



New South Wales

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

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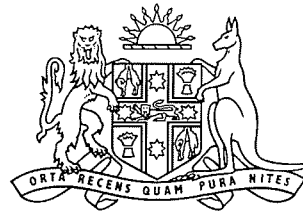
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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Council*  
2025

*Clerk of the Parliaments*



New South Wales

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

Act No      , 2025

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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.

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

This Act is the *Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025*.

**2 Commencement**

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

## **Schedule 1      Amendment of Crimes (Administration of Sentences) Act 1999 No 93**

**[1]    Section 53 Penalties governor may impose**

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

Insert instead “on the balance of probabilities”.

**[2]    Section 56A Penalty for use or possession of a mobile phone**

Omit section 56A(1). Insert instead—

- (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.
- (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.

**[3]    Section 56A(3)**

Insert after section 56A(2)—

- (3) In this section—  
*mobile phone* includes—
  - (a) a part of a mobile phone, and
  - (b) a mobile phone SIM card or a part of a mobile phone SIM card, and
  - (c) a mobile phone charger or a part of a mobile phone charger.

**[4]    Section 57 Drug tests for inmates**

Omit section 57(2). Insert instead—

- (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.
- (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.

**[5]    Section 61, heading**

Omit “**Record of punishments for**”. Insert instead “**Records about**”.

**[6]    Section 61(1A)**

Insert after section 61(1)—

- (1A) The record must also include the following information that led to the finding of guilt—
- (a) a summary of the evidence considered,
  - (b) the reasons for the finding of guilt, including how the finding met the standard of proof.

**[7] Section 65B Definitions**

Omit “beyond reasonable doubt” from the definition of *reviewable decision*, paragraph (a).  
Insert instead “on the balance of probabilities”.

**[8] Section 273**

Omit the section. Insert instead—

**273 Review of amendments made by Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025**

- (1) The Minister must review the reviewable provisions to determine whether—
  - (a) the policy objectives of the provisions remain valid, and
  - (b) the terms of the provisions remain appropriate for securing those objectives.
- (2) The review must be undertaken as soon as possible after the period of 2 years from the commencement of the *Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025*.
- (3) When undertaking the review, the Minister must consider the following—
  - (a) the effectiveness of review or appeal mechanisms,
  - (b) the accessibility of processes to inmates,
  - (c) the number of reviews and appeals,
  - (d) the outcomes of reviews and appeals,
  - (e) the need for further reform,
  - (f) compliance with the following—
    - (i) procedural fairness requirements,
    - (ii) recording requirements,
    - (iii) evidence disclosure,
    - (iv) Justice Health notification and monitoring,
    - (v) young Aboriginal protections,
  - (g) the adequacy of Justice Health resources,
  - (h) the adequacy of audio-visual technology for witnesses.
- (4) 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.
- (5) In this section—  
*reviewable provisions* means the provisions of this Act as amended by the *Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025*.

**[9] Schedule 5 Savings, transitional and other provisions**

Insert at the end of the schedule, with appropriate part and clause numbering—

## **Part Provisions consequent on enactment of Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025**

### **Charges for offences not finally determined**

The amendments made by the *Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025* extend to charges for offences committed, but not finally determined by a governor, before the commencement of that Act.

### **Reviewable decisions**

- (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—
  - (a) had not commenced under Part 2, Division 6A before the commencement, or
  - (b) had not been finally determined by the Commissioner under Part 2, Division 6A before the commencement.
- (2) In this clause—

***commencement*** means the commencement of the *Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025*.