

**CHILD PROTECTION (OFFENDERS REGISTRATION) AMENDMENT
(STATUTORY REVIEW) BILL 2014**

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Bill introduced on motion by Mr Stuart Ayres, read a first time and printed.

Second Reading

Mr STUART AYRES (Penrith—Minister for Police and Emergency Services, Minister for Sport and Recreation, and Minister Assisting the Premier on Western Sydney) [4.20 p.m.]: I move:

That this bill be now read a second time.

The amendments to the Child Protection (Offenders Registration) Amendment (Statutory Review) Bill 2014 will improve the operation of the Act and strengthen the framework for monitoring child sex offenders living in the community. As required by the Act, the Minister for Police and Emergency Services has reviewed the Act. This review found that the policy objectives of the Act remain valid and that its terms remain appropriate for securing those objectives.

In summary, the Child Protection (Offenders Registration) Amendment (Statutory Review) Bill includes the following amendments. New objects have been inserted which set out the key purposes of the Act: to protect children from serious harm, including physical and psychological harm caused by physical or sexual assault; to ensure the early detection of offenders by recidivist child sex offenders; to monitor persons who are registrable persons; and to ensure that the registrable persons comply with this Act.

The definition of a class 2 registrable offence is being expanded to include the following: first, the manslaughter of a child, except as a result of a motor vehicle accident which will make it consistent with the Child Protection (Working with Children) Act 2012 and, second, wounding or causing grievous bodily harm with intent to a child under 10 years of age. The offence will not apply when the person committing the offence is a child themselves. The third offence, which is child abduction, will apply when the person committing the offence has never had parental responsibility for the child.

Inclusion of these offences will ensure that offenders who may continue to pose significant risk to children are not omitted from ongoing monitoring. An offender who is originally charged with murder of a child, a registrable offence, but is ultimately found guilty only of the lesser offence of manslaughter, will now be captured by the reporting obligations of the Child Protection Register. Definitions of and references to "sentence" and "government custody" will be amended to clarify the relationship with other Acts. Currently the terms "sentence" and "government custody" refer only to an order of detention under sections 27 or 39 of the Mental Health (Forensic Provisions) Act 1990.

The review recommended amending the Act to provide that these terms include an order under section 24 of the Mental Health (Forensic Provisions) Act 1990 which causes a person to be kept in custody. As section 39 of the Mental Health (Forensic Provisions) Act 1990 also includes orders that do not involve detention, the new definition relates only to orders that "causes a person to be kept in custody". If a court finds a person guilty of an offence which is not registrable the court may, on application by the police, make a child protection

registration order requiring the person to comply with the reporting requirements of the Act. These orders can be made only if the court is satisfied that the person poses a risk to the life or sexual safety of a child.

There have been instances involving matters warranting an application for a registration order where compliance with the time frame has precluded police from making the application. In the interests of improving the ability of the police to apply for a registration order after the conclusion of criminal proceedings, the time frame will be extended from 21 days to 60 days. Section 3F will be amended to provide that police may apply for a registration order for a person who was previously sentenced for any of the additional registrable offences, unless he or she was a child at the time.

The review accepted that there is merit in including a framework to more effectively enable the courts to consider relevant factors when making a registration order. The Act will be amended to include the following criteria for the court to take into account when determining whether a person poses risk to children, and to make a registration order: the seriousness of each registrable offence committed by the person; the age of the person at the time each of those offences was committed; the age of each victim of each of those offences at the time that the offence was committed; the seriousness of any other offences committed by the person; the impact on the person if the order being sought is made compared with the likelihood that the person may commit a registrable offence; and any other matter the court considers to be relevant.

The review accepted submissions that legislative reform should clarify when notifications should be made and when reporting obligations should commence for forensic patients. Forensic patients are persons who have been found not guilty by reason of mental illness of committing a crime, as well as people who are found to be unfit to stand trial. During the course of their treatment a forensic patient can be granted different types of leave. The Act currently provides that when a person ceases to be in custody, written notice must be given to police and the person must be given information on his or her reporting obligations and consequences. Therefore, the Act will be amended to require the Ministry of Health to notify the Commissioner of Police under section 6 on each occasion that a forensic patient is subject to an order that allows the person to be absent from a mental health facility, correctional centre or other place on a regular or unsupervised basis and clarify that notice to the person of his or her obligations is not required to be given in those circumstances.

These changes will mean police will know when registrable persons who are also forensic patients are in the community, on leave unsupervised but the person will not be subject to formal reporting requirements until released. Section 9 of the Act will be amended to ensure that police are aware of the name and date of birth of each child who lives in the same household as a registrable person, and details of children with whom they have unsupervised contact on more than one occasion. The term "contact" for the purposes of the Act will be taken to include both the modes and circumstances in which the contact occurs, such as physical, verbal and written contact, supervising, caring for or forming a relationship with a child. However, it will exclude any one-off contact the offender may have with a child, such as when the registrable person is on public transport. As a result the definition of "regular unsupervised contact" at section 9 (2) (c) of the Act is repealed. Section 9 will also be amended to clarify the personal information that a registrable person must provide to police.

Currently this information includes such matters as details on vehicles the person generally

drives and his or her phone number. It is proposed that this information will now also include the full details of any hire car used by the person, and the details of any mobile phone or landline numbers used or intended to be used by the person. Additional personal information will be included under a new section 9 (1A) to clarify the circumstances involving contact with a child by the registrable person. A registrable person must report contact with a child if that person is supervising or caring for the child, visiting or staying at a household where the child is present, exchanging contact details with the child or attempting to befriend the child.

In establishing the parameters for what constitutes "contact", a further amendment gives the courts discretion where the court is satisfied there is not increased risk to children, in balance with the needs of a young offender. An amendment to section 9 provides that the sentencing court, or a court imposing a registration order, or a Local Court or Children's Court on application by the police, may modify the reporting obligations to assist with a young registrable person's educational or other needs. These young offenders need not provide all information regarding contact with peers. This ensures that a young registrable person attending school need not report the contact details of all his or her classmates.

The review accepted that there are a number of provisions relating to corresponding registrable persons, those from other jurisdictions and overseas, woven throughout the Act that may be confusing. To simplify the Act's administration and ensure the full suite of requirements are clearly identifiable by police and registrable persons alike, the requirements relating to corresponding registrable persons are being placed in a single division. The current varying time frames in the Act were raised by stakeholders as complex and potentially confusing.

Division 3 of the Act will be amended to provide that a registrable person must report any changes to his or her relevant personal information to police within seven days of that change occurring. Some time frames remain as currently provided in the Act including the names of children in the registrable person's household must be reported within 24 hours; the intention to travel outside New South Wales must be reported 24 hours prior to travel when circumstances make it impracticable to make the report seven days before the person leaves; and the intention to change the place where the registrable person generally resides must be reported 14 days prior to the change.

Section 15 of the Act will be amended to provide for extensions to the reporting periods, now to be known as "countable periods". If a registrable person fails to report, there is currently no power to order any commensurate extension of his or her reporting period. The review accepted extending the reporting period when a registrable person fails to make a report to demonstrate sufficient consequences for non-compliance. Police will be required to inform registrable persons of the potential extension of their reporting obligations as a consequence of failing to comply.

The bill amends section 19E to increase the penalties for unauthorised changes of name without reasonable excuse by a registrable person to five years imprisonment, or \$55,000, or both. A registrable person may apply to change his or her name. This may be rejected when the name change is likely to be regarded as offensive by the registrable person's victim, or where it may undermine the ability of police to monitor the offender. The multiagency monitoring and risk management of high-risk registrable persons is undertaken by interagency child protection watch teams. Section 19BA allows schedule 1 agencies that are on child protection watch teams to collect and use personal information about a registrable

person and to disclose that information to other scheduled agencies.

Schedule 1 is being amended to include the current titles of, or the specific appropriate part of, the relevant departments. Schedule 2 provides for savings, transitional and other provisions comprising matters of a machinery nature to provide consistency with other Acts. I am advised that the NSW Police Force will take steps to ensure that current registrable persons are aware of these pending amendments. This bill strikes the right balance between maximising compliance with obligations under the Act and ensuring there is a sophisticated and effective monitoring procedure in place. Following the statutory review, these amendments continue this Government's strong focus on ensuring that children who are vulnerable in our community have the appropriate level of protection that they deserve. The registration of people of interest is important to the community and these amendments will continue to ensure that this Act stays modern and the safety and protection of children remains paramount.

Debate adjourned on motion by Mr Michael Daley and set down as an order of the day for a future day.