



New South Wales

Child Protection (Offenders Registration) Amendment Bill 2001

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 *Child Protection (Offenders Registration) Act 2000* so as:

- (a) to include within the definition of ***Class 1 offence*** in section 3 (describing offences having the most onerous reporting requirements under the Act) the offence of persistent sexual abuse of a child arising under section 66EA of the *Crimes Act 1900*, and
- (b) to include within the definition of ***good behaviour bond*** in section 3 all good behaviour bonds imposed under section 33 of the *Children (Criminal Proceedings) Act 1987*, and
- (c) to ensure that all persons whose convictions or findings of guilt are quashed or set aside by a court are excluded from the definition of ***registrable person*** in section 3, and

- (d) to include within the definition of *sentence* in section 3 any order of detention under section 27 or 39 of the *Mental Health (Criminal Procedure) Act 1990*, and
- (e) to include within the definition of *strict government custody* in section 3 those circumstances in which a person in custody, although absent from his or her usual place of custody, remains under immediate supervision, and
- (f) to amend section 3 to make it clear that, for the purposes of the Act, offences arise from the same incident only if they are committed within a single period of 24 hours and are committed against the same person, and
- (g) to include within the definition of *supervised sentence* in section 5 (3) any order of detention under section 27 or 39 of the *Mental Health (Criminal Procedure) Act 1990*, other than an order that, as originally made, requires the person to be kept in strict government custody, and
- (h) to extend the range of circumstances in which notice has to be given to the Commissioner of Police under section 6, and
- (i) to enable the notices under section 6 that have to be given to registrable persons on ceasing to be in custody to be given before, as well as after, such a person is released from custody, and
- (j) to enable the regulations under section 22 to require the functions under section 4, 5 or 6 of a sentencing court or supervising authority (a *primary authority*) to be exercised by any other such court or authority or by the Commissioner of Police (the *secondary authority*), but only with the concurrence of the Minister responsible for the primary authority and the Minister responsible for the secondary authority.

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 *Child Protection (Offenders Registration) Act 2000* set out in Schedule 1.

Schedule 1 amends the *Child Protection (Offenders Registration) Act 2000* so as to give effect to the various objects referred to above.

First print



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New South Wales

Child Protection (Offenders Registration) Amendment Bill 2001

No. , 2001

A Bill for

An Act to amend the *Child Protection (Offenders Registration) Act 2000* with respect to reporting requirements under that Act and other administrative matters.

| | |
|--|----------|
| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>Child Protection (Offenders Registration) Amendment Act 2001</i> . | 3 4 |
| 2 Commencement | 5 |
| This Act commences on a day or days to be appointed by proclamation. | 6 7 |
| 3 Amendment of Child Protection (Offenders Registration) Act 2000 No 42 | 8 9 |
| The <i>Child Protection (Offenders Registration) Act 2000</i> is amended as set out in Schedule 1. | 10 11 |

Schedule 1 Amendments

| | |
|--|----|
| | 1 |
| (Section 3) | 2 |
| [1] Section 3 Definitions | 3 |
| Insert after paragraph (b) of the definition of <i>Class 1 offence</i> in section 3 (1): | 4 |
| (b1) an offence against section 66EA of the <i>Crimes Act 1900</i> , or | 5 |
| | 6 |
| | 7 |
| [2] Section 3 (1), definition of “Class 1 offence” | 8 |
| Omit “(a) or (b)” from paragraph (c). Insert instead “(a), (b) or (b1)”. | 9 |
| [3] Section 3 (1), definition of “good behaviour bond” | 10 |
| Insert “, and includes a good behaviour bond referred to in section 33 (1) (b) of the <i>Children (Criminal Proceedings) Act 1987</i> ” after “ <i>Crimes (Sentencing Procedure) Act 1999</i> ”. | 11 |
| | 12 |
| | 13 |
| [4] Section 3 (1), definition of “government custody” | 14 |
| Omit the definition. Insert instead: | 15 |
| <i>government custody</i> means custody as an inmate or detainee, and includes custody as a forensic patient where the order of detention under section 27 or 39 of the <i>Mental Health (Criminal Procedure) Act 1990</i> , as originally made, requires the patient to be kept in strict government custody. | 16 |
| | 17 |
| | 18 |
| | 19 |
| | 20 |
| [5] Section 3 (1), definition of “registrable person” | 21 |
| Omit paragraph (c). Insert instead: | 22 |
| (c) a person whose conviction or finding of guilt has been quashed or set aside by a court, or | 23 |
| | 24 |
| [6] Section 3 (1), definition of “sentence” | 25 |
| Insert “any order of detention under section 27 or 39 of the <i>Mental Health (Criminal Procedure) Act 1990</i> ,” after “includes” where firstly occurring. | 26 |
| | 27 |

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| [7] Section 3 (1), definition of “strict government custody” | 1 |
| Omit the definition. Insert instead: | 2 |
| <i>strict government custody</i> , in relation to a registrable person, | 3 |
| means custody as an inmate, detainee or forensic patient, but | 4 |
| does not include such custody if the person: | 5 |
| (a) is regularly permitted to be absent from a place of | 6 |
| custody for any period, regardless of its length, whether | 7 |
| on leave of absence or otherwise, and | 8 |
| (b) is not at all such times under the immediate supervision | 9 |
| of an officer of a supervising authority or other person | 10 |
| having custody of the person. | 11 |
| [8] Section 3 (3) | 12 |
| Insert after section 3 (2): | 13 |
| (3) For the purposes of this Act, offences arise from the same | 14 |
| incident only if they are committed within a single period of 24 | 15 |
| hours and are committed against the same person. | 16 |
| [9] Section 5 Notices to be given when registrable person commences supervised sentence | 17 |
| Insert at the end of section 5 (3): | 19 |
| , or | 20 |
| (d) an order of detention under section 27 or 39 of the | 21 |
| <i>Mental Health (Criminal Procedure) Act 1990</i> , other | 22 |
| than an order that, as originally made, requires the | 23 |
| person to be kept in strict government custody. | 24 |
| [10] Section 6 Notices to be given when registrable person ceases to be in custody of supervising authority | 25 |
| Omit section 6 (1). Insert instead: | 27 |
| (1) As soon as practicable before or after a registrable person: | 28 |
| (a) ceases to be in strict government custody, or | 29 |
| (b) ceases to be in government custody, or | 30 |
| (c) ceases to be subject to a supervised sentence (within the | 31 |
| meaning of section 5), or | 32 |

| | | |
|-------------|---|----------------|
| (d) | ceases to participate in the Pre-Trial Diversion of Offenders Program under the <i>Pre-Trial Diversion of Offenders Act 1985</i> , or | 1 2 3 |
| (e) | ceases to be subject to a condition of parole requiring the person to be subject to supervision, or | 4 5 |
| (f) | ceases to be an existing licensee, | 6 |
| | the supervising authority for the person is to give written notice of that fact to the Commissioner of Police. | 7 8 |
| [11] | Section 6 (2) | 9 |
| | Insert “before or” after “As soon as practicable”. | 10 |
| [12] | Section 14 Period for which reporting obligations continue | 11 |
| | Insert “, other than an offence against section 66EA of the <i>Crimes Act 1900</i> ” after “Class 1 offence” in section 14 (2) (a) (i). | 12 13 |
| [13] | Section 14 (2) | 14 |
| | Insert at the end of section 14 (2) (b): | 15 |
| | (iv) if the finding of guilt relates to a single offence against section 66EA of the <i>Crimes Act 1900</i> , or | 16 17 |
| [14] | Section 22 Regulations | 18 |
| | Insert after section 22 (2): | 19 |
| | (3) The regulations may require the functions under section 4, 5 or 6 of a sentencing court or supervising authority (a <i>primary authority</i>) to be exercised: | 20 21 22 |
| | (a) in relation to the functions of a sentencing court: | 23 |
| | (i) by a supervising authority, or | 24 |
| | (ii) by the Commissioner of Police, or | 25 |

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Schedule 1 Amendments

- (b) in relation to the functions of a supervising authority: 1
 - (i) by the sentencing court, or 2
 - (ii) by some other supervising authority, or 3
 - (iii) by the Commissioner of Police, 4
- (the *secondary authority*), but only with the concurrence of the 5
Minister responsible for the primary authority and the Minister 6
responsible for the secondary authority. 7