

CONCURRENCE COPY

PERIODIC DETENTION OF PRISONERS (DOMESTIC VIOLENCE) AMENDMENT BILL, 1982

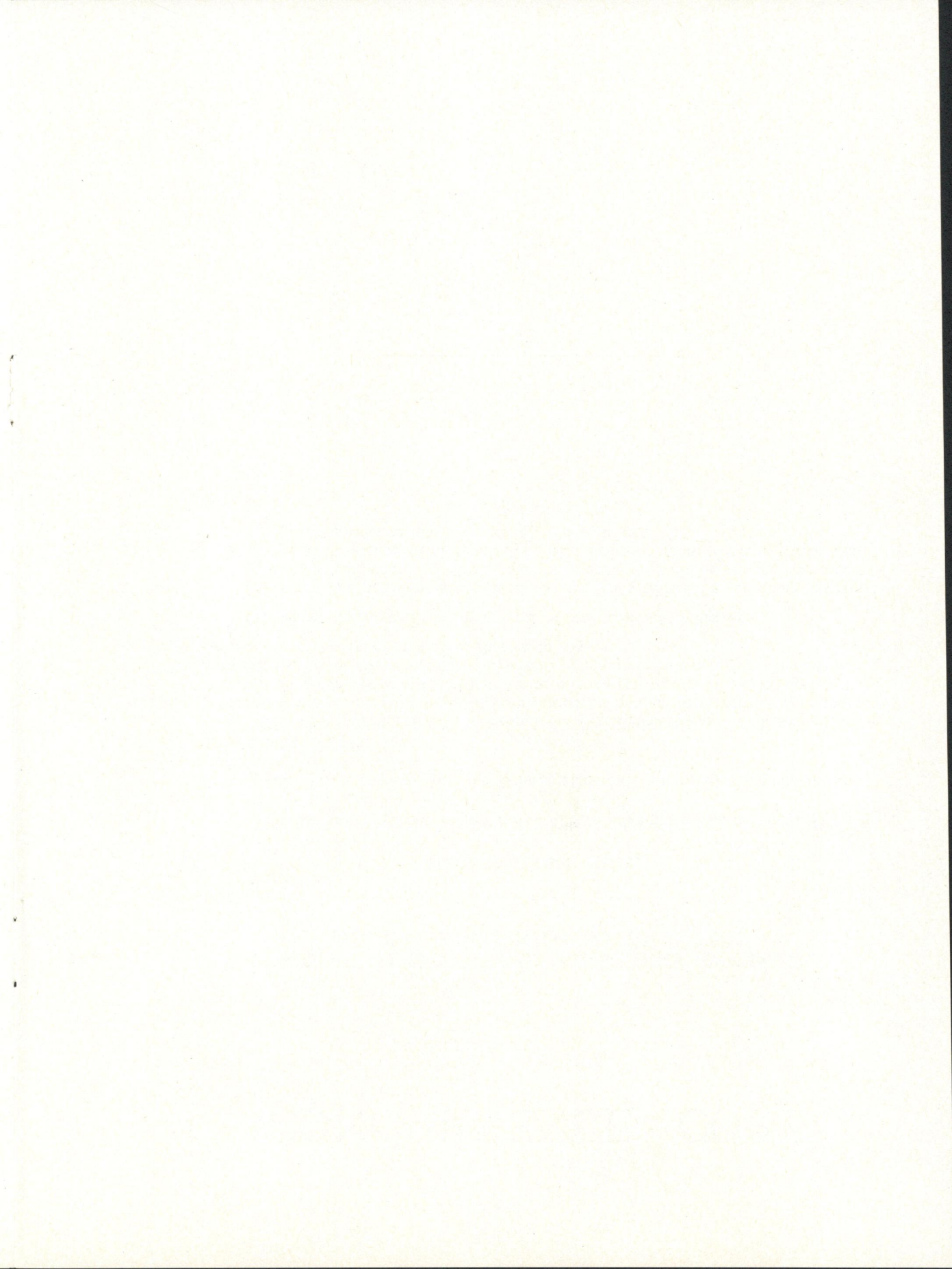
EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Crimes (Domestic Violence) Amendment Bill, 1982.

The object of this Bill is to amend the Periodic Detention of Prisoners Act, 1981, to allow periodic detention to be awarded by a court in respect of a sentence imposed on a person for a domestic violence offence (an offence of personal violence between legal or de facto husbands and wives) in certain cases where periodic detention would not presently be available, that is to say—

- (a) where the sentence is for a term of less than 3 months; or
 - (b) where the person was convicted of an offence within the preceding 7 years and served, otherwise than by way of periodic detention, a sentence in respect of that offence of 6 months' imprisonment or more (except where that previous offence was a domestic violence offence).
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**PERIODIC DETENTION OF PRISONERS (DOMESTIC
VIOLENCE) AMENDMENT BILL, 1982**

No. , 1982.

A BILL FOR

An Act to amend the Periodic Detention of Prisoners Act, 1981, in relation to the availability of periodic detention for persons sentenced to imprisonment for domestic violence offences.

[MR WRAN—9 *November*, 1982.]

Periodic Detention of Prisoners (Domestic Violence) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Periodic Detention of Prisoners (Domestic Violence) Amendment Act, 1982".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (3) of the Crimes (Domestic Violence) Amendment Act, 1982.

Amendment of Act No. 18, 1981.

15 3. The Periodic Detention of Prisoners Act, 1981, is amended by inserting after section 5 the following section:—

Application of section 5 in relation to domestic violence offences.

5A. (1) In this section, "domestic violence offence" means—

- 20 (a) a domestic violence offence as defined in section 4 (1) of the Crimes Act, 1900; or
- (b) an offence of failing to comply with a restriction or prohibition specified in an order made under section 547AA of the Crimes Act, 1900.

25 (2) Where a person is convicted of an offence and sentenced upon that conviction to imprisonment for a term of not more than 18 months and the court by which the person is convicted is satisfied that the offence is a domestic violence offence (other than an offence constituted by a negligent act or omission), then the power of

Periodic Detention of Prisoners (Domestic Violence) Amendment.

the court under section 5 to order that the term of imprisonment to which the person is sentenced be served by way of periodic detention—

- 5 (a) may be exercised in respect of the term of imprisonment notwithstanding that it is a term of less than 3 months; and
- (b) is not limited by section 5 (2) by reason only of the application of section 5 (2) (b) in relation to an offence—
- 10 (i) of which the person was convicted in the 7 years immediately prior to the date on which he is so sentenced; and
- (ii) which the court is satisfied is not a domestic violence offence.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982

**PERIODIC DETENTION OF PRISONERS (DOMESTIC
VIOLENCE) AMENDMENT ACT, 1982, No. 117**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 117, 1982.

An Act to amend the Periodic Detention of Prisoners Act, 1981, in relation to the availability of periodic detention for persons sentenced to imprisonment for domestic violence offences. [Assented to, 7th December, 1982.]

Periodic Detention of Prisoners (Domestic Violence) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Periodic Detention of Prisoners (Domestic Violence) Amendment Act, 1982".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (3) of the Crimes (Domestic Violence) Amendment Act, 1982.

Amendment of Act No. 18, 1981.

3. The Periodic Detention of Prisoners Act, 1981, is amended by inserting after section 5 the following section:—

Application of section 5 in relation to domestic violence offences.

5A. (1) In this section, "domestic violence offence" means—

- (a) a domestic violence offence as defined in section 4 (1) of the Crimes Act, 1900; or
- (b) an offence of failing to comply with a restriction or prohibition specified in an order made under section 547AA of the Crimes Act, 1900.

(2) Where a person is convicted of an offence and sentenced upon that conviction to imprisonment for a term of not more than 18 months and the court by which the person is convicted is satisfied that the offence is a domestic violence offence (other than an offence constituted by a negligent act or omission), then the power of

Periodic Detention of Prisoners (Domestic Violence) Amendment.

the court under section 5 to order that the term of imprisonment to which the person is sentenced be served by way of periodic detention—

- (a) may be exercised in respect of the term of imprisonment notwithstanding that it is a term of less than 3 months; and
- (b) is not limited by section 5 (2) by reason only of the application of section 5 (2) (b) in relation to an offence—
 - (i) of which the person was convicted in the 7 years immediately prior to the date on which he is so sentenced; and
 - (ii) which the court is satisfied is not a domestic violence offence.

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 7th December, 1982.*

