



New South Wales

Crimes (Administration of Sentences) Amendment Bill 2021

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Crimes (Administration of Sentences) Act 1999* as follows—

- (a) to update the provisions relating to the Victims Register, including—
 - (i) to allow any victim of an offender sentenced to full-time detention to request to be recorded in the Victims Register, instead of only victims of an offender with a sentence that includes a parole period, and
 - (ii) to allow a victim of a personal violence offence to request to be recorded in the Victims Register if the offender is sentenced to intensive correction in the community, and
 - (iii) to make further provision for victims who are less than 18 years of age, and
 - (iv) to allow for a victim to nominate an individual to act and receive information on the victim's behalf in relation to the Victims Register, and
 - (v) to allow the Commissioner of Corrective Services (the **Commissioner**) to notify a victim recorded in the Victims Register if the offender is transferred into the custody of another State, a Territory or the Commonwealth, and
 - (vi) to allow the Commissioner to notify a victim of an adult offender serving a sentence of imprisonment by intensive correction for a personal violence offence if the offender is returned to custody,
- (b) to require the State Parole Authority, when considering whether to release an offender on parole, to have regard to a recommendation from the High Risk Offenders Assessment Committee that an application for an extended supervision order or continuing detention

order be made in relation to the offender under the *Crimes (High Risk Offenders) Act 2006* or the *Terrorism (High Risk Offenders) Act 2017*,

- (c) to allow the Chief Executive of the Justice Health and Forensic Mental Health Network to delegate the Chief Executive's right to free and unfettered access to correctional centres, records and offenders in custody.

The Bill also amends the *Crimes (High Risk Offenders) Act 2006* to authorise certain information about an offender that is provided to the Attorney General under that Act to be used by the State and the Commissioner in the offender's parole proceedings.

The Bill makes minor consequential amendments to other legislation.

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.

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

Victims Register

Schedule 1[13] omits the existing provisions relating to the Victims Register and **Schedule 1[14]** inserts new provisions. The new provisions include the following changes—

- (a) any victim of an offender sentenced to full-time detention may request to be recorded in the Victims Register, instead of only a victim of an offender with a sentence that includes a parole period,
- (b) a victim of a personal violence offence may request to be recorded in the Victims Register if the offender is sentenced to intensive correction in the community,
- (c) if a victim is less than 18 years of age, a family representative of the victim must be recorded in the Victims Register instead of the victim,
- (d) the Commissioner may, in certain circumstances, record a victim who is 16 or 17 years of age in the Victims Register instead of a family representative of the victim,
- (e) an individual nominated by the victim may, with the approval of the Commissioner, act and receive information on the victim's behalf in relation to the Victims Register,
- (f) the Commissioner may notify a victim recorded in the Victims Register if the offender is transferred into the custody of another State, a Territory or the Commonwealth,
- (g) the Commissioner may notify a victim of an adult offender serving a sentence of imprisonment by intensive correction for a personal violence offence if the offender is returned to custody.

Schedule 1[2], [4] and [9] are consequential amendments. **Schedule 1[15]** inserts savings and transitional provisions.

Other amendments

Schedule 1[6] requires the State Parole Authority, when considering whether to release an offender on parole, to have regard to a recommendation from the High Risk Offenders Assessment Committee that an application for an extended supervision order or continuing detention order be made in relation to the offender under the *Crimes (High Risk Offenders) Act 2006* or the *Terrorism (High Risk Offenders) Act 2017*. Currently the State Parole Authority must not have regard to the fact that an application for an extended supervision order or continuing detention order may be made in relation to the offender. **Schedule 1[7]** is a consequential amendment.

Schedule 1[8] and [10] are consequential on the amendment to the *Crimes (High Risk Offenders) Act 2006*, section 25 in Schedule 2[2]. Schedule 2[2] allows information obtained by the Attorney

General about a high risk offender to be used by the State and the Commissioner in the offender's parole proceedings.

Schedule 1[12] provides that the Chief Executive of the Justice Health and Forensic Mental Health Network may delegate the Chief Executive's right to free and unfettered access to correctional centres, records and offenders in custody.

Schedule 1[1], [3], [5] and [11] update references to the statutory health corporation named Justice Health and Forensic Mental Health Network and its Chief Executive. Previously, the statutory health corporation was called Justice Health and had a Chief Executive Officer.

Schedule 2 Amendment of Crimes (High Risk Offenders) Act 2006 No 7

Schedule 2[2] authorises certain information about an offender that is provided to the Attorney General under the *Crimes (High Risk Offenders) Act 2006* to be used by the State and the Commissioner in the offender's parole proceedings under the *Crimes (Administration of Sentences) Act 1999*. This is similar to an existing provision about information about offenders under the *Terrorism (High Risk Offenders) Act 2017*. **Schedule 2[3]** is a transitional provision.

Schedule 2[1] is an amendment to a cross-reference that is consequential on the amendments made by Schedule 1[14].

Schedule 3 Consequential amendments to other legislation

Schedule 3 makes amendments to cross-references in the *Government Information (Public Access) Act 2009* and the *Terrorism (High Risk Offenders) Act 2017* that are consequential on the amendments made by Schedule 1[14].