

[Act 1998 No 149]



New South Wales

Crimes Legislation Further Amendment Bill 1998

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 Act 1900* and certain other Acts as follows:

- (a) to clarify provisions relating to evidence of self-induced intoxication,
 - (b) to allow certain officers of a court to extend the period during which an interim apprehended violence order made by the court remains in force with the consent of the parties.
 - (c) to extend the power of a Judge to prohibit publication of matters relating to certain criminal proceedings.
 - (d) to apply certain procedural provisions in the *Crimes Act 1900* to all offences, no matter what court they are tried in,
 - (e) to make it clear that a person can be arrested for and charged with an offence of being in possession of child pornography before the material concerned is classified.
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- (f) to abolish any common law rule preventing a husband and wife from being found guilty of conspiracy together,
- (g) to make it clear that in criminal proceedings where a child is a party, members of the immediate family of a deceased victim are entitled to be present during those proceedings,
- (h) to make further provision with respect to the circumstances in which a coroner is required to refer a matter to the Director of Public Prosecutions,
- (i) to make further provision with respect to appeals against sentences that may be instituted by the Attorney General or the Director of Public Prosecutions.
- (j) to ensure that provisions similar to those dealing with the period during which a person is either in custody, or at liberty on bail, pending an appeal to the Court of Criminal Appeal apply in relation to appeals to the High Court from decisions of the Court of Criminal Appeal.
- (k) to allow funds in the Confiscated Proceeds Account to be spent in aid of crime prevention programs and programs supporting safer communities.
- (l) to allow certain indictable offences to be dealt with summarily and to make further provision with respect to the summary disposal of indictable offences.
- (m) to make clear the functions of the Director of Public Prosecutions in respect of appeals relating to apprehended violence orders,
- (n) to clarify the power of the Children's Court to order the forfeiture, return or other disposal of firearms or prohibited weapons,
- (o) to remove the discretion of a Justice hearing committal proceedings to exclude certain evidence relating to admissions.
- (p) to make further provision with respect to warnings given to children by investigating officials.

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 Act 1900* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to other Acts set out in Schedule 2.

Clause 5 provides that explanatory notes do not form part of the proposed Act.

Schedule 1 sets out the amendments to the *Crimes Act 1900*.

Schedule 2 amends the following Acts:

Children (Criminal Proceedings) Act 1987

Coroners Act 1980

Criminal Appeal Act 1912

Criminal Assets Recovery Act 1990

Criminal Procedure Act 1986

Director of Public Prosecutions Act 1986

Drug Misuse and Trafficking Act 1985

Firearms Act 1996

Justices Act 1902

Prohibited Weapons Act 1989

Weapons Prohibition Act 1998

Young Offenders Act 1997

The amendments to each Act are explained in detail in the explanatory note relating to the Act concerned set out in Schedules I and 2.