



New South Wales

Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022

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* to provide that a parole order must not be made for an offender serving a term of imprisonment for a homicide offence where the victim's body or remains have not been located, unless the Parole Authority is satisfied the offender has satisfactorily cooperated in locating the victim's body or remains.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

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

Schedule 1[3] inserts proposed section 135A to give effect to the object of this Bill. The proposed section also provides the Commissioner of Police must give a written report to the Parole Authority about the offender's cooperation in locating the victim's body or remains. **Schedule 1[1] and [2]** make consequential amendments.

Schedule 1[4] makes it clear that proposed section 135A extends to the making of special parole orders where an offender is dying or for other exceptional extenuating circumstances.

Schedule 1[5] inserts savings and transitional provisions to provide that proposed section 135A applies to the making of a parole order for an offence committed before or after the commencement of the proposed section. The proposed section also applies where an application for a parole order is made before the commencement of the proposed section.



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Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022

No , 2022

A Bill for

An Act to amend the *Crimes (Administration of Sentences) Act 1999* to provide that a parole order must not be made for an offender serving a term of imprisonment for a homicide offence if the offender has not cooperated in locating the victim's body or remains.

The Legislature of New South Wales enacts—

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1 Name of Act

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This Act is the *Crimes (Administration of Sentences) Amendment (No Body, No Parole) 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 (Administration of Sentences) Act 1999 No 93	1
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[1] Section 135	General duty of Parole Authority relating to release of offender	3
	Omit section 135(3)(e).	4
[2] Section 135(4)		5
	Omit “subsection (3)(e) or (j)”. Insert instead “subsection (3)(j)”.	6
[3] Section 135A		7
	Insert after section 135—	8
135A	Parole order must not be made where offender has not cooperated in locating victim’s body or remains	9
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(1)	This section applies to an offender if the offender is serving a term of imprisonment for a homicide offence and—	11
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(a)	the body or remains of the victim of the offence have not been located, or	13
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(b)	because of an act or omission of the offender or another person, part of the body or remains of the victim has not been located.	15
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(2)	Despite section 135(1), the Parole Authority must not make a parole order directing the release of an offender to which this section applies unless it is satisfied the offender has cooperated satisfactorily in police investigations or other actions to identify the victim’s location.	17
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(3)	The cooperation referred to in subsection (2) may have happened before or after the offender was sentenced to imprisonment for the offence.	21
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(4)	The Commissioner of Police must, at least 28 days before the Parole Authority proposes to make a decision about making a parole order directing the release of an offender to which this section applies, give the Parole Authority a written report that—	23
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(a)	states whether the offender has given cooperation mentioned in subsection (2), and	27
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(b)	if the offender has given cooperation, includes an evaluation of—	29
(i)	the nature, extent and timeliness of the offender’s cooperation, and	30
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(ii)	the truthfulness, completeness and reliability of any information or evidence provided by the offender in relation to the victim’s location, and	32
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(iii)	the significance and usefulness of the offender’s cooperation.	35
(5)	In deciding whether the Parole Authority is satisfied about the offender’s cooperation as mentioned in subsection (2), the Parole Authority—	36
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(a)	must have regard to—	38
(i)	the report given by the Commissioner of Police under subsection (4), and	39
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(ii)	any information the Parole Authority has about the offender’s capacity to give the cooperation, and	41
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(b)	may have regard to any other information the Parole Authority considers relevant.	43
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(6)	To avoid doubt, the Commissioner of Police is not required to provide the Parole Authority with any document, evidence or criminal intelligence that the Commissioner of Police used to prepare the report, or to make a statement or evaluation, referred to in subsection (4).	1 2 3 4
(7)	Subsection (2) extends to an offender serving a sentence of imprisonment in New South Wales for a corresponding offence committed outside New South Wales if the offender has been transferred to New South Wales under the <i>Prisoners (Interstate Transfer) Act 1982</i> .	5 6 7 8
(8)	In this section— <i>corresponding offence</i> means an offence committed outside New South Wales that, if committed in New South Wales, would be a homicide offence. <i>homicide offence</i> means— (a) the offence of murder, or (b) the offence of manslaughter, or (c) an offence against the <i>Crimes Act 1900</i> , section 22A, 25A, 26 or 349(1). <i>victim's location</i> means— (a) the location, or the last known location, of every part of the body or remains of the victim of the homicide offence, and (b) the place where every part of the body or remains of the victim may be found.	9 10 11 12 13 14 15 16 17 18 19 20
[4]	Section 160 Parole orders in exceptional circumstances	21
	Insert after section 160(3)—	22
	(3A) Despite subsection (3), section 135A applies to a parole order under this section.	23 24
[5]	Schedule 5 Savings, transitional and other provisions	25
	Insert after clause 138—	26
	Part 28 Provisions consequent on enactment of Crimes (Administration of Sentences) Amendment (No Body, No Parole) Act 2022	27 28 29
139	Application of s 135A	30
	To avoid doubt, section 135A applies to a decision to make a parole order directing the release of an offender to whom the section applies—	31 32
	(a) whether the offender was convicted or sentenced before or after the commencement of the section, and	33 34
	(b) whether or not an application for the parole order has been made before the commencement of the section.	35 36