



New South Wales

Crimes (Administration of Sentences) Amendment Bill 2002

Explanatory note

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

The *Summary Offences Amendment (Places of Detention) Bill 2002* is cognate with this Bill.

Overview of Bill

The objects of this Bill are as follows:

- (a) to provide that a police officer who captures an escaped inmate is to take the inmate before an authorised justice to be dealt with according to law, and a correctional officer who captures an escaped inmate is to take the inmate to a police officer or before an authorised justice to be dealt with according to law,
- (b) to enable regulations to be made providing for the seizure, forfeiture and disposal of property unlawfully brought into a correctional centre,
- (c) to remove the requirement that a victim of a serious offence must have the approval of the Parole Board in order to make an oral submission about the possible release of the offender on parole,

- (d) to extend the exemption from personal liability for correctional officers to correctional officers exercising their functions in respect of searching persons in or in the immediate vicinity of a place of detention.

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Crimes (Administration of Sentences) Act 1999* (***the Principal Act***) set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] amends section 39 of the Principal Act to require a police officer or correctional officer who arrests an escaped inmate to take the inmate before an authorised justice. Currently, section 39 requires an escaped inmate to be taken to the nearest appropriate correctional centre.

The proposed amendment aligns the procedures following an arrest of an escaped inmate under the Principal Act with the procedures under section 352AA of the *Crimes Act 1900* for the arrest of a prisoner who is unlawfully at large. A prisoner who is “unlawfully at large” is a prisoner who is at large, otherwise than by reason of having escaped from lawful custody, at a time when the person is required by law to be in custody.

Schedule 1 [3] enables regulations to be made for or with respect to the seizure, forfeiture and disposal of property unlawfully brought into a correctional centre.

Schedule 1 [4] and [5] enable the victim of a serious offence to make oral submissions to the Parole Board, without requiring the approval of the Parole Board.

Schedule 1 [2] provides that the section of the Principal Act authorising the use of dogs to maintain good order and security in a correctional centre does not limit any other power of a correctional officer to use a dog. This amendment is consequential to an amendment providing for searches of persons in or in the immediate vicinity of a place of detention, including searches using a dog, in the *Summary Offences Amendment (Places of Detention) Bill 2002*.

Schedule 1 [6] and [7] extend the exemption from personal liability for correctional officers under the Principal Act to correctional officers exercising their functions under any other Act. This amendment is consequential to an amendment conferring a power on correctional officers to stop, search and detain persons in a place of detention in the *Summary Offences Amendment (Places of Detention) Bill 2002*.

Schedule 1 [8] enables regulations of a savings or transitional nature to be made.

First print



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New South Wales

Crimes (Administration of Sentences) Amendment Bill 2002

No. , 2002

A Bill for

An Act to amend the *Crimes (Administration of Sentences) Act 1999* with respect to escaped inmates, the seizure of property brought unlawfully into correctional centres and the making of oral submissions to the Parole Board by victims of serious offences; and for other purposes.

See also *Summary Offences Amendment (Places of Detention) Bill 2002*.

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| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>Crimes (Administration of Sentences) Amendment Act 2002</i> . | 3 4 |
| 2 Commencement | 5 |
| This Act commences on a day or days to be appointed by proclamation. | 6 7 |
| 3 Amendment of Crimes (Administration of Sentences) Act 1999 No 93 | 8 |
| The <i>Crimes (Administration of Sentences) Act 1999</i> is amended as set out in Schedule 1. | 9 10 |

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| Schedule 1 Amendments | 1 |
| (Section 3) | 2 |
| [1] Section 39 Powers of arrest | 3 |
| Omit section 39 (2)–(4). Insert instead: | 4 |
| (2) A police officer who arrests an inmate under subsection (1): | 5 |
| (a) in the case of an inmate who has escaped from custody—is to take the inmate before an authorised justice to be dealt with according to law, or | 6 7 8 |
| (b) in any other case—is to convey the inmate to the nearest appropriate correctional centre. | 9 10 |
| (3) A correctional officer who arrests an inmate under subsection (1): | 11 12 |
| (a) in the case of an inmate who has escaped from custody—is to take the inmate to a police officer, or before an authorised justice to be dealt with according to law, or | 13 14 15 16 |
| (b) in any other case—is to convey the inmate to the nearest appropriate correctional centre. | 17 18 |
| (4) If an inmate is taken before an authorised justice under subsection (2) (a) or (3) (a), the authorised justice may, by warrant, commit the inmate to the custody of: | 19 20 21 |
| (a) the person from whose custody the inmate escaped, or | 22 |
| (b) a correctional centre to be held pending the return of the inmate to the custody of that person, or | 23 24 |
| (c) any other person with lawful authority to hold the inmate in custody. | 25 26 |
| (5) Subsection (4) does not limit the powers of an authorised justice to deal with an inmate according to law. | 27 28 |
| (6) A warrant under subsection (4) is sufficient authority: | 29 |
| (a) for any police officer or correctional officer to convey the inmate to the person specified in the warrant, or to the correctional centre specified in the warrant, and to | 30 31 32 |

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| | deliver the inmate into the custody of that person or the governor of that correctional centre, and | 1 2 |
| | (b) for the governor of the correctional centre to keep the inmate in his or her custody pending the person's return to the custody of the person from whose custody the inmate escaped. | 3 4 5 6 |
| | (7) In this section: <i>authorised justice</i> has the same meaning as in the <i>Search Warrants Act 1985</i> . | 7 8 9 |
| [2] | Section 78 Use of dogs in maintaining good order and security | 10 |
| | Insert at the end of section 78: | 11 |
| | (7) Nothing in this section limits the power of a correctional officer to use a dog under any other Act or law. | 12 13 |
| [3] | Section 79 Regulations | 14 |
| | Insert after section 79 (h1): | 15 |
| | (h2) the seizure, forfeiture and disposal of property brought into a correctional centre in contravention of this Act, the regulations or any other law, | 16 17 18 |
| [4] | Section 147 Submissions by offender and victims | 19 |
| | Omit "(but, in the case of victim submissions, only with the approval of the Parole Board)" from section 147 (3) (b). | 20 21 |
| [5] | Section 190 Rights of parties making submissions | 22 |
| | Insert after section 190 (2): | 23 |
| | (3) Subsection (2) (b) (ii) does not require a victim of a serious offender or his or her representative to obtain the approval of the Parole Board to make an oral submission to the Parole Board under section 147 (3). | 24 25 26 27 |
| [6] | Section 263 Exclusion of personal liability | 28 |
| | Insert "or any other Act" after "this Act" in section 263 (1) (c). | 29 |

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| [7] Section 263 (1) | 1 |
| Insert “or any other Act” after “execution of this Act”. | 2 |
| [8] Schedule 5 Savings, transitional and other provisions | 3 |
| Insert at the end of clause 1 (1): | 4 |
| <i>Crimes (Administration of Sentences) Amendment Act 2002</i> | 5 |