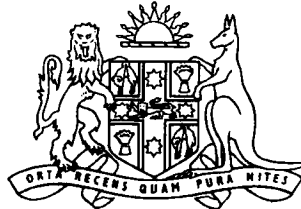


Passed by both Houses



New South Wales

Crimes Legislation Amendment (Criminal Justice Interventions) Bill 2002

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Criminal Procedure Act 1986 No 209	2
4 Amendment of Bail Act 1978 No 161	2
5 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92	2
6 Amendment of other Acts	2
 Schedules	
1 Amendment of Criminal Procedure Act 1986	3
2 Amendment of Bail Act 1978	11
3 Amendment of Crimes (Sentencing Procedure) Act 1999	14
4 Consequential and other amendments	23

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2002*



New South Wales

Crimes Legislation Amendment (Criminal Justice Interventions) Bill 2002

Act No , 2002

An Act to amend the *Criminal Procedure Act 1986*, the *Bail Act 1978*, the *Crimes (Sentencing Procedure) Act 1999* and other legislation to make provision with respect to criminal justice intervention programs; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Legislation Amendment (Criminal Justice Interventions) Act 2002*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Schedule 1 [3] commences on:
 - (a) the day on which Schedule 1 [2] commences, or
 - (b) the day on which Schedule 1 [140] to the *Criminal Procedure Amendment (Justices and Local Courts) Act 2001* commences, whichever is the later.

3 Amendment of Criminal Procedure Act 1986 No 209

The *Criminal Procedure Act 1986* is amended as set out in Schedule 1.

4 Amendment of Bail Act 1978 No 161

The *Bail Act 1978* is amended as set out in Schedule 2.

5 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92

The *Crimes (Sentencing Procedure) Act 1999* is amended as set out in Schedule 3.

6 Amendment of other Acts

The Acts specified in Schedule 4 are amended as set out in that Schedule.

Schedule 1 Amendment of Criminal Procedure Act 1986

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

intervention plan—see section 174.

intervention program—see section 174.

[2] Part 9

Insert after Part 8:

Part 9 Intervention programs

Note. This Part provides for the recognition and operation of certain programs for dealing with accused persons and offenders, known as *intervention programs*. An accused person or offender may be referred for participation in an intervention program at several points in criminal proceedings against the person, as follows:

- (a) a court that grants bail to a person may impose a condition of bail under section 36A of the *Bail Act 1978* that the person enter into an agreement to subject himself or herself to an assessment of the person's capacity and prospects for participation in an intervention program or other program for treatment or rehabilitation, or that the person enter into an agreement to participate in an intervention program (and to comply with any plan arising out of the program) or other program for treatment or rehabilitation,
- (b) a court may adjourn criminal proceedings against a person before any finding as to guilt is made and grant bail to the person for the purpose of assessing the person's capacity and prospects for participation in an intervention program or to allow the person to participate in an intervention program (and to comply with any plan arising out of the program) under this Act,
- (c) a court that finds a person guilty of an offence may make an order requiring the person to participate in an intervention program (and to comply with any plan arising out of the program) under section 10 of the *Crimes (Sentencing Procedure) Act 1999*,
- (d) participation in an intervention program (and compliance with any plan arising out of the program) may be made a condition of a good behaviour bond under section 9 or 10 of the *Crimes (Sentencing Procedure) Act 1999*, or of a suspended sentence under section 12 of that Act,

- (e) sentencing of an offender may be deferred for the purpose of assessing an offender for participation in an intervention program, or for allowing an offender to participate in an intervention program (and to comply with any plan arising out of the program) under section 11 of the *Crimes (Sentencing Procedure) Act 1999*.

Division 1 Preliminary

173 Objects

- (1) The objects of this Part are:
 - (a) to provide a framework for the recognition and operation of programs of certain alternative measures for dealing with persons who have committed an offence or are alleged to have committed an offence, and
 - (b) to ensure that such programs apply fairly to all persons who are eligible to participate in them, and that such programs are properly managed and administered, and
 - (c) to reduce the likelihood of future offending behaviour by facilitating participation in such programs.
- (2) In enacting this Part, Parliament recognises that:
 - (a) the rights of victims should be protected and maintained in accordance with the Charter of Victims Rights set out in the *Victims Rights Act 1996*, and
 - (b) the successful rehabilitation of offenders contributes to the maintenance of a safe, peaceful and just society.

174 Definitions

- (1) In this Part:
 - intervention plan*** means a plan, agreement or arrangement arising out of the participation of an offender or an accused person in an intervention program.
 - intervention program*** means a program of measures declared to be an intervention program under section 175.
- (2) Notes included in this Part are explanatory notes and do not form part of this Part.

Division 2 Intervention programs

175 Declaration and regulation of intervention programs

- (1) The regulations may declare that a program of measures for dealing with offenders or accused persons that is described in the regulations is an ***intervention program*** for the purposes of this Part.
- (2) The purposes of such a program may include any of the following:
 - (a) promoting the treatment or rehabilitation of offenders or accused persons,
 - (b) promoting respect for the law and the maintenance of a just and safe community,
 - (c) encouraging and facilitating the provision by offenders of appropriate forms of remedial actions to victims and the community,
 - (d) promoting the acceptance by offenders of accountability and responsibility for their behaviour,
 - (e) promoting the reintegration of offenders into the community.
- (3) The regulations may make provision for or with respect to the following matters:
 - (a) subject to section 176, the offences in respect of which an intervention program may be conducted,
 - (b) subject to section 177, eligibility to participate in an intervention program,
 - (c) the nature and content of the measures constituting an intervention program,
 - (d) the purposes and objectives of an intervention program, and the principles guiding an intervention program,
 - (e) assessment of the suitability of a person to participate in an intervention program, or of a person's capacity or prospects for participation in an intervention program,
 - (f) the conduct of investigations and the preparation of reports as to a person's suitability, capacity or prospects for participation in an intervention program,

- (g) the provision of reports as to a person's suitability, capacity or prospects for participation in an intervention program,
 - (h) the persons, bodies or organisations who may participate in an intervention program or intervention plan (in addition to the offender or accused person),
 - (i) the role of particular persons, bodies or organisations in the conduct of an intervention program or intervention plan,
 - (j) restrictions or conditions on participation in an intervention program (including legal representation of offenders or accused persons who participate in an intervention program),
 - (k) the development and implementation of intervention plans arising out of an intervention program, including restrictions or conditions on intervention plans,
 - (l) procedures for notification of courts or other persons, bodies or organisations of a decision of a person not to participate in, or to continue to participate in, an intervention program or intervention plan,
 - (m) the content and keeping of records in connection with an intervention program or intervention plan,
 - (n) the monitoring and evaluation of, or research into, the operation and effect of an intervention program or intervention plan,
 - (o) the issuing of guidelines with respect to the conduct or operation of an intervention program or intervention plan,
 - (p) authorising the participation of persons who are in custody in an intervention program or intervention plan,
 - (q) any other matter relating to the conduct or operation of an intervention program or intervention plan.
- (4) The operation of an intervention program may be limited by the regulations to a specified part or parts of New South Wales, or for a specified period or periods (or both).

- (5) Nothing in this section prevents the development, conduct or operation of programs of measures for the treatment or rehabilitation of offenders or accused persons that are not intervention programs.

176 Offences in respect of which an intervention program may be conducted

- (1) The offences in respect of which an intervention program may be conducted are, except as provided by subsection (2):
- (a) summary offences, and
 - (b) indictable offences that may be dealt with summarily under this Act or another law prescribed by the regulations for the purposes of this subsection.
- (2) An intervention program may not be conducted in respect of any of the following offences:
- (a) an offence under section 35 (Malicious wounding or infliction of grievous bodily harm) or 35A (1) (Maliciously cause dog to inflict grievous bodily harm) of the *Crimes Act 1900*,
 - (b) an offence under Division 10 (Offences in the nature of rape, offences relating to other acts of sexual assault etc) or 15 (Child prostitution and pornography) of Part 3 of the *Crimes Act 1900*,
 - (c) an offence under section 562AB (Stalking or intimidation with intent to cause fear of physical or mental harm) of the *Crimes Act 1900*,
 - (d) an offence under section 578B (Possession of child pornography) or 578C (2A) (Publishing child pornography) of the *Crimes Act 1900*,
 - (e) any offence involving the use of a firearm,
 - (f) an offence under section 23 (1) (b) or (2) (b) (Offences with respect to prohibited plants), 25 (Supply of prohibited drugs) or 25A (Offence of supplying prohibited drugs on an ongoing basis) of the *Drug Misuse and Trafficking Act 1985*,
 - (g) any other offence prescribed by the regulations for the purposes of this subsection.

177 Eligibility of certain persons to participate in intervention program

A person is not eligible to participate in an intervention program in respect of an offence while the person is being dealt with for the offence:

- (a) by the Children's Court under Part 3 (Criminal proceedings in the Children's Court) of the *Children (Criminal Proceedings) Act 1987* (including after the person has been remitted to the Children's Court under section 20 of that Act), or
- (b) by any other court in accordance with Division 4 of Part 3 of that Act.

Division 3 Adjourning of criminal proceedings in connection with intervention program

178 Court may adjourn proceedings to allow accused person to be assessed for or to participate in intervention program

- (1) Before a finding as to the guilt of an accused person in respect of an offence is made, a court may make an order adjourning proceedings against the accused person to a specified date, and granting bail to the person in accordance with the *Bail Act 1978*, for either or both of the following purposes:
 - (a) assessing the person's capacity and prospects for participation in an intervention program,
 - (b) allowing the person to participate in an intervention program.

Note. Section 36A of the *Bail Act 1978* enables a court to grant bail to a person on either or both of the following conditions:

- (a) that the person enter into an agreement to subject himself or herself to an assessment of the person's capacity and prospects for participation in an intervention program or other program for treatment or rehabilitation,
 - (b) that the person enter into an agreement to:
 - (i) participate in an intervention program and to comply with any intervention plan arising out of the program, or
 - (ii) participate in any other program for treatment or rehabilitation.
- (2) The maximum period for which proceedings may be adjourned under this section is 12 months from the date of the making of the order.

-
- (3) This section does not limit any power that a court has, apart from this section, to adjourn proceedings or to grant bail in relation to any period of adjournment.
 - (4) This section does not limit the kinds of purposes for which a court may adjourn proceedings or grant bail, so that an order adjourning proceedings may be made for the purpose of allowing an offender to participate in a program for treatment or rehabilitation that is not an intervention program.

Division 4 Miscellaneous

179 Regulations with respect to the provision or disclosure of information in connection with intervention programs

- (1) The regulations may make provision for or with respect to the provision or disclosure of information in connection with an intervention program or intervention plan to a court or other person, body or organisation.
- (2) Without limiting subsection (1), the regulations may make provision for or with respect to the following matters:
 - (a) the admissibility of such information in evidence in any criminal or civil proceedings, including the admissibility in evidence of any statement, confession, admission or information made or given by an offender or accused person during participation in, or for the purposes of participation in, an intervention program or intervention plan,
 - (b) the protection of a person, body or organisation from civil or criminal liability or disciplinary proceedings resulting from the provision of such information,
 - (c) the compellability of a person, body or organisation to disclose such information or to produce a document containing such information before a court, tribunal or committee.
- (3) A provision of any Act or law that prohibits or restricts the disclosure of information does not operate to prevent the provision of information referred to in subsection (1) in accordance with the regulations.

- (4) The regulations made under this section may create offences punishable by a penalty not exceeding 50 penalty units.

180 Relationship with other legislation

- (1) The *Bail Act 1978* prevails in the event of an inconsistency between that Act and this Part.
- (2) This Part does not affect any jurisdiction conferred on any court under any other Act or law.
- (3) This Part does not derogate from the functions of any person or court dealing with an offence or alleged offence to take any other action in relation to an offence or alleged offence, under any other Act or law.

[3] Part 9 (as inserted by item [2] of this Schedule)

Transfer Part 9 to the end of Chapter 7, renumber the Part with appropriate Part and section numbers, and appropriately renumber:

- (a) the references to section 174 in the definitions of *intervention program* and *intervention plan* in section 3 (1), and
- (b) the reference to section 175 in the definition of *intervention program* in section 174, and
- (c) the reference to section 176 in section 175 (3) (a), and
- (d) the reference to section 177 in section 175 (3) (b).

[4] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Crimes Legislation Amendment (Criminal Justice Interventions) Act 2002

Schedule 2 Amendment of Bail Act 1978

(Section 4)

[1] Section 9B Additional exceptions to presumption in favour of bail

Insert “or an intervention program order” after “good behaviour bond” in section 9B (1) (d).

[2] Section 9B (4)

Insert after section 9B (3):

(4) In this section:

intervention program order has the same meaning as in the *Crimes (Sentencing Procedure) Act 1999*.

[3] Section 36A Additional bail conditions for persons benefiting from assessment, treatment or rehabilitation or intervention program

Omit section 36A (1) and (2). Insert instead:

- (1) This section applies in circumstances in which the authorised officer or court to whom an application for the granting of bail is made is of the opinion that the person to whom the application relates would benefit from:
 - (a) undergoing assessment for participation in an intervention program or other program for treatment or rehabilitation, or
 - (b) participating in an intervention program or other program for treatment or rehabilitation.
- (2) In circumstances in which this section applies, either or both of the following conditions may be imposed on the grant of bail:
 - (a) that the person enter into an agreement to subject himself or herself to an assessment of the person’s capacity and prospects for participation in an intervention program or other program for treatment or rehabilitation,

- (b) that the person enter into an agreement to:
 - (i) participate in an intervention program and to comply with any intervention plan arising out of the program, or
 - (ii) participate in any other program for treatment or rehabilitation.

[4] Section 36A (6) and (7)

Insert after section 36A (5):

- (6) Despite subsection (2), neither the Children's Court nor an authorised officer may impose either of the following conditions on a grant of bail to a person who was under the age of 18 years at the time that the offence was committed or alleged to have been committed:
 - (a) that the person enter into an agreement to subject himself or herself to an assessment of the person's capacity and prospects for participation in an intervention program,
 - (b) that the person enter into an agreement to participate in an intervention program and to comply with any intervention plan arising out of the program.
- (7) In this section:
intervention program and *intervention plan* have the same meanings as they have in the *Criminal Procedure Act 1986*.

[5] Section 37 Restrictions on imposing bail conditions

Insert at the end of section 37 (1) (c):

- , or
- (d) reducing the likelihood of future offences being committed by promoting the treatment or rehabilitation of an accused person.

[6] Schedule 1 Savings and transitional provisions

Insert after Part 9:

Part 10 Crimes Legislation Amendment (Criminal Justice Interventions) Act 2002

20 Bail conditions

- (1) Any condition imposed on a grant of bail under section 36A, being a condition in force immediately before the commencement of Schedule 2 [3] to the *Crimes Legislation Amendment (Criminal Justice Interventions) Act 2002*, is taken to have been imposed under that section as amended by Schedule 2 [3] to that Act.
- (2) Sections 36A and 37, as amended by the *Crimes Legislation Amendment (Criminal Justice Interventions) Act 2002*, extend to an offence alleged to have been committed before the commencement of the amendments if a person is charged with the offence on or after that commencement.

Schedule 3 Amendment of Crimes (Sentencing Procedure) Act 1999

(Section 5)

[1] Section 3 Interpretation

Insert in alphabetical order in section 3 (1):

intervention plan has the same meaning as in the *Criminal Procedure Act 1986*.

intervention program has the same meaning as in the *Criminal Procedure Act 1986*.

intervention program order means an order referred to in section 10 (1) (c).

[2] Section 5 Penalties of imprisonment

Omit section 5 (2). Insert instead:

- (2) A court that sentences an offender to imprisonment for 6 months or less must indicate to the offender, and make a record of, its reasons for doing so, including:
 - (a) its reasons for deciding that no penalty other than imprisonment is appropriate, and
 - (b) its reasons for deciding not to make an order allowing the offender to participate in an intervention program or other program for treatment or rehabilitation (if the offender has not previously participated in such a program in respect of the offence for which the court is sentencing the offender).

[3] Section 10 Dismissal of charges and conditional discharge of offender

Omit section 10 (1). Insert instead:

- (1) Without proceeding to conviction, a court that finds a person guilty of an offence may make any one of the following orders:
 - (a) an order directing that the relevant charge be dismissed,

- (b) an order discharging the person on condition that the person enter into a good behaviour bond for a term not exceeding 2 years,
- (c) an order discharging the person on condition that the person enter into an agreement to participate in an intervention program and to comply with any intervention plan arising out of the program.

[4] Section 10 (2A) and (2B)

Insert after section 10 (2):

- (2A) An order referred to in subsection (1) (c) may be made if the court is satisfied that it would reduce the likelihood of the person committing further offences by promoting the treatment or rehabilitation of the person.
- (2B) Subsection (1) (c) is subject to Part 8C.

[5] Section 11 Deferral of sentencing for rehabilitation, participation in an intervention program or other purposes

Insert after section 11 (1) (b):

- (b1) for the purpose of assessing the offender's capacity and prospects for participation in an intervention program, or
- (b2) for the purpose of allowing the offender to participate in an intervention program, or

[6] Section 11 (2A)

Insert after section 11 (2):

- (2A) An order referred to in subsection (1) (b2) may be made if the court is satisfied that it would reduce the likelihood of the person committing further offences by promoting the treatment or rehabilitation of the person.

Note. Section 36A of the *Bail Act 1978* enables a court to grant bail to a person on either or both of the following conditions:

- (a) that the person enter into an agreement to subject himself or herself to an assessment of the person's capacity and prospects for participation in an intervention program or other program for treatment or rehabilitation,

- (b) that the person enter into an agreement to:
 - (i) participate in an intervention program and to comply with any intervention plan arising out of the program, or
 - (ii) participate in any other program for treatment or rehabilitation.

[7] Section 11 (4)

Insert after section 11 (3):

- (4) Subsection (1) (b1) and (b2) do not limit the kinds of purposes for which an order may be made under subsection (1), so that an order may be made under that subsection for the purpose of allowing an offender to participate in a program for treatment or rehabilitation that is not an intervention program, or to be assessed for participation in such a program.

[8] Section 24 Court to take other matters into account

Omit “or good behaviour bond” from section 24 (b).

Insert instead “, good behaviour bond or intervention program order”.

[9] Section 24 (c) and (d)

Insert at the end of section 24 (b):

- , and
- (c) in the case of an offender who is being sentenced as a result of deciding not to participate in, or to continue to participate in, an intervention program or intervention plan under an intervention program order or good behaviour bond, anything done by the offender in compliance with the offender’s obligations under the intervention program order or good behaviour bond, and
- (d) in the case of an offender who is being sentenced following an order under section 11 (1) (b2):
 - (i) anything done by the offender in compliance with the offender’s obligations under the order, and
 - (ii) any recommendations arising out of the offender’s participation in the intervention program or intervention plan.

[10] Section 25 Local Court not to impose certain penalties if offender is absent

Insert after section 25 (1) (f):

- (g) an intervention program order.

[11] Sections 95A and 95B

Insert after section 95:

95A Intervention program as condition of good behaviour bond

- (1) A good behaviour bond may contain a condition requiring the offender to participate in an intervention program and to comply with any intervention plan arising out of the program.
- (2) A good behaviour bond may not contain such a condition unless the court is satisfied:
 - (a) that the offender is eligible to participate in the intervention program in accordance with the terms of the program, and
 - (b) that the offender is a suitable person to participate in the intervention program, and
 - (c) that the intervention program is available in the area in which the offender resides or intends to reside, and
 - (d) that participation by the offender would reduce the likelihood of the offender committing further offences by promoting the treatment or rehabilitation of the offender.
- (3) This section does not limit the power of a court under section 95 (c) to impose a condition on a good behaviour bond as to participation in any program for treatment or rehabilitation that is not an intervention program.
- (4) This section does not limit the kinds of conditions that may be imposed on an offender by means of any other order or direction under this or any other Act, so that such an order or direction may include a condition of a kind referred to in subsection (1) or (3).

95B Referral of offender for assessment

Before a court makes an order providing for an offender to enter into a good behaviour bond that contains a condition referred to in section 95A (1), the court may refer the offender for assessment as to the suitability of the offender to participate in an intervention program.

Note. Regulations may be made for or with respect to the assessment of the suitability of a person to participate in an intervention program under the *Criminal Procedure Act 1986*.

[12] Section 99A

Insert after section 99:

99A Right to decide not to participate in intervention program

- (1) An offender may, at any time after entering into a good behaviour bond that contains a condition referred to in section 95A (1) (including after the commencement of the intervention program concerned), decide not to participate or to continue to participate in the intervention program or any intervention plan arising out of the program.
- (2) Such a decision is to be made in accordance with the terms of the intervention program.
- (3) If the offender makes such a decision, the sentencing court or any court of like jurisdiction may call on the offender to appear before it.
- (4) If the offender fails to appear, the court may take any action referred to in section 98 (1A) or (1B).
- (5) A court may, when an offender appears before it following a decision not to participate or to continue to participate in an intervention program or intervention plan:
 - (a) vary the conditions of the good behaviour bond or impose further conditions on the bond, or
 - (b) revoke the good behaviour bond.
- (6) A court that revokes a good behaviour bond under subsection (5) may re-sentence the offender for the offence for which the good behaviour bond was imposed.

-
- (7) This Act applies to the sentencing of an offender under this section in the same way as it applies to the sentencing of an offender on a conviction.
 - (8) An offender who under this section is sentenced by a court for an offence has the same rights of appeal as the offender would have had if the offender had been sentenced by that court on being convicted of the offence.

[13] Part 8C

Insert before Part 9:

Part 8C Sentencing procedures for intervention program orders

Division 1 Preliminary

100M Application

This Part applies in circumstances in which a court is considering, or has made, an intervention program order.

Division 2 Restrictions on power to make intervention program orders

100N Suitability of offender for intervention program

An intervention program order may not be made with respect to an offender unless the court is satisfied:

- (a) that the offender is eligible to participate in the intervention program in accordance with the terms of the program, and
- (b) that the offender is a suitable person to participate in the intervention program, and
- (c) that the intervention program is available in the area in which the offender resides or intends to reside.

100O Referral of offender for assessment

Before a court sentences an offender, the court may refer the offender for assessment as to the suitability of the offender to participate in an intervention program.

Note. Regulations may be made for or with respect to the assessment of the suitability of a person to participate in an intervention program under the *Criminal Procedure Act 1986*.

100P Explanation of intervention program order

- (1) A court that makes an intervention program order must ensure that all reasonable steps are taken to explain to the offender (in language that the offender can readily understand):
 - (a) the offender's obligations under the order, and
 - (b) the consequences that may follow if the offender fails to comply with those obligations.
- (2) An intervention program order is not invalidated by a failure to comply with this section.

Division 3 Enforcement of intervention program order

100Q Procedure following failure to enter into agreement

If:

- (a) a court makes an order that provides for an offender to enter into an agreement to participate in an intervention program, and
- (b) the offender fails to enter into such an agreement in accordance with the order,

the court may sentence the offender, or convict and sentence the offender, as if the order had not been made.

100R Proceedings for breach of order

- (1) If it suspects that an offender may have failed to comply with an intervention program order:
 - (a) the court that made the order, or
 - (b) any other court of like jurisdiction,may call on the offender to appear before it.

-
- (2) If the offender fails to appear, the court may take any action referred to in section 98 (1A) or (1B).
 - (3) If it is satisfied that an offender appearing before it has failed to comply with an intervention program order, a court:
 - (a) may decide to take no action with respect to the failure to comply, or
 - (b) may revoke the intervention program order.

100S Consequences of revocation of order

- (1) If a court revokes an intervention program order under this Division, the court may convict and sentence the offender for the offence in respect of which the offender entered into the agreement to participate in the intervention program.
- (2) This Act applies to the sentencing of an offender under this section in the same way as it applies to the sentencing of an offender on a conviction.
- (3) An offender who under this section is sentenced by a court for an offence has the same rights of appeal as the offender would have had if the offender had been sentenced by that court on being convicted of the offence.

100T Right to decide not to participate in intervention program

- (1) An offender may, at any time after entering into an agreement under section 10 (1) (c) (including after the commencement of the intervention program concerned) decide not to participate or to continue to participate in the intervention program or any intervention plan arising out the program.
- (2) Such a decision is to be made in accordance with the terms of the intervention program.
- (3) If the offender makes such a decision, the sentencing court or any court of like jurisdiction, may call on the offender to appear before it.
- (4) If the offender fails to appear, the court may take an action referred to in section 98 (1A) or (1B).

- (5) A court may, when an offender appears before it following a decision not to participate or to continue to participate in an intervention program or intervention plan:
 - (a) revoke the intervention program order, and
 - (b) make another order under section 10 (other than an intervention program order), or convict and sentence the offender for the offence in respect of which the intervention program order was imposed.
- (6) This Act applies to the sentencing of an offender under this section in the same way as it applies to the sentencing of an offender on a conviction.
- (7) An offender who under this section is sentenced by a court for an offence has the same rights of appeal as the offender would have had if the offender had been sentenced by that court on being convicted of the offence.

[14] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Crimes Legislation Amendment (Criminal Justice Interventions) Act 2002

[15] Schedule 2, Part 8

Insert at the end of the Schedule:

Part 8 Provisions consequent on Crimes Legislation Amendment (Criminal Justice Interventions) Act 2002

47 Application

An amendment to this Act made by the *Crimes Legislation Amendment (Criminal Justice Interventions) Act 2002* extends to an offence committed before the commencement of the amendment unless proceedings (other than committal proceedings) for the offence were commenced before the commencement of the amendment.

Schedule 4 Consequential and other amendments

(Section 6)

4.1 Crimes (Local Courts Appeal and Review) Act 2001 No 120

Section 3 Definitions

Omit section 3 (4).

4.2 Criminal Records Act 1991 No 8

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

intervention program has the same meaning as in the *Criminal Procedure Act 1986*.

[2] Section 8 When is a conviction spent?

Omit section 8 (4) (a). Insert instead:

- (a) the discharging of, or the making of an order releasing, the offender conditionally on entering into a good behaviour bond for a specified period, on participating in an intervention program or on other conditions determined by the court, or

[3] Section 8 (4)

Omit “satisfactory completion of the period or satisfactory compliance with the conditions, or both”.

Insert instead “satisfactory completion of the period or satisfactory compliance with the program (including any intervention plan arising out of the program) or conditions”.

[4] Section 8 (7)

Insert after section 8 (6):

- (7) A reference in subsection (4) (a) (as substituted by the *Crimes Legislation Amendment (Criminal Justice Interventions) Act 2002*) to a good behaviour bond includes a reference to a recognizance to be of good behaviour made before the commencement of the *Crimes (Sentencing Procedure) Act 1999*.