

Passed by both Houses



New South Wales

Crimes Amendment (Special Care Offences) Bill 2020

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2020



New South Wales

Crimes Amendment (Special Care Offences) Bill 2020

Act No _____, 2020

An Act to amend the *Crimes Act 1900* to make further provision with respect to sexual offences; and for related purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Crimes Amendment (Special Care Offences) Act 2020*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Crimes Act 1900 No 40

[1] Section 72B Definitions

Insert in alphabetical order—

close family member has the same meaning as in section 78A.

parent means biological parent or adoptive parent.

[2] Section 72B, definition of “member of the teaching staff”

Omit the definition.

[3] Section 72B(2)

Insert at the end of section 72B—

- (2) In this Subdivision, a reference to performing work at a school or performing work for an organisation is a reference to performing work at the school or for the organisation, whether as an employee (whether paid or unpaid), contractor, volunteer or otherwise.

[4] Section 72B, note

Insert at the end of the section—

Note. For the purposes of this Subdivision, a person is under the authority of another person if the person is in the care, or under the supervision or authority, of the other person (see section 61H(2)).

[5] Section 73 Sexual intercourse—young person between 16 and 18 under special care

Omit section 73(3)(a). Insert instead—

- (a) the offender is any of the following who is not a close family member of the victim—
- (i) the parent or the parent of a parent of the victim,
 - (ii) the guardian or authorised carer of the victim,
 - (iii) the spouse or de facto partner of a person referred to in subparagraph (i) or (ii), or

[6] Sections 73(3)(b) and (b1) and 73A(3)(b) and (b1)

Omit sections 73(3)(b) and 73A(3)(b). Insert instead—

- (b) the offender is a teacher at, or the principal or a deputy principal of, the school at which the victim is a student, or
- (b1) the offender performs work at the school at which the victim is a student, in which the offender has students at the school, including the victim, under the offender’s authority, or

[7] Sections 73(3)(c) and 73A(3)(c)

Insert “, in which relationship the victim is under the authority of the offender” after “victim” where secondly occurring.

[8] Sections 73(3)(f) and (g) and 73A(3)(f) and (g)

Insert at the end of sections 73(3)(e) and 73A(3)(e)—

, or

- (f) the offender—

- (i) performs work for an organisation that provides residential care to young persons placed in out-of-home care (within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*), and
- (ii) has an established personal relationship with the victim in connection with the provision of that residential care to the victim, in which relationship the victim is under the authority of the offender, or
- (g) the offender—
 - (i) performs work for an organisation that provides refuge or crisis accommodation, and
 - (ii) has an established personal relationship with the victim in connection with the provision of that accommodation to the victim, in which relationship the victim is under the authority of the offender.

[9] Section 73A Sexual touching—young person between 16 and 18 under special care

Omit section 73A(3)(a). Insert instead—

- (a) the offender is any of the following—
 - (i) the parent or the parent of a parent of the victim,
 - (ii) the guardian or authorised carer of the victim,
 - (iii) the spouse or de facto partner of a person referred to in subparagraph (i) or (ii), or

[10] Section 78A Incest

Insert after section 78A(1)—

- (1A) A person does not commit an offence under this section if the person is of or above the age of 16 years and under the age of 18 years at the time the offence is alleged to have been committed and the other person to whom the charge relates is the person's parent or grandparent.