

First print



New South Wales

# Children (Detention Centres) Amendment Bill 1999

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New South Wales

# Children (Detention Centres) Amendment Bill 1999

No. , 1999

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## A Bill for

An Act to amend the *Children (Detention Centres) Act 1987* to make further provision with respect to the imprisonment of certain offenders serving detention orders; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Children (Detention Centres) Amendment Act 1999</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day to be appointed by proclamation.	5
<b>3 Amendment of Children (Detention Centres) Act 1987 No 57</b>	6
The <i>Children (Detention Centres) Act 1987</i> is amended as set out in Schedule 1.	7
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<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 9 Persons on remand and persons subject to control to be detained in detention centres</b>	3 4
	Omit “sections 28A and 28B” from section 9 (5).	5
	Insert instead “sections 28A, 28B and 28BA”.	6
<b>[2]</b>	<b>Section 28BA</b>	7
	Insert after section 28B:	8
<b>28BA</b>	<b>Certain persons to serve balance of detention order in prison</b>	9
	(1) This section applies to a person who is sentenced to a term of imprisonment in respect of a detention centre offence that was committed when the person was of or above the age of 18 years.	10 11 12 13
	(2) A person to whom this section applies must, after serving the term of imprisonment, serve the balance of any unexpired term of a detention order to which the person is subject in prison.	14 15 16
	(3) The balance of the unexpired term of a detention order to which subsection (2) relates becomes the term of a sentence of imprisonment.	17 18 19
	(4) Despite subsections (2) and (3), the Children’s Court may, on application by a person to whom this section applies, direct that the person be returned to a detention centre for the balance of that unexpired term if it is of the opinion that the person is suitable for detention in a detention centre.	20 21 22 23 24
	(5) In any proceedings on an application under subsection (4), the Director-General and a person to whom this section applies are entitled:	25 26 27
	(a) to appear in the proceedings and be heard, and	28
	(b) to be represented by a barrister or solicitor or, by leave of the Children’s Court, by an agent.	29 30

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Schedule 1 Amendments

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(6) Section 28E makes provision for the matters to be taken into account in deciding whether a person is suitable for detention in a detention centre.	1 2 3
(7) This section extends to a person sentenced to a term of imprisonment for a detention centre offence before the commencement of this section, but does not apply if the person has served the whole of that sentence before that commencement.	4 5 6 7 8
<b>[3] Section 28C Meaning of “detention centre offence”</b>	9
Omit “sections 28A and 28B”.	10
Insert instead “sections 28A, 28B and 28BA”.	11
<b>[4] Section 28E Consideration of suitability for detention centre</b>	12
Omit “section 28A, 28B or 28D” from section 28E (1).	13
Insert instead “section 28A, 28B, 28BA or 28D”.	14