

c2025-323B
GRNS--The Greens

LEGISLATIVE COUNCIL

Children (Criminal Proceedings) and Young Offenders Legislation Amendment Bill 2025

First print

Proposed amendment

No. 1 **Children's Criminal Proceedings**

Page 4, Schedule 1. Insert after line 2—

[1A] Sections 53–55

Insert after section 52—

53 Matters to which prosecution must have regard

- (1) Before deciding to commence a proceeding for an offence allegedly committed by a child at 10, 11, 12 or 13 years of age, the prosecution must have regard to whether it appears that there is admissible evidence to prove beyond reasonable doubt that the child knew at the time of the alleged commission of the offence that the child's conduct was seriously wrong, having regard to section 5(4).
- (2) For subsection (1), as far as practicable, the prosecution must consider the following—
 - (a) information available to the prosecution about the child's age, maturity and stage of development,
 - (b) information available to the prosecution about whether the child has a disability or mental illness,
 - (c) previous decisions by a court or any person about whether the child could be held criminally responsible for any other conduct,
 - (d) other matters relevant to the criminal responsibility of the child or the circumstances of the alleged offending.
- (3) If the prosecution decides to commence a proceeding for the alleged offence, the prosecution must record—
 - (a) the reasons why it appears that there is admissible evidence to prove beyond reasonable doubt that the child knew at the time of the alleged commission of the offence that the child's conduct was seriously wrong, having regard to section 5(4), and
 - (b) information, evidence or other matters referred to in subsection (2) that were considered by the prosecution, and
 - (c) other prescribed information.
- (4) A record under subsection (3)—

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- (a) must be in the prescribed form, and
 - (b) must be filed in the court at the commencement of the proceedings.

54 Review of charge against child who allegedly committed offence at 10, 11, 12 or 13 years of age

- (1) If a summary proceeding is commenced in the Children's Court against a child for the alleged commission of an indictable offence at 10, 11, 12 or 13 years of age, the prosecutor must review the charge against the child in accordance with this section.
- (2) Subsection (1) does not apply to a charge for an offence being prosecuted by the Director of Public Prosecutions.
- (3) The prosecutor, having regard to the preliminary brief or the full brief for the charge, as the case requires, must consider whether it appears at the time of the review that there is—
 - (a) sufficient admissible evidence to prove beyond reasonable doubt that the child knew at the time of the alleged commission of the offence that the child's conduct was seriously wrong, having regard to section 5(4), and
 - (b) sufficient admissible evidence to prove beyond reasonable doubt each element of the alleged offence, and
 - (c) a reasonable prospect of the child being found guilty of the alleged offence.
- (4) The prosecutor must complete the review as soon as possible after the date of commencement of the proceedings and, if practicable, not later than 21 working days after that date.
- (5) If it appears to the prosecutor at the time of the review that the matters described in subsection (3) are not satisfied, the prosecutor, as soon as possible after the completion of the review, must consider whether it would be appropriate to withdraw the charge against the child for the alleged offence.
- (6) To avoid doubt, if a summary proceeding is commenced against a child for the alleged commission of more than one offence, nothing in this section requires the prosecutor to—
 - (a) review a charge against the child for the alleged commission of an offence at 14 years of age or older, or
 - (b) consider the withdrawal of a charge against the child for the alleged commission of an offence at 10, 11, 12 or 13 years of age if it appears to the prosecutor that the matters described in subsection (3) are satisfied for the charge.

55 Notice of completion of review of charge

On completing a review of a charge against a child in accordance with section 54, the prosecutor reviewing the charge must take reasonable steps to give the child or the child's legal representative written notice—

- (a) that the prosecutor has completed the review, and
- (b) of whether the prosecutor is satisfied of the matters referred to in section 5(4).