

Crimes (Forensic Procedures) Amendment (Untested Registrable Persons) Bill 2009

Explanatory note

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

Overview of Bill

Part 7B of the *Crimes (Forensic Procedures) Act 2000* (the **Forensic Procedures Act**) authorises the conduct of certain forensic procedures on persons who have been found guilty of sexual and other serious offences against children and who are required to be registered, and are subject to certain reporting obligations, under the *Child Protection (Offenders Registration) Act 2000* (the **Child Protection Act**).

The object of this Bill is to amend Part 7B of the Forensic Procedures Act:

- (a) to enable a police officer to detain an untested registrable person when the person attends a police station or other place in person to make a report in accordance with the person's reporting obligations under the Child Protection Act at a police station or other place:
 - (i) for the purpose of determining whether the person consents to the carrying out of a forensic procedure in accordance with the Forensic Procedures Act, and
 - (ii) if the person consents, for the purpose of carrying out the forensic procedure, and
 - (iii) if the person does not consent, for the purpose of obtaining a senior police officer's order to carry out the forensic procedure and carrying it out, and
- (b) to enable the police officer to use reasonable force to ensure the detained person remains at the police station or other place, and
- (c) to make it clear that an application may be made to a court for an order for the carrying out of a forensic procedure on an untested registrable person whether or not the untested registrable person has been requested to consent to the carrying out of the forensic procedure or been ordered to undergo the forensic procedure by a senior police officer, and
- (d) to make it clear that a court may order the carrying out of a forensic procedure on an untested registrable person whether or not the person is present, and
- (e) to enable a police officer to arrest an untested registrable person who fails to comply with a court order for the carrying out of a forensic procedure for the purpose of carrying out the procedure in accordance with the order, and
- (f) to make other minor and consequential amendments.

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 (Forensic Procedures) Act 2000 No 59

Currently, section 75W of the Forensic Procedures Act enables a police officer to request an untested registrable person (other than a child or an incapable person) to consent to the carrying out of a forensic procedure on the person.

Schedule 1 [2] substitutes section 75W to achieve the objects referred to in paragraphs (a) and (b) of the Overview.

Schedule 1 [3] amends section 75X (1) of the Forensic Procedures Act to make it clear that the police officer must inform a registrable person of certain matters before asking that person whether he or she consents to the carrying out of a forensic procedure. **Schedule 1 [4]** amends section 75X (2) of that Act to provide that a police officer must also inform the registrable person that reasonable force may be used to enable the forensic procedure to be carried out.

Currently, section 75ZB of the Forensic Procedures Act provides that a police officer may apply to any court for an order for the carrying out of a forensic procedure on an untested registrable person and that the court may make the order if satisfied that the carrying out of the forensic procedure is justified in all the circumstances. Section 75ZC sets out some requirements for the making of the order.

Schedule 1 [5] substitutes sections 75ZB and 75ZC to achieve the objects set out in paragraphs (c) and (d) of the Overview. Proposed new section 75ZB provides that a police officer may apply to any court for an order for the carrying out of a forensic procedure on an untested registrable person and makes it clear that an application may be made whether or not the untested registrable person has been requested to consent to the carrying out of the forensic procedure under Part 7B or been ordered to undergo the forensic procedure by a senior police officer. Proposed new section 75ZC provides for the making of the order. It incorporates the requirement currently in section 75ZB (2) that the court may make the order if satisfied that the carrying out of the forensic procedure is justified in all the circumstances and the provisions currently in section 75ZC (1) and (2) relating to the making of a court order. In addition, it makes it clear that an order may be made whether or not the registrable person is present and requires a police officer to advise a registrable person who is not present of the making of the order. **Schedule 1 [1]** makes consequential amendments.

Schedule 1 [6] amends section 75ZD of the Forensic Procedures Act to achieve the object described in paragraph (e) of the Overview.