



New South Wales

Bail and Crimes Amendment Bill 2024

Explanatory note

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

Overview of Bill

The objects of this Bill are to—

- (a) provide a temporary limitation, in certain circumstances, on when bail authorities may grant bail to young persons who are between 14 and 18 years of age, and
- (b) create a new offence, defined as a *performance crime offence*, of disseminating material to advertise the involvement by persons in specified offences.

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 on the date of assent to the proposed Act.

Schedule 1 Amendment of Bail Act 2013 No 26

Schedule 1[1] inserts proposed section 22C to provide for a limitation on when a bail authority may grant bail to a young person for a relevant offence alleged to have been committed while the young person is on bail for another offence of that type. A relevant offence is defined as a serious breaking and entering offence or a motor vehicle theft offence. The proposed section applies to a young person who is between 14 and 18 years of age at the time the offence the subject of the bail decision was committed. The limitation requires the bail authority to have a high degree of confidence that the young person will not commit a serious indictable offence, within the meaning of the *Crimes Act 1900*, if bail is granted.

Proposed section 22C(4) provides that the limitation will operate temporarily and expire 12 months after the proposed section commences.

Schedule 1[2] contains a transitional provision consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Crimes Act 1900 No 40

Schedule 2[1] inserts proposed Division 5B, sections 154K and 154L. Proposed section 154K makes it an offence for a person to commit a *performance crime offence*. A person is guilty of a performance crime offence if—

- (a) the person's act or omission constitutes a motor theft offence or breaking and entering offence, and
- (b) the person disseminates material to advertise the person's involvement in the offence, or the act or omission constituting the offence.

Proposed section 154K defines *material* to include anything that contains data from which text, images or sound can be generated, *advertise* as attracting the notice and attention of the public or a limited section of the public, and *disseminate* to send, supply, exhibit, transmit or communicate material, including through social media and other electronic methods.

The maximum penalty under proposed section 154K is the total of the maximum penalty for the relevant motor theft offence or breaking and entering offence and imprisonment for 2 years.

Proposed section 154K(3) provides that, to avoid doubt, if an offender is convicted of a performance crime offence the offender cannot also be convicted of a motor theft offence or breaking and entering offence in relation to the act or omission constituting the performance crime offence.

Proposed section 154L provides that a review of the policy objectives of proposed Division 5B, and the way in which the objectives are achieved, must be undertaken as soon as practicable after 2 years after the commencement of the proposed division.

Schedule 2[2] provides that proposed section 154K only applies to an offence alleged to have been committed on or after the commencement of the proposed section.



New South Wales

Bail and Crimes Amendment Bill 2024

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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Bail and Crimes Amendment Bill 2024

No. _____, 2024

A Bill for

An Act to amend the *Bail Act 2013* to provide for a temporary limitation on granting bail for certain young persons in relation to certain serious offences; and to amend the *Crimes Act 1900* to provide for a new offence in relation to performance crimes.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Bail and Crimes Amendment Act 2024*.

3

2 Commencement

4

This Act commences on the date of assent to this Act.

5

| | | |
|--|---|----|
| Schedule 1 | Amendment of Bail Act 2013 No 26 | 1 |
| [1] Section 22C | | 2 |
| | Insert after section 22B— | 3 |
| 22C | Temporary limitation on bail for certain young persons in relation to certain serious offences | 4 |
| | (1) A bail authority must not grant bail to a relevant young person for a relevant offence alleged to have been committed while the young person is on bail for another relevant offence unless the bail authority has a high degree of confidence the young person will not commit a serious indictable offence while on bail subject to any proposed bail conditions. | 5 |
| | (2) A decision under subsection (1) may be made only after— | 6 |
| | (a) an assessment of bail concerns is made under Division 2, and | 7 |
| | (b) consideration of whether any bail conditions could reasonably be imposed to address any bail concerns or risk the relevant young person will commit a further serious indictable offence. | 8 |
| | (3) This section applies despite anything to the contrary in this Act. | 9 |
| | (4) This section expires 12 months after this section commences. | 10 |
| | (5) In this section— | 11 |
| | motor theft offence means an offence under the following sections of the <i>Crimes Act 1900</i> — | 12 |
| | (a) section 154A, | 13 |
| | (b) section 154C, | 14 |
| | (c) section 154F. | 15 |
| | relevant offence means— | 16 |
| | (a) a motor theft offence, or | 17 |
| | (b) a serious breaking and entering offence. | 18 |
| | relevant young person , for a relevant offence, means an individual who is, at the time the relevant offence is alleged to have been committed— | 19 |
| | (a) 14 years of age or more, and | 20 |
| | (b) less than 18 years of age. | 21 |
| | serious breaking and entering offence means an offence under the <i>Crimes Act 1900</i> , Part 4, Division 4 that is punishable by imprisonment for a term of 14 years or more. | 22 |
| | serious indictable offence has the same meaning as in the <i>Crimes Act 1900</i> , section 4(1). | 23 |
| [2] Schedule 3 Savings, transitional and other provisions | | 24 |
| | Insert at the end of the schedule, with appropriate part and clause numbering— | 25 |

| | | |
|-------------|---|---|
| Part | Provision consequent on enactment of Bail and Crimes Amendment Act 2024 | 1 |
| | | 2 |
| | Application of amendments | 3 |
| | An amendment made to this Act by the <i>Bail and Crimes Amendment Act 2024</i> extends to offences committed or alleged to have been committed, or charged, before the commencement of the amendment. | 4 |
| | | 5 |
| | | 6 |

Schedule 2 Amendment of Crimes Act 1900 No 40

[1] Part 4, Division 5B

Insert after section 154J—

Division 5B Performance crime offences

154K Performance crime offences

- (1) A person (the *offender*) commits an offence (a *performance crime offence*) against this section if—
 - (a) the offender's act or omission constitutes—
 - (i) a motor theft offence, or
 - (ii) a breaking and entering offence, and
 - (b) the offender disseminates material to advertise—
 - (i) the offender's involvement in the offence, or
 - (ii) the act or omission constituting the offence.
- (2) An offender who commits a performance crime offence is liable for a maximum penalty that equals the total of the following—
 - (a) the maximum penalty for the motor theft offence or breaking and entering offence,
 - (b) imprisonment for 2 years.
- (3) To avoid doubt, if an offender is convicted of a performance crime offence the offender cannot also be convicted of a motor theft offence or breaking and entering offence in relation to the act or omission constituting the performance crime offence.
- (4) In this section—

advertise means attract the notice and attention of—

 - (a) the public, or
 - (b) a limited section of the public.

breaking and entering offence means an offence under the *Crimes Act 1900*, Part 4, Division 4.

disseminate, in relation to material, means send, supply, exhibit, transmit or communicate the material, including through social media and other electronic methods.

material includes anything that contains data from which text, images or sound can be generated.

motor theft offence means an offence under the following sections of the *Crimes Act 1900*—

 - (a) section 154A,
 - (b) section 154C,
 - (c) section 154F.

154L Review of division

- (1) The Minister must review this division to determine whether—
 - (a) the policy objectives of the division remain valid, and
 - (b) the terms of the division remain appropriate for achieving the objectives.

| | | |
|-------------|--|----------------|
| (2) | The review must be undertaken as soon as practicable after the period of 2 years after the commencement of this division. | 1 2 |
| (3) | A report on the outcome of the review must be tabled in each House of Parliament within 6 months after the end of the period of 2 years. | 3 4 |
| [2] | Schedule 11 Savings, transitional and other provisions | 5 |
| | Insert at the end of the schedule, with appropriate part and clause numbering— | 6 |
| Part | Provision consequent on enactment of Bail and Crimes Amendment Act 2024 | 7 8 |
| | Application of amendment | 9 |
| | An amendment made to this Act by the <i>Bail and Crimes Amendment Act 2024</i> applies only in relation to an offence committed, or alleged to have been committed, on or after the commencement of the amendment. | 10 11 12 |