



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.