

[Act 2001 No 83]



New South Wales

Crimes (Administration of Sentences) 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 *Crimes (Administration of Sentences) Act 1999* (the *Principal Act*):

- (a) to enable the use of audio links and audio visual links in proceedings before the Parole Board and the Serious Offenders Review Council, and
- (b) to enable the Parole Board in appropriate circumstances to cause a notice that an offender's periodic detention order, home detention order or parole order has been revoked to be served on the offender after the offender has been arrested and taken into custody, and
- (c) to provide that the annual report of the Inspector-General of Corrective Services is to be a separate report and not included in the annual report of the Department of Corrective Services, and

* Amended in committee—see table at end of volume.

- (d) to empower a correctional officer to provide assistance to police officers or officers of the Department of Juvenile Justice in the restraint, conveyance or detention of any person in their lawful custody, and
- (e) to make various other amendments to facilitate the administration of the Act or for the purposes of statute law revision.

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* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] inserts definitions of *audio link* and *audio visual link* into the Principal Act.

Schedule 1 [2] and **[5]** remove certain words from provisions of the Principal Act for the purposes of statute law revision to ensure consistency with other provisions of the Act.

Schedule 1 [3] reinstates a requirement that existed under the repealed *Correctional Centres Act 1952* that the governor of a correctional centre must refer to a Visiting Justice for determination any charge that an inmate has committed a correctional centre offence that is a major offence or a minor offence of a serious nature. Offences are classified as major or minor offences under the regulations. Currently, the governor of a correctional centre has a discretion as to whether to refer such a charge.

Schedule 1 [4] enables regulations to be made with respect to analyses of samples taken for the purpose of testing for the use of drugs or alcohol by an offender and the admission of certificates relating to those analyses as prima facie evidence in proceedings for a correctional centre offence.

Schedule 1 [6] provides that a community service order is taken to be in force for the purpose of enabling the determination of an application for its revocation.

Schedule 1 [7] enables the Parole Board, when it revokes an offender's periodic detention order, home detention order or parole order and issues a warrant for the offender's apprehension, to cause notice of the revocation to be served on the offender after the warrant has been executed.

Schedule 1 [8] enables the Serious Offenders Review Council to delegate certain functions relating to the segregated and protective custody of inmates to the Chairperson of the Council or a judicial member of the Council.

Schedule 1 [9] provides that the annual report of the Inspector-General of Corrective Services is to be a separate report. At present, the Inspector-General's annual report is required to be included in the annual report of the Department of Corrective Services.

Schedule 1 [10] makes it clear that the Commissioner of Corrective Services may delegate certain functions relating to the making of directions in respect of segregated custody and protective custody of inmates.

Schedule 1 [11] enables a correctional officer to provide assistance to a police officer or an officer of the Department of Juvenile Justice who requests the assistance to restrain, convey or detain any person in the lawful custody of the requesting officer. A correctional officer providing such assistance is given all the functions and immunities of the requesting officer in relation to the restraint, conveyance or detention of the person.

Schedule 1 [12] provides for a person who is required or entitled to appear in proceedings before the Parole Board and who is in custody to appear before the Board by means of audio visual link unless the Board otherwise directs. The Parole Board may direct that any other person appear before the Parole Board by means of audio link or audio visual link. The provisions will not apply in circumstances where the necessary facilities are not readily available.

Schedule 1 [13] provides for a person who is required or entitled to appear in proceedings before the Serious Offenders Review Council and who is in custody to appear before the Council by means of audio visual link unless the Council otherwise directs. The Council may direct that any other person appear before the Council by means of audio link or audio visual link. The provisions will not apply in circumstances where the necessary facilities are not readily available.