



New South Wales

# Correctional Services Legislation Amendment Bill 2006

## Explanatory note

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

## Overview of Bill

The objects of this Bill are:

- (a) to prohibit inmates who are serving sentences for serious indictable offences or who are awaiting sentencing for such offences from providing their reproductive material for use, or storage, for reproductive purposes at hospitals and other places, and
- (b) to require inmates who have had their reproductive material stored for reproductive purposes to pay charges for the storage during any period during which they are imprisoned.

## 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 a day to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendment to the *Crimes (Administration of Sentences) Act 1999* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendment to the *Children (Detention Centres) Act 1987* set out in Schedule 2.

**Clause 5** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

## **Schedule 1      Amendment of Crimes (Administration of Sentences) Act 1999**

**Schedule 1** inserts proposed section 72B into the *Crimes (Administration of Sentences) Act 1999*.

**Section 72B (1)** defines expressions used in the proposed section. *Serious indictable offender* is defined to cover inmates serving a sentence of imprisonment for a serious indictable offence or awaiting sentencing for such an offence. A *serious indictable offence* is an offence that may only be dealt with on indictment and includes offences committed elsewhere than in New South Wales that, if committed in New South Wales, would be serious indictable offences and various terrorism offences. Examples of offences covered by the definition are offences such as murder, sexual assault and kidnapping.

**Section 72B (2)** prevents the grant of leave of absence to a serious indictable offender for the purpose of the offender providing reproductive material for use, or storage, for reproductive purposes at any hospital or other place.

**Section 72B (3)** makes it an offence for a serious indictable offender to provide reproductive material for use, or storage, for reproductive purposes at any hospital or other place.

**Section 72B (4)** requires prisoners other than serious indictable offenders who have their reproductive material stored for reproductive purposes at hospitals or other places to pay a charge for storage of the material.

**Section 72B (5)** requires serious indictable offenders whose reproductive material was stored for reproductive purposes before the commencement of the proposed section to pay a charge for the storage of the material.

## **Schedule 2      Amendment of Children (Detention Centres) Act 1987**

**Schedule 2** amends section 29 of the *Children (Detention Centres) Act 1987* to apply the new section to be inserted by Schedule 1 to persons subject to control within the meaning of that Act.



New South Wales

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## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Crimes (Administration of Sentences) Act 1999 No 93	2
4 Amendment of Children (Detention Centres) Act 1987 No 57	2
5 Repeal of Act	2
Schedule 1 Amendment of Crimes (Administration of Sentences) Act 1999	3
Schedule 2 Amendment of Children (Detention Centres) Act 1987	5





New South Wales

# Correctional Services Legislation Amendment Bill 2006

No. , 2006

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## A Bill for

An Act to amend the *Crimes (Administration of Sentences) Act 1999* with respect to the storage of reproductive material of inmates; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Correctional Services Legislation Amendment Act 2006</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day to be appointed by proclamation.	5
<b>3 Amendment of Crimes (Administration of Sentences) Act 1999 No 93</b>	6
The <i>Crimes (Administration of Sentences) Act 1999</i> is amended as set out in Schedule 1.	7 8
<b>4 Amendment of Children (Detention Centres) Act 1987 No 57</b>	9
The <i>Children (Detention Centres) Act 1987</i> is amended as set out in Schedule 2.	10 11
<b>5 Repeal of Act</b>	12
(1) This Act is repealed on the day following the day on which this Act commences.	13 14
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	15 16

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<b>Schedule 1</b>	<b>Amendment of Crimes (Administration of Sentences) Act 1999</b>	1
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	(Section 3)	3
<b>Section 72B</b>		4
Insert after section 72A:		5
<b>72B</b>	<b>Prohibition on storage of reproductive material of serious indictable offenders etc</b>	6
		7
(1)	In this section:	8
	<i>convicted inmate</i> includes a person who is in lawful custody in a correctional centre while awaiting sentencing for an offence.	9
	<i>reproductive material</i> means sperm from a male, or ovum from a female, inmate.	10
	<i>serious indictable offence</i> means the following:	11
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	(a) an offence that may only be prosecuted on indictment,	13
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	(b) an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be a serious indictable offence for the purposes of paragraph (a),	15
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	(c) any offence under Part 5.3 of the Criminal Code set out in the <i>Criminal Code Act 1995</i> of the Commonwealth.	18
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	<i>serious indictable offender</i> means an inmate who:	20
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	(a) has been convicted of a serious indictable offence, and	22
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	(b) is serving a sentence of imprisonment in a correctional centre for the offence or is in lawful custody in a correctional centre while awaiting sentencing for the offence.	24
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	<i>store</i> reproductive material means to freeze or otherwise preserve the material.	26
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(2)	A serious indictable offender must not be allowed to be absent from any correctional centre for the purpose of the offender providing any reproductive material for use, or for storage, for reproductive purposes, at any hospital or other place.	28
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(3)	A serious indictable offender who provides reproductive material (whether in a correctional centre or elsewhere) for use, or for storage, for reproductive purposes at any hospital or other place is guilty of an offence.	32
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	Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.	36
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Correctional Services Legislation Amendment Bill 2006

Schedule 1 Amendment of Crimes (Administration of Sentences) Act 1999

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- (4) Nothing in this section prevents a convicted inmate other than a serious indictable offender from providing, or confers on any such convicted inmate any entitlement to be allowed to provide, reproductive material for use or storage for reproductive purposes at any hospital or other place. However, the convicted inmate must pay such charges as may be imposed in respect of the storage of such reproductive material (including any reproductive material placed in storage before the commencement of this section) during the period of his or her imprisonment. 1  
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- (5) The requirement under subsection (4) to pay a charge in respect of stored reproductive material extends to a serious indictable offender whose reproductive material was placed in storage at a hospital or other place before the commencement of this section. 11  
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**Schedule 2      Amendment of Children (Detention Centres) Act 1987**

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(Section 4)

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**Section 29 Application of Crimes (Administration of Sentences) Act 1999 to detainees**

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Insert at the end of the section:

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- (2) Section 72B of the *Crimes (Administration of Sentences) Act 1999* applies to a person subject to control within the meaning of this Act as if a reference in that section to a serious indictable offender or convicted inmate were a reference to such a person and a reference to a correctional centre were a reference to a detention centre.

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