



New South Wales

Crimes (Sentencing Procedure) Amendment Bill 2022

Explanatory note

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

Overview of Bill

The objects of this Bill are—

- (a) to require a court, except in certain circumstances, to sentence an offender in accordance with the sentencing patterns and practices at the time of sentencing, not at the time the offence was committed, and
- (b) to clarify that intensive correction orders are not available in relation to certain historical sexual offences.

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 (Sentencing Procedure) Act 1999 No 92**

Schedule 1[1] and [2] require a court, except in certain circumstances, to sentence an offender in accordance with the sentencing patterns and practices at the time of sentencing, not at the time the offence was committed.

Schedule 1[3] clarifies that intensive correction orders are not available in relation to certain historical sexual offences.

Schedule 1[4] provides that the proposed amendments in Schedule 1[1]–[3] do not apply to proceedings that commence before the commencement of the amendments.



New South Wales

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New South Wales

Crimes (Sentencing Procedure) Amendment Bill 2022

No. _____, 2022

A Bill for

An Act to amend the *Crimes (Sentencing Procedure) Act 1999* to require a court, except in certain circumstances, to sentence an offender in accordance with the sentencing patterns and practices at the time of sentencing and to clarify that intensive correction orders are not available in relation to certain historical sexual offences.

The Legislature of New South Wales enacts—

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1 Name of Act

2

This Act is the *Crimes (Sentencing Procedure) Amendment Act 2022*.

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2 Commencement

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This Act commences on the date of assent to this Act.

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Schedule 1	Amendment of Crimes (Sentencing Procedure) Act 1999 No 92	1
		2
[1] Section 21B		3
	Insert after section 21A—	4
21B Sentencing patterns and practices		5
(1)	A court must sentence an offender in accordance with the sentencing patterns and practices at the time of sentencing.	6 7
(2)	However, the standard non-parole period for an offence is the standard non-parole period, if any, that applied at the time the offence was committed, not at the time of sentencing.	8 9 10
(3)	Despite subsection (1), a court may sentence an offender for an offence in accordance with the sentencing patterns and practices at the time the offence was committed if—	11 12 13
	(a) the offence is not a child sexual offence, and	14
	(b) the offender establishes that there are exceptional circumstances.	15
(4)	When varying or substituting a sentence, a court must vary or substitute the sentence in accordance with the sentencing patterns and practices at the time of the original sentencing.	16 17 18
(5)	This section does not affect section 19.	19
(6)	In this section— <i>child sexual offence</i> has the same meaning as in section 25AA.	20 21
[2] Section 25AA Sentencing for child sexual offences		22
	Omit section 25AA(1), (2) and (4).	23
[3] Section 67 Intensive correction order not available for certain offences		24
	Insert at the end of section 67(2), definition of <i>prescribed sexual offence</i> , paragraph (g)—	25
	, or	26
	(h) an offence under a previous enactment that is substantially similar to an offence referred to in paragraphs (a)–(g).	27 28

[4] Schedule 2 Savings, transitional and other provisions	1
Insert at the end of the Schedule, with appropriate Part and clause numbering—	2
Part Provision consequent on enactment of Crimes (Sentencing Procedure) Amendment Act 2022	3
	4
Sentencing patterns and practices	5
The amendments made to this Act by the <i>Crimes (Sentencing Procedure) Amendment Act 2022</i> do not apply to proceedings that commenced before the commencement of the amendments.	6
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