



New South Wales

High Risk Offenders Legislation Amendment Bill 2023

Explanatory note

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

Overview of Bill

The objects of this Bill are to—

- (a) amend the *Crimes (High Risk Offenders) Act 2006* (the **CHRO Act**) to—
 - (i) prescribe a strangulation offence under the *Crimes Act 1900* (the **Crimes Act**), section 37(2) that has been committed with intent to commit an offence under the Crimes Act, Part 3, Division 10 (Sexual offences against adults and children) (the **intended offence**) as a **serious sex offence** for the purposes of the CHRO Act if the intended offence is punishable by imprisonment for 7 years or more, and
 - (ii) prescribe a strangulation offence under the Crimes Act, section 37(2) that has been committed with intent to commit an offence under the Crimes Act, Part 3, Division 10 (Sexual offences against adults and children) as an **offence of a sexual nature** for the purposes of the CHRO Act, and
 - (iii) prescribe a strangulation offence under the Crimes Act, section 37(1) and (2) as a **serious violence offence** for the purposes of the CHRO Act, and
 - (iv) provide that if a federal recognizance release order is imposed on an offender under the *Crimes Act 1914* of the Commonwealth (the **Commonwealth Crimes Act**), sections 19AC and 20(1)(b) in combination with a federal prison sentence, the order is taken to be part of the offender's sentence of imprisonment for the purposes of the CHRO Act, section 51(2), definition of **supervised offender**, and
 - (v) provide that an application for orders under the CHRO Act may be made in relation to an offender in the last 9 months of the offender's overall term of imprisonment if the overall term contains at least 1 prison sentence for—

- (A) a serious offence, or
 - (B) an offence of a sexual nature, or
 - (C) an offence under the CHRO Act, section 12, and
- (b) amend the *Terrorism (High Risk Offenders) Act 2017* (the **THRO Act**) to provide that applications for orders under the THRO Act may be made in relation to an offender in the last 12 months of the offender's overall term of imprisonment if the overall term of imprisonment contains at least 1 prison sentence for a NSW indictable offence.

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.

Schedule 1 Amendment of Crimes (High Risk Offenders) Act 2006 No 7

Schedule 1[1] inserts a new definition of *aggregate sentence of imprisonment* and *cumulative sentence of imprisonment*.

Schedule 1[2] and [3] amend the CHRO Act, section 5 to prescribe a strangulation offence under the Crimes Act, section 37(2) that has been committed with intent to commit an offence under the Crimes Act, Part 3, Division 10 (Sexual offences against adults and children) (the *intended offence*) as both—

- (a) a *serious sex offence* if the intended offence is punishable by imprisonment for 7 years or more, and
- (b) an *offence of a sexual nature*.

Schedule 1[4] and [5] amend the CHRO Act, section 5 to prescribe a strangulation offence or attempting to commit, or conspiring with or inciting another person to commit, a strangulation offence under the Crimes Act, section 37(1) and (2) as a *serious violence offence*.

Schedule 1[6] amends the CHRO Act, section 5I to provide that an application for an extended supervision order may be made in relation to an offender in the last 9 months of the offender's sentence of imprisonment if the sentence is an aggregate or cumulative sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a serious offence, offence of a sexual nature or an offence under the CHRO Act, section 12.

Schedule 1[7] amends the CHRO Act, section 5I to provide that if a federal recognizance release order is imposed on an offender under the Commonwealth Crimes Act in respect of a federal prison sentence, the order is taken to be part of the offender's sentence of imprisonment.

Schedule 1[8] amends the CHRO Act, section 13B to provide that an application for a continuing detention order may be made in relation to an offender in the last 9 months of the offender's sentence of imprisonment if the sentence is an aggregate or cumulative sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a serious offence, an offence of a sexual nature or an offence under the CHRO Act, section 12.

Schedule 2 Amendment of Terrorism (High Risk Offenders) Act 2017 No 68

Schedule 2[1] inserts the new definitions of *aggregate sentence of imprisonment* and *cumulative sentence of imprisonment*.

Schedule 2[2] amends the THRO Act, section 7 to provide that an *eligible offender* includes an offender who is serving a cumulative or aggregate sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a NSW indictable offence.

Schedule 2[3] amends the THRO Act, section 20 to provide that the Supreme Court may make an extended supervision order may be made in relation to an eligible offender serving a cumulative or aggregate sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a NSW indictable offence.

Schedule 2[4] amends the THRO Act, section 23 to provide that an application for an extended supervision order may be made in relation to an eligible offender in the last 12 months of the offender's imprisonment if the sentence is an aggregate or cumulative sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a a NSW indictable offence.

Schedule 2[5] amends the THRO Act, section 33, definition of *detained offender* to provide that an offender who is serving an aggregate or cumulative sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a NSW indictable offence is also a detained offender for the purposes of the THRO Act.