

Legislative Council Hansard – 18 October 2017 – Proof

**CRIMES (SENTENCING PROCEDURE) AMENDMENT (SENTENCING OPTIONS)
BILL 2017
CRIMES (HIGH RISK OFFENDERS) AMENDMENT BILL 2017
JUSTICE LEGISLATION AMENDMENT (COMMITTALS AND GUILTY PLEAS) BILL
2017**

Second Reading

The Hon. DAVID CLARKE (11:55): On behalf of the Hon. Don Harwin: I move:

That these bills be now read a second time.

I seek leave to incorporate the second reading speech in *Hansard*.

Leave granted.

The Government is pleased to introduce the Crimes (Sentencing Procedure) Amendment (Sentencing Options) Bill 2017, the Justice Legislation Amendment (Committals and Guilty Pleas) Bill 2017 and the Crimes (High Risk Offenders) Amendment Bill 2017. The Government is committed to a tough and smart criminal justice system that puts community safety first. These bills are an important part of that work. They mark the most significant criminal justice reform agenda seen for many years. The reforms are underpinned by the commitment of \$200 million and will achieve a tough and smart justice system in four ways. First, the reforms will change how offenders are sentenced to ensure they are supervised where necessary. Too many offenders are leaving court without supervision, including domestic violence offenders. Too many offenders are not being made to attend the evidence-based programs we offer to reduce their risk of reoffending.

Secondly, a new regime will address indictable offences at the early stage of the justice process by the early appropriate guilty plea reforms. Thirdly, if offenders pose an unacceptable risk to the community upon completing their sentence of imprisonment, the reforms will ensure a more robust scheme enabling post-sentence supervision in the community or detention in a correctional centre of a small cohort of high-risk sex and violent offenders. Fourthly, my colleague the Minister for Corrections will introduce reforms which will implement stronger decision-making regarding parolees and smarter management of them. These reforms are underpinned by evidence about what works and an informed but extensive consultation process. The review of sentencing, parole and early appropriate guilty pleas undertaken by the Law Reform Commission is the foundation of these reforms. On my behalf, the Department of Justice also led a review of the framework governing the post-sentence supervision and detention of high-risk offenders. These reforms and the investment by the Government will change the way we deal with offenders throughout the justice process from the beginning until the end.

I turn first to the Crimes (Sentencing Procedure) Amendment (Sentencing Options) Bill 2017, which will introduce new, tough and smart community sentencing options that will promote community safety by holding offenders accountable and tackling the causes of offending. These reforms build on the Law Reform Commission's comprehensive report into sentencing in 2013. We know from Australian and international research that community supervision, combined with programs that target the causes of crime reduce offending. We know that community supervision is better at reducing reoffending than leaving an offender in the community with no supervision, support or programs. We also know that community supervision is better at reducing reoffending than a short prison sentence.

The Law Reform Commission's report on sentencing showed us that some of our existing community-based sentences are not achieving results. For example, there are significant problems with suspended prison sentences—44 per cent of them are unsupervised and only require offenders to be of good behaviour. In effect, this is a slap on the wrist. Many offenders are not receiving the supervision and programs under a suspended sentence that would compel them to address their offending behaviour in the community. A 2014 study of suspended sentences by the Bureau of Crime Statistics and Research concluded that the earlier reintroduction of suspended sentences in New South Wales had increased rather than reduced the prison population. Other sentences such as home detention orders and intensive correction orders give offenders intensive supervision that tackles their offending behaviour. However, at the moment these orders have structural issues that stop many offenders with complex needs from accessing these orders and, instead, they are given short prison terms or suspended sentences. These sentencing reforms will help offenders receive the supervision and programs that address their offending behaviour, resulting in less crime and fewer victims.

The bill will replace the current community-based sentences with a new range of community sentencing options. First, we are strengthening the intensive correction order. It will be available for offenders sentenced to up to two years imprisonment and will require all offenders to submit to supervision. As well as mandatory supervision, the intensive correctional order will have a range of additional conditions to help courts ensure that offenders address their offending behaviour and are held accountable. Courts will be required to impose at least one of these additional conditions and may impose further conditions where necessary to support the safe and effective management of the offender in the community. With the new intensive correction order, offenders who would otherwise be unsuitable or unable to work will be able to access intensive supervision as an alternative to a short prison sentence.

Suspended sentences will be abolished as a sentencing option. They do not hold offenders accountable, 44 per cent of them are not supervised and they have been found to increase the New South Wales prison population. Home detention will no longer be a separate sentence. It will be available as an additional condition of the intensive correction order. The same conditions that currently apply to home detention orders will apply to offenders who have a home detention condition on their intensive correction order.

Secondly, the bill will introduce a new community correction order to replace section 9 good behaviour bonds and community service orders. The community correction order will be a more flexible order so that offenders can receive supervision to tackle their offending behaviour and be held accountable. Courts will be able to tailor the sentence to impose a range of conditions. As with the new intensive correction order, where offenders cannot work or where there is limited available work, other conditions can be imposed as part of a community correction order to hold the offender accountable.

Thirdly, we are introducing the conditional release order as a community-based sentence for the lowest level of offending. Like the tougher and more onerous community correction order and intensive correction order, courts will be able to impose optional conditions like supervision and participation in programs, but more onerous conditions like curfews and community service work will not be permitted. Pre-sentence assessment report processes will be streamlined. Courts will be able to receive a single report from which to impose a sentence instead of having to obtain multiple reports. Reports will advise courts about offenders' risks, needs, suitability for work and other relevant details so that they can tailor the conditions of orders to offenders' individual circumstances. There will be a presumption that an offender convicted of a domestic violence offence will receive either a prison term or a supervised order. This reflects and supports the Premier's priority to tackle domestic violence reoffending in New South Wales.

I now turn to the detail of the bill. Schedules 1 and 2 to the bill amend the Crimes (Sentencing Procedure) Act 1999. Schedule 3 to the bill amends the Crimes (Administration of Sentences) Act 1999. These amendments provide for the imposition, administration and revocation of the intensive correction order, community correction order and conditional release order. Schedule 4 to the bill makes consequential amendments to other legislation. Items [6] to [10] in schedule 1 to the bill establish the three new orders and abolish the existing suite of community-based sentences. Item [29] in schedule 1 to the bill amends part 5 of the Crimes (Sentencing Procedure) Act to provide new sentencing procedures for the new intensive correction order.

These orders will be available for offenders sentenced to up to two years imprisonment, except for the following offences: murder, manslaughter, sexual assault, child sexual offences, offences involving the discharge of a firearm, terrorism offences and breaches of serious crime prevention orders and public safety orders. In addition, a court must not impose an intensive correction order for a domestic violence offence unless satisfied that it will adequately protect the victim or any likely co-resident of the offender.

Proposed section 66 of the Crimes (Sentencing Procedure) Act will make community safety the paramount consideration when imposing an intensive correction order on offenders whose conduct would otherwise require them to serve a term of imprisonment. Community safety is not just about incarceration. Imprisonment under two years is commonly not effective at bringing about medium- to long-term behaviour change that reduces reoffending. Evidence shows that community supervision and programs are far more effective at this. That is why proposed section 66 requires the sentencing court to assess whether imposing an intensive correction order or serving the sentence by way of full-time detention is more likely to address the offender's risk of reoffending.

Proposed section 73 of the Crimes (Sentencing Procedure) Act sets out the standard conditions of the intensive correction order—namely, not to commit an offence and to submit to supervision. All offenders will be required to submit to supervision. Community corrections uses a risk framework that assigns different levels of intensiveness to each offender's supervision. Offenders who are at high risk of reoffending and have complex issues are supervised intensively. Supervision for lower risk offenders is less intensive and may be suspended in appropriate circumstances. The discretion to suspend supervision will be subject to requirements specified in the regulations to ensure that the power is properly exercised and does not go unfettered. Proposed section 73A provides for the additional conditions of the intensive correction order, which will enable courts to tailor the order to hold offenders accountable and to tackle their offending behaviour.

Courts will be required to impose at least one of the conditions in proposed subsection (2) in addition to the standard conditions in section 73, but can set a time limit on how long the order is in force.

Proposed section 81A of the Crimes (Administration of Sentences) Act 1999, contained in item [5] of schedule 3 to the bill, empowers the State Parole Authority to vary the additional conditions of an intensive correction order at any time on the application of the offender or Community Corrections so it can be adjusted to reflect the offender's circumstances. In addition to the standard and additional conditions, proposed section 73B gives the sentencing court power to impose further conditions on the intensive correction order, which will give courts more flexibility to tailor the order to an individual offender's circumstances. Schedule 3 to the bill contains legislative amendments providing for the day-to-day administration and management of the intensive correction order and breach and revocation procedures.

Proposed section 81A empowers the State Parole Authority to impose, vary or revoke the conditions of an intensive correction order, with the exception of the standard conditions not to commit an offence and to submit to supervision. Proposed section 82 provides for regulations under the Crimes (Administration of Sentences) Act 1999 to prescribe the obligations of an offender while subject to a condition of an intensive correction order. These are being developed by the Department of Justice, which will consult on them with key stakeholders before the regulations are made. This structure is consistent with the current sentencing legislative framework, where the obligations of offenders under a sentence are prescribed by the regulations.

Item [19] of schedule 3 provides for actions that either Community Corrections or the Parole Authority can take if an offender breaches an intensive correction order. These actions include a new framework of escalating sanctions that can be used for less serious breaches of intensive correction orders that do not warrant revocation. The purpose of the new sanctions framework is to provide clear legislative authority for Community Corrections and the State Parole Authority to respond quickly and effectively to lower level breaches of intensive correction orders that they can be safely dealt with in the community. Currently, there are limited options available under legislation to deal with lower level breaches of intensive correction orders, such as warnings or more stringent application of conditions.

The new sanctions will provide a much wider range of tools to deal with problematic behaviour in the community before it escalates to the point where the order must be revoked. The sanctions will include issuing warnings, imposing curfews, imposing electronic monitoring and up to 30 days home detention. Sanctions will be used in conjunction with the behaviour change interventions and reinforcement of positive behaviours by Community Corrections so they have the greatest impact on the offender. Serious breaches will continue to be escalated to the Parole Authority, which will retain its powers to revoke intensive correction orders in the event of a breach.

Proposed section 8 of the Crimes (Sentencing Procedure) Act, set out in item [8] of schedule 1 to the bill, replaces community service orders and section 9 good behaviour bonds with the new community correction order. The sentencing procedures for the new order are outlined in item [31] which inserts a new part 7 into the Crimes (Sentencing Procedure) Act. The community correction order will be a non-custodial order available for up to three years. Proposed section 88 provides that the standard conditions will be not to commit an offence and to appear before the court when called on to do so.

Proposed section 89 lists the additional optional conditions available on a community correction order [CCO]. These include supervision, up to 500 hours of community service work, and abstention from alcohol and drugs. These additional conditions will be limited and enable courts to tailor the CCO to the individual circumstances of the offender. Proposed section 90 gives the sentencing court power to impose further conditions on the community correction order, providing more flexibility to tailor the order to the individual.

Proposed section 89 provides that courts will be able to vary the additional conditions of a community correction order at any time on the application of the offender or Community Corrections to enable the order to be adjusted to reflect the offender's circumstances. Item [13] of schedule 3 to the bill inserts a new part 4B into the Crimes (Administration of Sentences) Act to provide for the day-to-day administration and management of community correction orders by Corrective Services NSW and procedures for dealing with breaches. Proposed section 107B provides for regulations under the Crimes (Administration of Sentences) Act to prescribe the obligations of an offender whilst subject to a condition of a community correction order—for example, the regulations will provide that an offender subject to a community service work condition will be subject to obligations similar to those that currently apply to community service orders. The regulations are currently being developed by the Department of Justice, which will consult with key stakeholders before they are made. The breach and revocation procedures and powers are similar to those for good behaviour bonds currently in section 98 of the Crimes (Sentencing Procedure) Act. Proposed section 107C provides that the court may call on the offender to appear before it and may take no action, vary the conditions of the order or revoke the order.

I now turn to conditional release orders. Proposed section 9 of the Crimes Sentencing Procedure Act, in item [9] of schedule 1 to the bill, establishes the new conditional release order. The conditional release order replaces good behaviour bonds made under section 10 (1) (b) of the Crimes (Sentencing Procedure) Act for the lowest level of offending. A court may impose a conditional release order for up to two years. Courts will have the option to impose a conditional release order with or without a conviction. The sentencing procedures for the conditional release order are outlined in item 31 of schedule 1 to the bill, which inserts a new part 8 into the Crimes (Sentencing Procedure) Act. Proposed section 98 provides that the standard conditions of a conditional release order will be not to commit an offence and to appear before the court when called on to do so. Proposed section 99 lists the additional optional conditions for the conditional release order, including supervision, programs, abstention from alcohol and drugs, and non-association and place restrictions. These additional conditions will enable courts to tailor the conditional release order to the offender's individual circumstances.

Courts will be able to vary the additional conditions of a conditional release order at any time on the application of the offender or Community Corrections to enable the order to be adjusted to reflect the offender's circumstances. Many conditions associated with the more onerous intensive correction order and community correction order cannot be imposed. In addition to the standard and additional conditions, proposed section 99A will allow courts to impose further conditions on the conditional release order to help tailor the order to an offender's circumstances. Item [13] of schedule 3 to the bill inserts a new part 4C into the Crimes (Administration of Sentences) Act to provide for the day-to-day administration and management of conditional release orders by Corrective Services NSW and procedures for dealing with breaches. Proposed section 108B provides for regulations to prescribe the obligations of an offender whilst subject to a condition of a conditional release order. The breach and revocation procedures and powers for conditional release orders are the same as those I outlined earlier for community correction orders. Proposed section 108C provides that the court may call on the offender to appear before it if it suspects that a breach has occurred and may take no action, vary the conditions of the order or revoke the order.

The Government has made tackling domestic violence one of its top priorities. Some measures that demonstrate this include our commitment to holding domestic violence offenders to account and protecting victims and at-risk persons by investing in the 2017–18 budget more than \$350 million over four years to provide greater protection for women, children and men; committing \$53.25 million over four years to expand Safer Pathway statewide, to ensure a robust referral system is in place for people whose lives are at risk as a result of domestic and family violence; committing \$25 million in the 2017-18 budget for Start Safely, to help people escaping violence move into stable housing in the private rental market; and investing \$840,000 in global positioning system [GPS] tracking to improve victim safety. The bill contains measures to support these efforts to tackle domestic violence.

Item [4] of schedule 1 to the bill provides for presumption of full-time detention or a supervised community-based sentence for domestic violence offences. The rationale for this is simple. Offenders who are sentenced for domestic violence will be required to address their offending behaviour if they are given a community-based sentence, or go to prison. The Government wants the courts to ensure that domestic violence offenders who receive community-based sentences receive whatever supervision or programs are needed to address their offending behaviour. For offenders who would otherwise receive a short prison sentence, the court should only impose an intensive correction order if satisfied the order will adequately protect the safety of the victim. This will hold offenders accountable and promote the safety of victims and the community.

The presumption will not mean that every domestic violence offender will be supervised or go to prison. What it means is that more domestic violence offenders will be referred to Community Corrections for risk assessment and then supervised for as long as it is appropriate to do so up to the maximum term of the order. This means that more medium- and high-risk domestic violence offenders who currently receive unsupervised orders will receive intervention to address their offending behaviour. Some offenders will, of course, go to prison because their offences are too serious to be dealt with by way of a community-based sentence.

Other offenders may be very low risk and unsuitable for supervision and programs, and the court may be satisfied that a different sentencing option is more appropriate in those circumstances. This may include, for example, situations where the domestic violence offence occurs between flatmates who no longer reside with each other. Item [17] of schedule 1 to the bill inserts division 4B into part 2 of the Crimes (Sentencing Procedure) Act to provide for pre-sentence assessment reports. This will make significant changes to the way courts receive pre-sentence reports from Community Corrections. Currently, courts must obtain different assessment reports for different sentences which state that the offender is suitable for the particular sentence. To consider an offender for multiple sentences the court must obtain multiple reports. This is overly complex and leads to adjournments and delays.

The new assessment process will enable courts to get pre-sentence reports early in the sentencing process so that they can receive the information they need in a short, comprehensive report. The report will give the court useful, quality information about the offender's risks, criminogenic needs, suitability to perform work, and any conditions that will assist to safely and effectively manage the offender in the community. The specific matters to be addressed in these reports will be prescribed in regulations. Courts can use the report to help select the appropriate community order and the appropriate conditions to tailor it to the specific needs and risks of the individual offender. Courts will have the power to order additional reports where necessary. Proposed section 17C provides that obtaining a report is at the court's discretion except where provided by section 17D, and can be obtained at any time during sentencing proceedings.

Proposed section 17D (1) provides that reports will be mandatory for intensive correction orders. This will ensure that, where the court gives an offender a short prison sentence and considers imposing an intensive correction order, it has all the information necessary to make an informed decision. Proposed section 17D (3) provides that if a court is considering imposing an intensive correction order with a home detention condition, it must obtain a report about the offender's suitability for home detention after a prison sentence has been imposed. This restriction is necessary because home detention assessments are resource intensive for Community Corrections. A home detention assessment should only be ordered where a court has already imposed a sentence of imprisonment. Reports will not be mandatory for community correction orders and conditional release orders unless the court is considering a work requirement on a community correction order. There will be extensive consultation and discussion between Community Corrections and the courts about the content and format of these reports before the reforms come into force.

As offenders are often dealt with by courts for multiple offences with different levels of seriousness, offenders can be made subject to multiple community-based sentences with different kinds of conditions, which may be inconsistent with each other. So item [17] of schedule 1 to the bill inserts division 4C into part 2 of the Crimes (Sentencing Procedure) Act. It establishes provisions as to how to administer various conditions of multiple orders to which an offender may be subject at any one time.

Proposed section 17G will ensure that where an offender is subject to multiple orders with multiple community service work conditions, the offender will only be required to comply with the work condition that requires the offender to work the most number of hours. For offenders subject to multiple hours where at least one of the orders is an intensive correction order, there will be a maximum cap of 750 hours on the number of hours of work that the offender can be required to do. Where an offender is not subject to an intensive correction order but is otherwise subject to multiple orders with work conditions, the maximum number of hours that the offender can be required to work is 500. The same principle will apply to curfew hours. Proposed section 17H will ensure that where an offender is subject to multiple orders with multiple curfew conditions, the offender will only be required to comply with the condition that imposes the most number of curfew hours. The regulations will give Community Corrections discretion to resolve start and finishing times when there are inconsistencies between different curfew conditions.

Schedule 2 to the bill inserts savings and transitional provisions into the Crimes (Sentencing Procedure) Act. They provide for the administration of community-based sentences imposed before the reforms come into force. Offenders subject to a current community-based sentence will be taken to be subject to the new sentence that replaces the old sentence. For example, offenders subject to home detention orders will be taken to be subject to the new intensive correction order with a home detention condition after the reforms take effect. An offender on a supervised section 9 good behaviour bond will be taken to be on a supervised community correction order. The exception to this will be suspended sentences. The legislation for this order will continue to run after commencement. Offenders on suspended sentences will continue to be subject to this legislation until their orders expire.

I now turn to the second bill, the Justice Legislation Amendment (Committals and Guilty Pleas) Bill 2017. There is a substantial backlog of trials in the District Court, which is leading to significant delays in finalising indictable criminal cases. The Government is committed to addressing this. The early appropriate guilty plea reforms will reduce these delays by improving productivity and ensuring that cases are effectively managed. The Law Reform Commission found that 73 percent of indictable criminal cases end with the defendant pleading guilty. However, 23 percent of guilty pleas are not entered until the day of trial. Late guilty pleas cause stress for victims as they await the trial and they contribute to the backlog of cases waiting to be heard in the District Court. They also mean that prosecution and defence lawyers spend time preparing for trials that never occur, and divert police resources away from frontline activities. The bill will ensure that cases are better managed to ensure early appropriate guilty pleas.

There are five elements to the legislative reforms. Firstly, the investigating agency that charged the accused person with the offence, usually the NSW Police Force or the Australian Federal Police, will provide a simplified brief of evidence to the Office of the Director of Public Prosecutions [ODPP] or its Commonwealth equivalent, the Commonwealth Director of Public Prosecutions [CDPP]. Secondly, a senior prosecutor in the ODPP or CDPP will review the evidence and file a charge certificate with the Local Court that confirms the charges that will proceed to trial and identifies any charges that should be withdrawn. This will reduce the likelihood that the charges will change closer to the trial date and provides certainty to the defence. Thirdly, the prosecutor and the defence lawyer will then be required to have a case conference to discuss the case and to determine whether there are any offences to which the accused person is willing to plead guilty.

Fourthly, the bill abolishes the substantive committal decision and committal hearings so that magistrates will no longer be required to consider the evidence and determine if there is a reasonable prospect that a jury, properly instructed, would convict the accused person of the offense. Instead, magistrates will need to be satisfied that the new steps certifying the charges and holding a case conference have been completed before committing the matter to a higher court for trial or sentence. The NSW Law Reform Commission recommended that committal hearings be abolished because magistrates were exercising the discretion to discharge in only 1 per cent of cases. Under the reform, the prosecutor will perform a gatekeeping role earlier in the process by certifying which charges will proceed. Fifthly, the bill prescribes sentencing discounts given for the utilitarian value of guilty pleas by introducing a statutory sentence discount scheme. This will provide certainty and ensure that large discounts cannot be granted for guilty pleas that are made late in the process.

In addition to the five elements of legislative reform, additional funding is being provided to the Office of the Director of Public Prosecutions and Legal Aid to ensure the continuity of senior lawyers for both the prosecution and the defence from start to finish. Currently, due to the pressures being placed on the entire criminal justice system, senior prosecutors and defence lawyers often become involved in cases only very late. Having the same senior prosecutor and defence lawyer in the case throughout its life will increase certainty about the charges, avoid last-minute changes in charges and pleas at trial and improve communications with victims about the process. The Government also is investing in the systems and processes in agencies and the court providing ongoing monitoring so that issues can be managed as they arise during the implementation of the changes.

The five elements of legislative reform as well as the funding for administrative changes within agencies will provide an interdependent and mutually reinforcing package to improve the efficiency of the criminal justice system. These measures are designed to remove the perverse incentives that currently operate and cause parties to delay entering a guilty plea and to strengthen the incentives for defendants to enter appropriate guilty pleas earlier in the process. In addition, the improved case management under the reforms will ensure contested trials will be shorter and more efficient by narrowing the issues in dispute.

Since I became the Attorney General I have had the opportunity to meet with victims of crime and those who advocate on their behalf to hear their stories about how uncertainty in the criminal justice system can re-traumatise victims of crime and discourage them from coming forward. It can be particularly distressing for victims when charges are downgraded late in the process or there are long delays. By frontloading the work so that prosecutors are involved early to certify charges and by encouraging early resolution of cases, we are improving victims' experience in the process. Funding for the package also includes more witness assistance scheme officers in the ODPP to improve support for victims.

The early appropriate guilty plea reforms apply to indictable offences, which are the most serious criminal offences in our justice system and which are dealt with by the District Court or the Supreme Court. They are strictly indictable offences or table offences which are the indictable offences specified in the tables of schedule 1 to the Criminal Procedure Act 1986 that have been elected to be dealt with on indictment. The majority of indictable offences start in the Local Court as committal proceedings which are guided by the provisions in chapter 3 of the Criminal Procedure Act 1986. Schedule 1 to the bill outlines the amendments to the Criminal Procedure Act. Proposed division 2 of part 2 of chapter 3 contains general procedural provisions that apply to committal proceedings.

Importantly, proposed section 59 includes a requirement that a magistrate provide an oral and written explanation to the accused person about the committal process and the operation of the new statutory discount of sentence available for the utilitarian value of a guilty plea. Proposed section 60 reflects the intention that the reform is not intended to change any of the important work done by the Drug Court of New South Wales. The addition of proposed section 25F (6) to the Crimes (Sentencing Procedure) Act will make clear that the Drug Court may apply a 25 per cent discount to an offender who is referred to the program before committal and pleads guilty as part of the condition for entering the program.

Proposed division 3 of part 2 of chapter 3 contains provisions providing for service of a brief of evidence in a simplified form so that it can be provided to the accused person earlier. Proposed section 61 provides that the prosecutor must serve the brief of evidence on the accused within the time ordered by the magistrate. In this section the word "prosecutor" refers to the investigating authority who commenced the proceedings, which in most cases is the NSW Police Force or the Australian Federal Police. Proposed section 61 also recognises that the new division does not affect the operation of existing ongoing disclosure obligations of both the investigator and the prosecutor—for example, the ODPP or the Commonwealth Director of Public Prosecutions [CDPP]—in any other law or obligation, including laws concerning privilege and immunity.

Currently there is no definition of a brief of evidence in committal proceedings in the Criminal Procedure Act.

The NSW Law Reform Commission recommended introducing a definition that included only the evidence for the prosecution case. In consultation with stakeholders, this definition was identified as being too narrow to properly support disclosure in the new committal process. Proposed section 62 (1) provides a wider definition that also includes evidence relevant to the defence case and evidence relevant to the strength of the prosecution case, consistent with the current duty of disclosure expressed in the Director of Public Prosecutions' guidelines. The intent of this expanded definition of a brief of evidence is to ensure sufficient disclosure for the prosecution to properly assess a case and to certify the charges, and for the defence to make informed decisions about the case and to determine whether to enter a guilty plea.

Proposed section 62 (2) provides that material in the brief need not be in an admissible form. There will not be a less robust investigation, nor will there be changes to best practice for the collection of evidence. The reforms are about ensuring that the brief can be served earlier by reducing some of the formal requirements around how evidence is to be presented that currently contribute to delay in criminal cases. Currently, all material in the brief of evidence must be provided in a form that makes it admissible as evidence in the Local Court. In practice this means that all prosecution evidence must be provided in written statement form. "Written statement form" means that a number of technical requirements, currently outlined in sections 74 to 90 of the Criminal Procedure Act and the associated Local Court rules, must be complied with. For example, written statements must be in the form of questions and answers, be endorsed by the maker of the statement as to the truth of the statement, be witnessed, and feature other matters required by the rules. In addition, other material in the brief of evidence, for example, telephone intercepts, forensic analysis and closed-circuit television [CCTV] footage, must be accompanied by a written statement.

Given a magistrate will no longer be considering the evidence before committal, it is no longer necessary that the entire contents of the brief of evidence comply with these requirements to be admissible as evidence. However, the senior prosecutor in the ODPP or the CDPP may require evidence in an admissible form to properly assess the case and to certify the charges. A protocol between the NSW Police Force and the DPP will provide guidance on a case-by-case basis as to when the alternative, simpler form will be sufficient. Many of the current provisions about written statements will be retained in the bill. They may still be needed where a prosecution witness is directed to give evidence in committal proceedings. They will also be necessary to provide guidance on the admissible form of statements where that form of evidence is to be included in the brief of evidence. The provisions about written statements have been moved into a new part in chapter 6, where other provisions about evidentiary matters currently appear in the Criminal Procedure Act. Provisions about using transcripts of recorded statements, rather than written statements, for vulnerable persons or domestic violence complainants will also be retained. Proposed section 63 creates a statutory requirement for ongoing disclosure of any material that is received after the brief of evidence has been served.

Proposed new division 4 outlines the process for senior prosecutors to certify which charges will proceed to committal for trial. Proposed section 65 ensures that only the DPP, the CDPP, the New South Wales Attorney General or the Commonwealth Attorney-General and their legal representatives may perform the functions of certifying charges and participating in a case conference. Proposed section 67 requires the prosecutor to file the charge certificate by the date ordered by the magistrate. There is also a six-month statutory time limit on filing the charge certificate, which should only be exceeded in exceptional and complex cases where there are legitimate operational reasons for the brief of evidence taking a longer time to prepare. If the prosecutor fails to file and serve the charge certificate by the six-month time limit, or a later day set by a magistrate, a magistrate may discharge the accused person under proposed section 68. These provisions ensure that the prosecutor moves swiftly to certify the charges and they provide certainty so that case conferencing can commence.

Proposed section 67 also allows the prosecutor to file an amended charge certificate. While the charge certificate is intended to determine the charges to be proceeded with if the matter goes to trial, the prosecutor may determine to change the charges that will proceed—for example, as a result of discussions during a case conference, or after a prosecution witness has been called to give evidence under the new division 6. An amended charge certificate must be filed in these circumstances before a matter is committed for trial or sentence.

Proposed division 5 outlines the process for senior lawyers from the prosecution and defence to participate in a mandatory case conference. Proposed section 70 provides that the principal objective of a case conference is to determine whether there are any offences to which the accused person is willing to plead guilty. The other objectives are to facilitate the provision of additional material, evidence or other information to the accused person that may assist them to decide whether to enter a guilty plea; and to facilitate the resolution of other issues related to the case against the person, including identifying the key issues for trial and any agreed or disputed facts. The provisions in this division require that at least one formal case conference, either face to face or via audio-visual links [AVL], must be held between senior lawyers for the prosecution and the defence in every case. Defence and prosecution lawyers may hold as many case conferences as are necessary during the period ordered by the court. It is expected that more than one case conference may be required in circumstances where a witness is called to give evidence in court or where the prosecutor files an amended charge certificate.

Proposed section 71 provides that the lawyers for the prosecution and the defence must participate either in person or by AVL for the initial case conference. The case conference must have this level of formality because experience from previous case conferencing trials tells us that unless the case conference is a formal, structured, face-to-face event, it is less effective. For this reason, the court may only order that the initial case conference be held by telephone in limited circumstances. Subsequent case conferences may be held flexibly. The accused is expected to be available to give contemporaneous instructions and to participate in the case conference as required to ensure that the accused person understands the seriousness of the event. The Criminal Procedure Regulations will prescribe the details of how, and when, the accused will be required to attend the case conference.

Proposed section 72 requires an accused's legal representative to obtain their client's instructions before the case conference and to explain the effect of the sentence discount scheme. This is to ensure that, if the accused does or does not offer to plead to any charges during the case conference, they will do so fully informed of the consequences. This will help to mitigate the risk of late changes of plea after committal. Proposed section 74 provides that a case conference certificate must be filed after all case conferences have been held. The case conference certificate should represent the totality of the negotiations between the prosecution and the defence, whether in a case conference or informal discussions.

Proposed section 77 provides a mechanism for plea offers that are made after the case conference certificate has been filed to be treated as if they formed part of the case conference certificate. The case conference certificate provides a mechanism to record offers made by the prosecution or the defence for the purposes of the sentencing discount. Accordingly, proposed section 75 outlines all of the matters that must be recorded on the certificate, including any offers made by the defence or the prosecution in relation to offences or guilty pleas. Proposed section 76 provides powers for a magistrate to move forward with the case, if there is an unreasonable failure by the prosecutor or the accused's legal representative to participate or complete the requirements. Proposed sections 78 to 81 provide that the case conference certificate is to be treated confidentially and will only be admissible as evidence in proceedings relating to the sentence discount or in other limited circumstances. This is to encourage the accused person to make offers to plea.

In addition, the publication of any material related to the case conference will be prohibited. This should not prevent discussions between legal representatives, the accused person or, where appropriate, the victims about the matters discussed during a case conference. There are limited exceptions to the rule that a case conference must be held in all cases, as outlined in proposed section 69. These are where an accused is unrepresented, where a case is committed for trial on the question of the accused person's fitness to stand trial or where the accused person pleads guilty to all offences that are the subject of the charge certificate. The fact that an unrepresented accused will not have the opportunity to participate in a case conference may in practice limit the potential for early resolution of these cases. However, in such cases a magistrate may choose to adjourn the proceedings following the filing of the charge certificate, to allow the accused to obtain legal advice or representation before committing the case.

The proposed division 6 restructures existing provisions about calling a prosecution witness to give evidence in committal proceedings. These hearings may assist the parties to assess better the case against the accused and to facilitate further negotiations about the charges and possible offers to plead guilty. However, it is rare for a magistrate to grant these applications currently, and it is expected that this will continue under the reform. Parties that wish a witness to be called to give evidence will still have to apply to a magistrate for a direction, and the magistrate will still apply the same tests that currently apply to different kinds of witnesses in determining those applications.

The bill retains as much of the current Criminal Procedure Act and procedure that applies to committal proceedings as possible. The special protections afforded to witnesses who are the victims of an offence involving violence are retained so that a high test of special reasons rather than substantial reasons is applied when a magistrate is considering whether to direct that the witness be called to give evidence. Protections for victims of prescribed sexual offences, who cannot be directed to attend, remain in place. Provisions in part 4B of chapter 6 around the use of recorded statements for domestic violence evidence in chief will still apply to witnesses giving evidence in committal proceedings.

Currently the Local Court does not have jurisdiction if there are questions about the accused's fitness to be tried. Proposed division 7 provides a new power for magistrates to expedite the case to the higher court for a fitness inquiry. Proposed section 93 allows the issue of fitness to be raised by the defence or by the prosecution, or the court may consider it on its own motion. The issue of fitness may be raised at any time but proposed section 94 provides that the magistrate may not commit until after the trial certificate is filed and, if any case conference has been held, after the case conference certificate is filed. The test to be applied for committal under this division is the same good-faith test as used under the Mental Health Forensic Provisions Act 1990. It is not intended that magistrates should have to bring their minds to substantively consider whether the accused is in fact unfit, as it would duplicate the process of fitness inquiries in the higher courts.

The legislation allows the magistrate to order a psychiatric or other report to be provided before committal. It is expected that this power may be used where obtaining a report earlier would assist in reducing the delay caused by waiting for reports to be prepared for the fitness inquiry in the higher court. A new section will be inserted into the Mental Health (Forensic Provisions) Act 1990 so that if the accused is found fit or the court is satisfied that the question of fitness is no longer raised, the court may either retain the case for trial or sentence or remit it for case conferencing in the Local Court. The sentencing discount scheme is modified in these cases so that if an accused is found fit and pleads guilty at the earliest opportunity, he or she may be eligible for a 25 per cent discount for the utilitarian value of the plea.

Proposed divisions 8, 9 and 10 provide for the magistrate to commit an accused person for trial or sentence after the case conference certificate and charge certificate have been filed. If the guilty plea is accepted, the case is committed for sentence. If the accused does not wish to plead guilty, the accused is committed for trial. If the magistrate rejects the guilty plea, the case may be adjourned for further negotiations or legal advice. Proposed section 98 provides that, if an accused person is unrepresented, the magistrate cannot commit unless satisfied that the accused person has had reasonable opportunity to obtain representation or legal advice. That is a safeguard for an unrepresented accused person because of the strict application of the sentence discount scheme. Making a false representation in committal proceedings will be an offence in proposed section 92 of the Criminal Procedure Act, and proposed section 31K of the Children (Criminal Proceedings) Act.

Schedule 2 to the bill outlines amendments to the Crimes (Sentencing Procedure) Act to introduce a strict fixed sentencing discount scheme. It replaces the existing common law sentence discount for the utilitarian value of a guilty plea. Currently large discounts of up to 25 per cent may be given for guilty pleas, which may be as late as on the first day of trial. Tightening the discount scheme as proposed will prevent these large discounts from being granted late in the process. Instead, fixed discounts will apply depending on the timing of the guilty plea: first, a 25 per cent discount if the guilty plea is entered while the case is in the Local Court, before the case is committed to the higher courts; secondly, a 10 per cent discount where the guilty plea is entered after the case has been committed to the higher court but at least 14 days before the first day of the trial, or the accused gives notice to the prosecutor of his or her intention to plead guilty at least 14 days before the first day of the trial and enters the plea at the first available opportunity; and thirdly, a 5 per cent discount if the guilty plea is entered in any other circumstances.

These discounts are fixed, meaning that where they apply, the full discount must be given. This certainty about the discount that will apply is fundamental to creating a strong incentive for early guilty pleas. This strong incentive is reinforced by a substantial discount for a guilty plea in the Local Court and significantly lower discounts for guilty pleas after committal. The offender is required to plead guilty, or give notice to the prosecutor offering to plead guilty, 14 days before the first day of trial to receive a 10 per cent discount. This is to give the prosecution sufficient time to call off its preparation for trial and advise victims and witnesses that they need not appear.

The first day of trial is defined in proposed section 25C as the first day that the trial is listed. This provides a clear deadline from which a defendant can count back the 14 days to the day by which a guilty plea must be entered in order to be eligible for a 10 per cent discount. This definition will apply even where the actual commencement of the trial is delayed for a short period—for example, where the trial is listed on a Monday but does not proceed until the Wednesday because a judge was not available on the Monday when the trial was listed to commence. However, if the listing date is vacated—for example, where one of the parties is not ready to proceed and makes an application for vacation—and the trial is subsequently re-listed at a later date, the new listing date will be the relevant date for the purpose of the definition of "first day of trial". Certainty about the discounts that apply is reinforced by only allowing for limited variations and exceptions to the sentencing discount scheme proposed.

The effect of proposed section 25E is that where the accused person made an offer to plead guilty to an offence, or a reasonably equivalent offence, which either the prosecution refused but then later accepted, or the accused is later found guilty of that offence, or a reasonably equivalent offence, the accused may be eligible for up to a 25 per cent discount. This is important because there are multiple offences that have similar elements and penalties. An accused person should not be required to offer to plead guilty to exactly the right charge, or to every possible variation of an offence, in order to obtain the discount.

There is also a variation to allow a person to receive a higher discount where the prosecutor lays a new charge by way of ex officio powers and there were no prior committal proceedings, or if the prosecutor adds a new offence to the indictment, where the facts and evidence that establish the new offence are substantially different from those contained in the brief of evidence for the committal proceedings. The higher discount is allowed because the accused person will not have had an earlier opportunity to consider a guilty plea to the new charges. The variations represent a careful balance between the need to provide a strict sentence discount scheme, and the practical realities of criminal offences and trials.

In addition, there are two exceptions to the sentence discount scheme where the court may determine that no discount or a reduced discount should be applied. These are where: the level of culpability of the offence is so extreme that the community interest in retribution, punishment, community protection and deterrence would not be satisfied by the imposition of the discount, or the utilitarian value of the offender's guilty plea was eroded by a dispute as to the facts on sentence. Finally, no discount will apply where the court determines to impose a life sentence.

The sentencing discount scheme does not apply to Commonwealth offences, because sentences for Commonwealth offences under the Commonwealth Crimes Act 1914 cannot be constrained by the New South Wales Parliament. The sentencing scheme also does not apply to offences involving a child or young person. This is because of the unique sentencing considerations that apply to children, including the emphasis on rehabilitation in sentencing, and young people's lower capacity to make informed decisions and to give instructions about matters affecting their case, including whether to plead guilty.

In the Children's Court, the new committal process outlined in the amendments to the Criminal Procedure Act will apply only to serious children's indictable offences. All other indictable offences will be dealt with in the same way as they are currently, which is as a summary trial with the potential that they are converted to committal proceedings and dealt with at law under section 31 of the Children (Criminal Proceedings) Act 1987. A number of provisions from chapter 3 of the Criminal Procedure Act that will be repealed by this bill need to be inserted into the Children (Criminal Proceedings) Act 1987 to ensure that there are no changes to the ability of the Children's Court to deal with indictable offences at law. The bill achieves this in a way that maintains the current law, but also simplifies the provisions. For example, the provisions to allow for the defence to give evidence and to call prosecution witnesses have been consolidated into a single section in proposed section 31B.

There are also slight variations to take account of current practice, rather than law, where this would have no substantive effect on the current practice or the rights of the accused and prosecution to present their cases. For example, a new gatekeeping provision has been included in proposed sections 31(2A) and (2B) to provide that: if the accused person requests to be dealt with at law during the summary trial, the prosecution evidence must first be completed, to avoid duplication of evidence, and if the Children's Court is of the view at the conclusion of summary proceedings that the accused person would be discharged, rather than committed, it may discharge at this stage rather than move into committal proceedings.

Item [3.2] of schedule 3 amends the rule-making power of the Children's Court so that it is clear that it may make rules and practice notes about committal proceedings. A number of consequential amendments to other Acts are contained in the bill to ensure that the new process for committal proceedings is supported. For example, the definition of "committal proceedings" will be amended where it appears in other Acts. All amendments commence on proclamation. The changes will apply only to changes commenced by a court attendance notice filed after this time.

I turn now to the Crimes (High Risk Offenders) Amendment Bill 2017. It introduces reforms to strengthen the management of high-risk and violent offenders to ensure the safety and protection of the community. The current framework enables post-sentence supervision in the community or detention in a correctional centre of high-risk, sex and violent offenders after they have completed a sentence of imprisonment. The scheme covers quite a small number of high-risk offenders who require incarceration or intensive supervision after their sentence has ended. This scheme has been in place in New South Wales since 2006 in respect of high-risk sex offenders and was extended to apply to high-risk violent offenders in 2013.

The bill introduces four key reforms to address issues with the current framework. First, it will change the eligibility requirements for the scheme to better cater to offenders who commit both serious violent and sex offences. The current eligibility requirements result in people who may pose a risk to the community not coming within the scope of the scheme. The reforms will address this by bringing these so-called generalist offenders within the scope of the scheme. Secondly, the reforms will reframe the test for making an extended supervision order or continuing detention order to ensure that where an offender cannot be safely managed in the community on an extended supervision order [ESO] they are instead subject to continued detention in a correctional centre. Thirdly, the reforms will ensure that the High Risk Offender Scheme comprehensively applies to offenders serving sentences for Commonwealth sex offences. Finally, they will ensure that victims have a greater flexibility in having their voices heard when the Supreme Court is considering an application for post-sentence supervision or detention.

The bill implements reforms arising from recommendations of a statutory review of the Crimes (High Risk Offenders) Act 2006 conducted by the Department of Justice in 2016-17. That review made 28 recommendations to improve the frameworks governing eligibility for the scheme, making an order under the scheme, management of an offender under the scheme, and administration of the scheme. The Government makes no apology for implementing amendments to strengthen the High Risk Offender Scheme. Under these reforms the community will be better protected from the most dangerous sex and violent offenders. These reforms improve the scheme so that community safety will be the paramount consideration of the court when considering whether to make a continuing detention order [CDO] or ESO; more offenders will be eligible for the scheme as the court will be required to consider an offender's criminal history and future risk of sex and violent offences, instead of just one or the other; and the test for deciding whether to impose a CDO will be strengthened so that an offender's risk to the community is considered instead of whether they can be adequately supervised.

The reforms are part of the package of criminal justice reforms. They complete that package by ensuring there are measures in place so that the most serious high-risk sex and violent offenders are subject to a robust framework for post-sentence supervision and detention. I now outline the details of the bill. Items [1], [3] to [8], [14], [15], [17], [21], [24], [25], [27], [30], [31], [35], [38], [41], [42], [50] and [58] to [60] of schedule 1 will remove the distinction between the two categories of high-risk offender so that orders for the continued supervision and detention of high-risk sex offenders and violent offenders may be made if an offender poses a risk of committing either a serious violent offence or a serious sex offence.

Currently the Act results in some people who may pose a risk to the community not coming within the scope of the scheme because the existing Act has separate provisions for sex and violent offenders based on the risk that sex offenders will commit further sex offences only and violent offenders will commit further violent offences only. The complexity of this cohort of high-risk offenders means that offenders who commit both sex and violent offences do not neatly fit within one of the two statutory categories. Many offenders are so-called generalist offenders who have a history of general offending rather than only committing one category of offence. For example, an offender's current sentence of imprisonment could be for a serious sex offence but this forms part of a pattern of violent offending with the future risk being that the offender will commit serious violent offences. To fix this issue eligibility requirements will be revised.

Alignment between an eligible high-risk offender's index offence and anticipated future offending risk—be it a serious sex offence or a violent offence—will no longer limit the court's ability to make an order. Items [14], [39] and [40] of schedule 1 will insert statutory amendments to change the test to be applied by the Supreme Court in deciding whether or not to make a CDO in respect of a high-risk offender. Under the existing test for making a CDO, an offender is likely to be released to supervision in the community provided adequate supervision can be provided. There are a number of issues with the current process. Offenders who pose an unacceptable risk which cannot be managed in the community on an ESO are being granted these orders by the court under the current test. Offenders cycle between being on an ESO and being in custody—having breached that ESO—with no change to underlying behaviour, and Corrective Services NSW is required to provide detailed information on how an unmanageable offender might be supervised in the community, even when Corrective Services does not have confidence that the proposed supervision measures will be effective in keeping the community safe.

The bill will strengthen the test for deciding whether to impose a CDO. The test will be reframed so that an offender's risk to the community is the emphasis, instead of whether he or she can be adequately supervised. Under the reframed test the court must be satisfied that the risk of the offender committing another serious offence will be unacceptable unless a CDO is made. In determining whether and what type of order to impose, the court would be required to have regard to the existing considerations in sections 9 and 17 of the Act, including community safety, the offender's criminal history and the sentencing remarks of the original sentencing court. In addition to existing considerations, the reframed test will require the court to consider two additional factors; whether the offender is likely to comply with an ESO, and options in the community or in custody that would help reduce the offender's risk of reoffending over time.

This second point is framed to enable the court to consider a range of options, including proximity to family, ensuring the offender's links to the community are retained, rehabilitative programs or other options available in custody or in the community. Further, when considering whether to make a CDO the Act will state that the court must not consider a breach of an ESO condition as an effective form of intervention. These reforms strengthen the test for deciding whether to impose a CDO so that an offender's risk to the community is considered instead of whether he or she has been adequately supervised. Community safety will be the Supreme Court's paramount consideration when considering whether to make an order under the Act. This aspect of the reform is expected to mean that some offenders who had previously received an ESO will now receive a CDO. That is appropriate if the offender cannot be managed in the community on an ESO.

Items [11] to [13] will make certain offences against the laws of the Commonwealth serious sex offences and offences of a sexual nature under the framework. The current scheme does not extend to Commonwealth sex offences committed in New South Wales, or offences where there is no clear New South Wales equivalent. For example, the Commonwealth child sex tourism offences do not come within the New South Wales post-sentence framework. The New South Wales scheme applies to offenders serving sentences of imprisonment for serious sex offences or a range of offences of a sexual nature, if they have committed a serious sex offence in the past. This two-tiered approach means repeat sex offenders are covered by the scheme if they are serving a sentence of imprisonment for a less serious offence, if they have committed a serious sex offence in the past.

Items [11] to [13] bring a range of Commonwealth sex offences within the scope of the New South Wales scheme. They have been classified as serious sex offences or offences of a sexual nature based broadly on the similarity between Commonwealth offences and New South Wales offences, the classification of Commonwealth sex offences and serious sex offences or offences of a sexual nature, as compared with how similar New South Wales offences are classified, the maximum penalties for Commonwealth sex offences, and the position taken in other jurisdictions.

Items [15] and [29] will make it clear that the scheme applies to offenders serving a sentence of imprisonment for an offence against a law of the Commonwealth or another State or Territory being served concurrently or consecutively—wholly or partly—with an offence against the law of New South Wales. Bringing Commonwealth sex offences more comprehensively within the scope of the New South Wales scheme will ensure that the community will be better protected from the most dangerous Commonwealth sex offenders at the end of their sentence. This ensures that child sex tourism offences, certain sex trafficking offences, Commonwealth child pornography offences and Commonwealth grooming offences will come within the New South Wales scheme.

The reforms will provide victims with greater flexibility in having their voices heard in proceedings before the court. Item [57] will enable a broader range of victims to be able to provide victim impact statements. Items [52] to [56] will provide victims flexibility by enabling victim impact statements to be made directly to the Supreme Court, not in writing only. Item [57] of schedule 1 and item [4] of schedule 2 will ensure, to the extent possible, registered victims will be advised when a high-risk offender is the subject of an application for an order.

There is currently a narrower definition of victims in high-risk offender proceedings than in parole proceedings. The definition of victim under the Act is too narrow and has worked to exclude family representatives of victims if the victim has passed away or is under any incapacity, or others who suffer harm as a result of the offence. This is because the Act now has a two-step rather than a single definition for determining who constitutes a victim. Under the Act, a victim must be recorded on the Victims Register in respect of the offender and a victim of an offence committed by the offender for which the offender is currently serving, or most recently served, a sentence of imprisonment. Courts have interpreted this definition as confining the definition of "victim" to the person who is the primary victim of the offence.

To address this issue, these reforms amend the definition of "victim" to mean a victim who is recorded on the Victims Register in respect of the offender. Registered victims will be informed when their offender is to be considered for an order under the Act. They will have the right to provide information to the Supreme Court in writing or orally to ensure that they are heard. In cases where the victim is deceased, victims' families will have the right to make a statement. These reforms ensure that victims have more flexibility in having their voices heard in high-risk offender proceedings. The reforms place a stronger focus on reforming offenders.

Item [65] of schedule 1 extends the requirement to warn offenders about their eligibility for the scheme. The current legislative framework requires courts only to warn violent offenders about their potential eligibility for the scheme. Under the reforms, both violent and sex offenders will be warned at sentencing that they may be eligible for the scheme. Offenders will receive two additional warnings, the first six months after sentencing and then again three years before the offender's earliest release date. These warnings are important to provide offenders with an incentive to engage in intensive rehabilitation and treatment pathways and to make clear the consequences of refusing to engage. The intention is that fewer offenders will be eligible for an order when they finish their sentence of imprisonment.

The bill also introduces new and important safeguards. Item [49] requires the immediate notification to Legal Aid NSW when an emergency detention application is filed or is likely to be filed. The Supreme Court granted the first-ever emergency detention order earlier this year. The State can apply for emergency detention orders where the offender is subject to an extended supervision order or interim supervision order and, because of altered circumstances, presents an unacceptable and imminent risk of committing a serious offence. The amendment to require immediate notification to Legal Aid NSW will ensure that there are additional safeguards in circumstances where an emergency detention order is sought.

Finally, the bill will make a range of further legislative changes. These include clarifying that imprisonment excludes suspended sentences and includes full-time custody, intensive corrections orders, and home detention; requiring the State Parole Authority to take into account that a current extended supervision order or continuing detention order application is on foot in determining whether to grant an offender parole; clarifying the scope and use of risk reports obtained for the purposes of a post-sentence application; providing greater flexibility in time frames for applying for an order and post-order arrangements; and clarifying that an alleged breach of an extended supervision order can constitute altered circumstances to enable a continuing detention order application to be made. This bill is the product of detailed consultation. The amendments it contains improve the High Risk Offender Scheme through strengthening the frameworks governing eligibility, making an order, management of an offender, and administration of the scheme. It will ensure stronger management of high-risk offenders to enhance community safety.

I thank the stakeholders consulted and involved in the drafting of these bills. In particular, I thank the late Bill Grant, the former chief executive officer of Legal Aid NSW and the initial champion of early appropriate guilty plea reforms. I thank the current Chief Executive Officer of Legal Aid NSW, Brendan Thomas. I also thank the Director of Public Prosecutions, Lloyd Babb, SC, and his office more generally, and the NSW Police Force, and in particular Deputy Police Commissioner Catherine Burn. I also thank the State Parole Authority; Juvenile Justice; the Public Defender's Office; the NSW Sentencing Council; Victims Services; the Serious Offenders Review Council; the Judicial Commission of NSW; the Advocate for Children and Young People; the Mental Health Commission; the Juvenile Justice Advisory Committee; the Heads of Jurisdiction, namely the Chief Justice of the Supreme Court, the Chief Judge of the District Court, the Chief Magistrate of the Local Court, the President of the Children's Court, and the Chief Judge of the Land and Environment Court; the Law Society of NSW; the NSW Bar Association; the Aboriginal Legal Service; the Rule of Law Institute; Just Reinvest; and the NSW Police Association.

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The Government will keep all aspects of these reforms under close review, with particular scrutiny of the quantum of the sentencing discounts and their applicable timing, including to ensure that they are having the desired effect of encouraging early appropriate guilty pleas. These reforms will ensure that sentencing options are supported by the evidence of what works for safer communities, that they reduce undue stress for victims and minimise court delays, and that a robust scheme is in place enabling post-sentence supervision in the community or detention in a correctional centre with high-risk sex and violent offenders. The reforms are supported by the evidence to provide tougher, smarter and certain justice for safer communities. I commend the bills to the House.

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