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# Child Protection (Offenders Registration) Amendment Bill 2007

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## CHILD PROTECTION (OFFENDERS REGISTRATION) AMENDMENT BILL 2007

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**Bill introduced on motion by Ms Tanya Gadiel, on behalf of Mr David Campbell. Bill introduced on motion by Ms Tanya Gadiel, on behalf of Mr David Campbell.**

### Agreement in Principle

**Ms TANYA GADIEL** (Parramatta—Parliamentary Secretary) [11.34 p.m.], on behalf of Mr David Campbell: I move:

That this bill be now agreed to in principle.

I am pleased to introduce the Child Protection (Offenders Registration) Amendment Bill 2007. This bill amends the Child Protection (Offenders Registration) Act 2000 to make further provision with respect to registration and reporting requirements for certain persons on the New South Wales Child Protection Register, which hereinafter I will refer to as the register. New South Wales was the first Australian State to introduce a mandatory system of registration for people who have committed child sex offences and/or other serious offences against children. Since October 2001, registrable persons have been required to report their personal details to the New South Wales Police Force for a set number of years while they are living in the community. I strongly support this system, which is legislatively underpinned by the Child Protection (Offenders Registration) Act 2000.

While one of the aims of the register is to provide a deterrent to reoffending, it is important to recognise that the existence of the register will not stop every person who has been convicted of a registrable offence from ever abusing another child. However, the register does provide police with a valuable tool to assist in their management and monitoring of registrable persons living in the community. Registrable persons are required to tell police where they live, where they work, what car they drive, any children they live with, and more. They are also required to inform police in advance of their intended interstate or international travel arrangements. As well as being held on the New South Wales Child Protection Register, information regarding registrable persons is uploaded to the Australian National Child Offenders Register.

This database, which is managed by CrimTrac, is used to assist police from other jurisdictions in monitoring child sex offenders. The Child Protection (Offenders Registration) Amendment Bill 2007 introduces improvements to New South Wales's child protection registration system, including allowing police to take and retain DNA samples of registrable persons, and increasing the maximum penalty for breaching reporting obligations from two years to five years. The changes aim to provide police with the information they need when investigating and prosecuting child sex offences that may have been committed by recidivist offenders, as well as in the police management and monitoring of child sex offenders in the community. The recommended changes follow a period of extensive consultation and a review of the Act.

In November 2005, the New South Wales Ombudsman's review of the register was tabled in Parliament. His review found that the implementation of the Act had been largely successful and that the register had the capability to be a significant child protection tool. The Ombudsman's review informed the statutory review of the Act. I now seek leave to table the report to Parliament by the Ministry for Police on the review of the Child Protection (Offenders Registration) Act 2000, dated November 2007.

**Leave granted.**

**Report tabled.**

I will now outline the provisions of the bill. Registrable offences are listed in two separate categories under the Act. Class 1 includes the most serious offences such as child murder and sexual intercourse with a child. Class 2 includes other offences such as acts of indecency against a child and possession of child pornography. The bill only makes one change to the definition of registrable offences, which is to recognise the offence of sexual assault by forced self-manipulation, where the person against whom the offence is committed is a child, as a class 1 offence. The bill also tightens the circumstances in which adults are required to comply with the reporting

obligations of the Act by extending registration requirements to all adults convicted of a class 2 registrable offence—it will no longer matter whether the sentence includes a term of imprisonment or requires the person to be supervised.

While the penalty imposed by the courts on such offenders indicates that their conduct is at the lower end of seriousness in relation to registrable offences, the nature of the offences, such as possession of child pornography, are still serious offences that potentially endanger children and warrant monitoring by police through the registration process irrespective of the sentence received. Young persons will continue to be exempt from registration if they commit certain class 2 offences on a single occasion, such as an act of indecency or possessing or publishing child pornography.

The bill also ensures that all persons arriving into New South Wales, who would be required to register with police in their country of origin, will be required to report their details to the New South Wales Police Force. Police can currently apply to the court for a child protection registration order when a person is found guilty of an offence that is not a registrable offence. The bill expands the circumstances in which courts can issue child protection registration orders to require someone to comply with the reporting obligations of the Act.

Firstly, the bill allows courts to issue orders for persons convicted overseas of an offence or offences for conduct that would have constituted a registrable offence if committed in New South Wales. For example, a person may be convicted in another country of possession of pornography in a jurisdiction that does not have the specific offence of possession of child pornography on its books, as is the case in a number of our neighbouring South-East Asian countries. Secondly, the bill allows courts to order persons to comply with the reporting obligations of the Act—persons who completed their sentence for what is now defined as a class 1 registrable offence before the Act commenced in October 2001. These orders will not be able to be applied to persons who completed their sentences prior to October 2001 and who were children at the time they committed the offence.

Finally, the bill allows courts to order people charged with a registrable offence or offences and released on bail under the Mental Health (Criminal Procedure) Act 1990 to report to police under the Act. Such persons can be on bail for long periods while their fitness to be tried is assessed and a decision is made as to whether a special hearing under the Mental Health (Criminal Procedure) Act 1990 should be held. Consequently, there is potential for significantly longer delays between a person being released on bail and the court issuing a sentence for forensic patients rather than for others released on bail. In all cases, courts will be able to issue child protection registration orders only when they are satisfied that the person poses a risk to the lives or sexual safety of one or more children, or of children generally.

The bill introduces a requirement that registrable persons are to report to police all their active electronic communication identifiers, details of service providers, service type and any changes to those details. This includes all their active email addresses, chat room identities, as well as all landline and mobile telephone numbers. This information may assist the investigations of the New South Wales Police Force, particularly in relation to child pornography or grooming and/or procuring of children. While this additional reporting requirement will not stop convicted child sex offenders from using the Internet, it may deter persons on the register from inappropriately using telecommunications and provide an added layer of protection for children while using the Internet.

I am advised that currently it is difficult to prove a breach under section 9 (2) of the Act as police must provide evidence that a person on the register has lived with a child for more than 14 days or had more than 14 days unsupervised contact with a child over a 12-month period, without telling police as is required under the Act. The bill proposes that in future this information will need to be provided to police when persons on the register have lived with a child for only three days or more, or had unsupervised contact for three days or more in a 12-month period. Furthermore, they will need to let police know of any change in this information within three days of the change occurring. Similar amendments were recently introduced to Victoria's registration scheme and are intended to make it easier for police to gather evidence when they become aware that a person on the register has breached their reporting obligations in this regard.

The bill requires registrable persons to make their initial report to police within seven days. This reduces and simplifies the current time frames in which registrable persons are required to make this report. The introduction of this provision will align New South Wales with legislation in Western Australia, the Northern Territory and the Australian Capital Territory. Registrable persons will also now be required to present to police any current passports they hold as part of their reporting requirements. This will assist police in confirming the identity of registrable persons from New South Wales upon their departure from or their entry into Australia. Police advise that failure to comply with reporting obligations can be an indicator of further offending; it can also be evidence of a disregard for the register, the seriousness of the offence or offences they have committed, and the register's overall objective of protecting children.

In order for the Act to be effective it is imperative that registrable persons have a sufficient deterrent to encourage them to comply with their reporting obligations. Therefore, the bill increases the maximum penalties for breaching reporting obligations under the Act from two years to five years imprisonment. Persons on the register are

currently required to report to police in New South Wales their names, together with any other names by which they are known or have previously been known. Based on similar reforms recently introduced to Victoria's scheme, the bill requires registrable persons to apply to the Commissioner of Police before changing their names. If the commissioner believes that the name change is reasonably likely to be regarded as offensive by the community, the person's victim or the victim's family—or where it might undermine the ability of the New South Wales Police Force to supervise and monitor the person—the commissioner will be authorised to prevent him or her from changing his or her name. This proposal represents an operational improvement to the current scheme.

Schedule 2 to the bill will amend the Crimes (Forensic Procedure) Act 2000 to allow police to take and retain the DNA of registrable persons. This change will provide police with a powerful and crucial investigative tool to identify offenders and/or eliminate suspects when new child sexual offences occur. By having the DNA of persons on the register more persons who commit child sex crimes will be identified, they will be identified faster, and they will be more likely to be successfully prosecuted. Police have advised me that the DNA sample could be taken when registrable persons either make their initial report or make their annual report to police, as required under the Act. All persons on the register should be eligible to have their DNA tested by police, irrespective of sentence.

It was Parliament's original intention that information held on the register should not be available to the public. To ensure that this is the case, the bill exempts documents relating to the register from the Freedom of Information Act 1989. Clarifying in legislation that information held on the register is not accessible to the public will encourage even higher levels of compliance with reporting obligations and further minimise the risk of vigilante activity. I commend this bill to the House.

**Debate adjourned on motion by Mr Greg Aplin and set down as an order of the day for a future day.**

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