

New South Wales

Crimes (Administration of Sentences) Amendment (Standard of Proof) Bill 2025

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Crimes (Administration of Sentences) Act 1999* (**the Act**) to lower the burden of proof for correctional centre offences determined by the governor of a correctional centre (the **governor**) from satisfied beyond reasonable doubt to satisfied on the balance of probabilities that the inmate is guilty of the 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 (Administration of Sentences) Act 1999 No 93

Schedule 1[1] amends the standard of proof that the governor must be satisfied of from satisfied beyond reasonable doubt to satisfied on the balance of probabilities for correctional centre offences before imposing certain penalties.

Schedule 1[2] amends the standard of proof that the governor must be satisfied of from satisfied beyond reasonable doubt to satisfied on the balance of probabilities for correctional centre offences involving the use or possession of a mobile phone.

Schedule 1[3] inserts a definition of **mobile phone** for the Act, section 56A.

Schedule 1[4] amends the standard of proof that the governor must be satisfied of from satisfied beyond reasonable doubt to satisfied on the balance of probabilities for correctional centre offences arising out of a drug test.

Schedule 1[5] makes an amendment consequential to Schedule 1[1]–[4].

Schedule 1[6] inserts savings and transitional provisions consequent on the enactment of the proposed Act.



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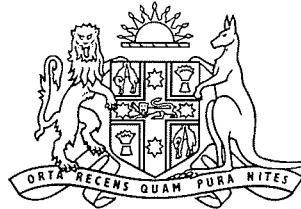
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This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council

Clerk of the Parliaments



New South Wales

Crimes (Administration of Sentences) Amendment (Standard of Proof) Bill 2025

No , 2025

A Bill for

An Act to amend the *Crimes (Administration of Sentences) Act 1999* in relation to the standard of proof for charges for offences dealt with by governors of correctional centres.

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

Legislative Assembly

Clerk of the Legislative Assembly

Tabling copy

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025</i> .	3
	4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Crimes (Administration of Sentences) Act 1999 No 93	1
		2
[1] Section 53 Penalties governor may impose		3
Omit “beyond reasonable doubt” wherever occurring in section 53(1)–(3).		4
Insert instead “on the balance of probabilities”.		5
[2] Section 56A Penalty for use or possession of a mobile phone		6
Omit section 56A(1). Insert instead—		7
(1) If the governor dealing with a charge relating to a correctional centre offence arising out of the use or possession of a mobile phone is satisfied on the balance of probabilities that the inmate is guilty of the offence, the governor may order that the inmate be deprived, for a period of not more than 6 months, of withdrawable privileges determined by the governor.		8 9 10 11 12
(1A) If the Visiting Magistrate dealing with a charge relating to a correctional centre offence arising out of the use or possession of a mobile phone is satisfied beyond reasonable doubt that the inmate is guilty of the offence, the Visiting Magistrate may order that the inmate be deprived, for a period of not more than 6 months, of withdrawable privileges determined by the Visiting Magistrate.		13 14 15 16 17 18
[3] Section 56A(3)		19
Insert after section 56A(2)—		20
(3) In this section—		21
<i>mobile phone</i> includes—		22
(a) a part of a mobile phone, and		23
(b) a mobile phone SIM card or a part of a mobile phone SIM card, and		24
(c) a mobile phone charger or a part of a mobile phone charger.		25
[4] Section 57 Drug tests for inmates		26
Omit section 57(2). Insert instead—		27
(2) If the governor dealing with a charge relating to an offence to which this section applies is satisfied on the balance of probabilities that the inmate is guilty of the offence, the governor may order that the inmate be deprived, for a period of not more than 6 months, of withdrawable privileges determined by the governor.		28 29 30 31 32
(2A) If the Visiting Magistrate dealing with a charge relating to an offence to which this section applies is satisfied beyond reasonable doubt that the inmate is guilty of the offence, the Visiting Magistrate may order that the inmate be deprived, for a period of not more than 6 months, of withdrawable privileges determined by the Visiting Magistrate.		33 34 35 36 37
[5] Section 65B Definitions		38
Omit “beyond reasonable doubt” from the definition of <i>reviewable decision</i> , paragraph (a).		39
Insert instead “on the balance of probabilities”.		40
[6] Schedule 5 Savings, transitional and other provisions		41
Insert at the end of the schedule, with appropriate part and clause numbering—		42

Part	Provisions consequent on enactment of Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025	1
		2
		3
	Charges for offences not finally determined	4
	The amendments made by the <i>Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025</i> extend to charges for offences committed, but not finally determined by a governor, before the commencement of that Act.	5
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		8
	Reviewable decisions	9
(1)	Section 65B, definition of reviewable decision extends to a decision by the governor of a correctional facility, made before the commencement, that the governor is satisfied beyond reasonable doubt that an inmate is guilty of a correctional centre offence if a review of the decision—	10
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		12
		13
	(a) had not commenced under Part 2, Division 6A before the commencement, or	14
		15
	(b) had not been finally determined by the Commissioner under Part 2, Division 6A before the commencement.	16
		17
(2)	In this clause—	18
	commencement means the commencement of the <i>Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025</i> .	19
		20