Agreement in Principle

Mr PHILLIP COSTA (Wollondilly—Minister for Water, and Minister for Corrective Services) [10.08 a.m.]: I move:

That this bill be now agreed to in principle.

The Crimes (Administration of Sentences) Act 1999 is the principal Act that governs the administration of sentences in New South Wales. This bill makes several amendments to the Crimes (Administration of Sentences) Act 1999, the Act; the Crimes (Administration of Sentences) Regulation 2008, the regulation; and the Criminal Records Act 1991, including conferring on the State Parole Authority functions relating to parole orders for Norfolk Island prisoners held in custody in New South Wales; updating references to Community Offender Services field officers; enabling Corrective Services staff responsible for the Victims Register to provide certain information to victims on behalf of the State Parole Authority and the Serious Offenders Review Council; enabling spent convictions to be required to be disclosed by persons seeking employment as members of staff of Corrective Services NSW; enabling an inmate to be compelled to attend the Mental Health Review Tribunal; as well as other provisions of a savings and transitional nature.

The bill also makes amendments to the Companion Animals Act 1998 and the Companion Animals Regulation 2008 to provide that Corrective Services dogs are to be managed the same as police dogs under the Companion Animals Legislative Scheme. Some of the proposed amendments in the bill are of a minor, ancillary or machinery nature. For example, item [2] of schedule 1 changes the title of community offender services field officers to more accurately reflect their functions. Other amendments are consequential to this, namely, items [3], [5], and [6] of schedule 1 and items [1], [2], and [3] of schedule 2.3. Item [5] in schedule 2.3 amends the regulation to include the Mental Health Review Tribunal as an "appropriate authority" before whom an inmate may be compelled to appear under section 77 of the Act.

Appearances under section 77 involve court or tribunal appearances by inmates in legal proceedings, inquests or inquiries in criminal, administrative and civil jurisdictions when there is no remand or criminal procedure warrant available, for example, appeals, Family Court matters and appearance as a witness. An appropriate authority may issue a section 77 order, directing the commissioner to cause the inmate to be produced at the court or other place at which the proceeding, inquest or inquiry is being, or is to be, held. This order requires the inmate's continued custody and subsequent return of the inmate to the correctional centre from which the inmate was produced. Each year appropriate authorities issue approximately 12,000 section 77 orders.

It is important that the Mental Health Review Tribunal be included as an appropriate authority following the commencement of amendments to the Mental Health (Forensic Provisions) Act 1990 that require the tribunal to consider the release of a forensic patient. Forensic patients may be held in correctional centres. Item [7] of schedule 1 relates to the provision of information to victims. The Restorative Justice Unit within Corrective Services operates the victims register as its core function, subject to legislative provisions. Officers of the Restorative Justice Unit build strong relationships with traumatised victims and have received praise for their empathy, understanding and professionalism.

Currently the State Parole Authority and Serious Offenders Review Council are authorised in the Act to provide information to registered victims. The Restorative Justice Unit, however, provides an overarching and coordinating role in regard to services for victims, for example, notification to victims of impending hearing dates. This amendment will allow Corrective Services staff to assist in the provision of certain information to victims on behalf of the State Parole Authority and the Serious Offenders Review Council.

Items [4], [1], and [9] of schedule 1 relate to parole for Norfolk Island inmates. These amendments address a gap in the Act with respect to inmates convicted of offences on Norfolk Island. This gap has arisen because Norfolk Island passed its Sentencing Act 2007 without reference to the New South Wales Act or notification to Corrective Services NSW, which is most interesting as we have their prisoners. Currently three Norfolk Island inmates are held in New South Wales custody by arrangement with the Government of Norfolk Island. One of these inmates becomes eligible for parole on 14 March 2010. Norfolk Island legislation covers the parole of Norfolk Island inmates and refers to a Parole Board, but Norfolk Island does not have a Parole Board. Its legislation provides that references to the Parole Board must be read as a reference to the Parole Board of a State or Territory holding the Norfolk Island inmate.

Furthermore, the Norfolk Island legislation does not specifically provide for the release-on-parole procedure to be applied to Norfolk Island inmates. The proposed amendments enable the State Parole Authority to consider the release to parole of Norfolk Island inmates and set appropriate parole conditions, following the same procedure applied to New South Wales inmates. The proposed amendment will not require Norfolk Island inmates to remain in New South Wales and be subject to New South Wales parole, nor are such inmates compelled to return to Norfolk Island; in some cases it may inappropriate for them to do so. Accommodation for parolees is

assessed on a case-by-case basis. If the parolee remains in New South Wales, then the parolee will be subject to New South Wales parole. If the parolee returns to Norfolk Island, then the amending provisions provide that neither the State Parole Authority nor the Probation and Parole Service are required to exercise any functions in respect of an offender who is not in New South Wales unless they are doing so in accordance with an agreement with the administration of Norfolk Island.

All of the items in schedule 2.2 relate to exemptions for dogs used by Corrective Services NSW under the Companion Animals Act and regulation. The amendments will apply the same exemptions as currently apply to police dogs. For example, Corrective Services will not commit an offence if one of its dogs inadvertently bites an escaping or rioting inmate. Canines used by Corrective Services NSW have a legislatively mandated role and functions. When the exemptions were granted to police dogs it was a drafting oversight that resulted in Corrective Services canines being excluded. This amendment applies to Corrective Services canines while performing their duties.

Schedule 2.4 enables spent convictions to be required to be disclosed by persons seeking employment with Corrective Services by exempting those circumstances from the prohibition on such disclosures. Up until now it has been only a requirement for people seeking employment as a correctional officer. This amendment reflects the reality that a huge cross-section of staff who are not custodial staff have regular or daily contact with inmates and offenders. In fact, the majority of criminals are monitored and supervised in the community by non-custodial staff. This amendment is both logical and necessary in order to ensure equitable screening of staff and to ensure integrity in the recruitment process.

Furthermore, suitably qualified and trained staff are encouraged to transfer internally from one job to another, rendering different levels of security clearance an anomaly. In recent years the Independent Commission Against Corruption has had cause to investigate allegations of corrupt conduct by both custodial and non-custodial staff. Recent amendments to the Act providing for compliance and monitoring officers highlight the inconsistency of the current non-disclosure exemption applying only to applicants for employment as correctional officers. Section 235G of the Act permits the commissioner to appoint:

> any member of staff of CSNSW (including any correctional officer or any probation and parole officer) as a compliance and monitoring officer to exercise such of the as are specified in the instrument of his or her appointment or in a subsequent instrument executed by the Commissioner.

Section 235G (2) (c), (e) and (f) all nominate particular functions of a correctional officer that may be included in the functions exercisable by a compliance and monitoring officer; yet under the current state of the law, compliance and monitoring officers working side-by-side could be subject to different levels of criminal record disclosure depending on where their intra-organisational employment originated. Hence the amendments proposed will redress this anomaly. I commend the bill to the House.