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# Crimes (Administration of Sentences) Amendment Bill 2007

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## CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT BILL 2007

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**Bill introduced, and read a first time and ordered to be printed on motion by the Hon. John Hatzistergos.**

### Second Reading

**The Hon. JOHN HATZISTERGOS** (Attorney General, and Minister for Justice) [4.10 p.m.]: I move:

That this bill be now read a second time.

The Crimes (Administration of Sentences) Act 1999 is the principal Act that governs the administration of sentences in New South Wales. The object of the Crimes (Administration of Sentences) Amendment Bill 2007 is to amend the principal Act and its principal regulation. In order to improve the administration of sentences and the management of correctional centres, the bill includes amendments related to inmates' money, the date upon which an inmate becomes eligible for parole, drug and alcohol testing of offenders under a community service order, the appointment and functions of compliance and monitoring officers, stop orders on forwarding mail to exempt persons and exempt bodies, the powers of the commissioner, and minor, consequential and ancillary matters.

I now turn to the details of the bill. Although incarcerated, an inmate has various sources of money including money in their possession when they first enter into custody, earnings from work conducted within the correctional centre, earnings from day-leave employment, money given to inmates from visitors, moneys transferred from inmates' bank accounts and other welfare payments which are payable upon release, such as rental assistance from Centrelink. The interest earned from this money is used by the Department of Corrective Services to purchase items for the benefit of visitors and inmates, such as equipment for children in visiting areas.

In the unlikely event that a court finds that the Department of Corrective Services holds inmates' moneys on trust, ordinary trust obligations would be imposed upon the Department of Corrective Services. Consequently, certain actions of the department's, such as pooling the money into one account and using the interest, could be deemed a breach of trust. The Crown Solicitor has advised that whilst this is improbable the matter is not entirely free from doubt. Therefore, the bill proposes an amendment to make it clear that ordinary trust obligations are not imposed upon the Department of Corrective Services with respect to moneys held on behalf of inmates.

This bill proposes an amendment, which will affect parole eligibility dates. It is proposed to amend the Crimes (Administration of Sentences) Act 1999 so that if an offender is arrested and admitted into custody whilst on parole that any time served, until the State Parole Authority has formally revoked the parole order, counts toward the 12-month wait before parole can be re-considered. This will be achieved by amending the definition of the "parole eligibility date".

This bill proposes an amendment to allow probation and parole officers to test offenders for alcohol and drug use whilst under community services orders. Offenders serving a community service order must not be under the influence of drugs or alcohol. However, probation and parole officers do not have the authority to test for drugs or alcohol if they suspect that the offender is under the influence of alcohol or drugs. This amendment will allow probation and parole officers to use the result of alcohol or drug testing as evidence that an offender has either breached a community service order on the grounds of being under the influence of alcohol or drugs or not breached an order.

Presently, the functions of compliance and monitoring officers in section 235G of the Act are confined to full-time inmates on external leave from a correctional centre, periodic detainees, home detainees and offenders under community service orders. In order to improve community safety, and in keeping with priority R2 of the State Plan to reduce reoffending, the bill proposes to extend the range of offenders for whom compliance and monitoring officers' functions relate to include parolees, offenders subject to an extended supervision order or interim extended supervision order under the Crimes (Serious Sex Offenders) Act 2006, and offenders subject to a good behaviour bond. The bill also expressly permits compliance and monitoring officers to use as much force as is reasonably necessary in the exercise of their functions.

The bill proposes to amend the principal regulation with respect to inmate mail to enable an exempt body or

person to specifically write to the Commissioner of Corrective Services to request that mail from a particular offender not be sent to them. This may be done in circumstances where, for instance, a member of Parliament who is an exempt person under the regulation has previously received abusive or threatening letters from that offender. The bill also includes an amendment to allow the commissioner to authorise any person to exercise the functions, duties and responsibilities of a correctional officer. The proposed amendments would allow the commissioner to authorise people to conduct specialised services for the department. The remainder of the bill includes minor and consequential amendments, including an amendment to ensure that the law reflects the correct ranking of correctional officer positions. I commend the bill to the House.

**Debate adjourned on motion by the Hon. John Ajaka and set down as an order of the day for a future day.**

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