

c2025-263A
Ind (TM)--Independent (Tania Mihailuk)

LEGISLATIVE COUNCIL

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

First print

Proposed amendments

No. 1 **Correctional centre offences**

Page 3, Schedule 1[1], lines 3–5. Omit all words on the lines. Insert instead—

[1] Section 51 Definitions

Insert in alphabetical order—

major correctional centre offence means a correctional centre offence that the governor of the correctional centre has decided, under section 52(1A), is a major correctional centre offence..

minor correctional centre offence means a correctional centre offence other than a major correctional centre offence.

[1A] Section 52 Hearing of charges by governor

Omit “governor of the correctional centre may charge the inmate with the offence and conduct an inquiry into the allegation.” from section 52(1).

Insert instead—

governor of the correctional centre—

- (a) must decide, having regard to the matters mentioned in subsection (1A), whether the alleged correctional centre offence is a major correctional centre offence or minor correctional centre offence, and
 - (b) if satisfied the alleged correctional centre offence is a major correctional centre offence or minor correctional centre offence—may—
 - (i) charge the inmate with the major correctional centre offence or minor correctional centre offence, and
 - (ii) conduct an inquiry into the allegation.
- (1A) In deciding whether an alleged correctional centre offence is a major correctional centre offence or minor correctional centre offence and whether to charge the inmate, the governor of the correctional centre must have regard to—
- (a) the nature of the alleged act or omission by the inmate, including whether the alleged act or omission is trivial in nature, and
 - (b) the circumstances surrounding the alleged act or omission, and

(c) the inmate's previous conduct.

[1B] Section 52(2)(a1)

Insert after section 52(2)(a)—

- (a1) any evidence the governor is seeking to rely on must be presented to the inmate—
 - (i) within 14 days after the inmate is charged and at least 72 hours before any hearing in the inquiry, or
 - (ii) within 72 hours after the inmate is charged and at least 72 hours before any hearing in the inquiry,

[1C] Section 52(2)(h1)

Insert after section 52(2)(h)—

- (h1) for an inquiry into an allegation the inmate has committed a major correctional centre offence—any hearings in the inquiry must be video recorded,

[1D] Section 53 Penalties governor may impose

Omit “beyond reasonable doubt that” wherever occurring in section 53(1)–(3).

[1E] Section 53(1)

Omit “a correctional centre offence”.

Insert instead “a major correctional centre offence”.

[1F] Section 53(1A)

Insert after section 53(1)—

- (1A) If, after conducting an inquiry, the governor is satisfied the inmate is guilty of a minor correctional centre offence, the governor may impose deprivation, for up to 7 days, of withdrawable privileges determined by the governor.

[1G] Section 53(3A)

Insert after section 53(3)—

- (3A) The standard of proof required to find an inmate guilty is—
 - (a) for a major correctional centre offence—beyond reasonable doubt, or
 - (b) for a minor correctional centre offence—the balance of probabilities.

[1H] Section 56 Penalties Visiting Magistrate may impose

Omit “beyond reasonable doubt” wherever occurring in section 56(1)–(3).

[1I] Section 56(1)

Omit “the correctional centre offence”.

Insert instead “a major correctional centre offence”.

[1J] Section 56(1A)

Insert after section 56(1)—

- (1A) If, after hearing the charge, the Visiting Magistrate is satisfied the inmate is guilty of a minor correctional centre offence, the governor

may impose deprivation, for up to 7 days, of withdrawable privileges determined by the Visiting Magistrate.

[1K] Section 56(3A)

Insert after section 56(3)—

- (3A) The standard of proof required to find an inmate guilty is—
- (a) for a major correctional centre offence—beyond reasonable doubt, or
 - (b) for a minor correctional centre offence—the balance of probabilities.

No. 2

Correctional centre offences

Page 3, Schedule 1. Insert after line 37—

[4A] Section 62A

Insert after section 62—

62A Finding of guilt for minor correctional centre offence

A finding of guilt for a minor correctional centre offence must not be taken into account or used—

- (a) to classify an inmate, or
- (b) in future legal proceedings involving the inmate, including in relation to—
 - (i) sentencing, other than to impose the penalty for the minor correctional centre offence, or
 - (ii) parole, or
 - (iii) assessing whether the inmate is a high risk offender.