



New South Wales

Bail Amendment (Serious Personal Violence and Electronic Monitoring) Bill 2024

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 *Bail Act 2013* to—

- (a) create a rebuttable presumption that bail conditions about electronic monitoring must be imposed if bail is granted for a serious personal violence offence alleged to have been committed—
 - (i) by an accused person who is at least 18 years of age, and
 - (ii) against a person with whom the accused person has, or has had, a domestic relationship, and
- (b) provide that a grant of bail contrary to the rebuttable presumption will be stayed for up to 3 business days if a police officer or Crown lawyer immediately informs the court or authorised justice making the bail decision that an authorised officer or the Director of Public Prosecutions has approved the making of an application about the bail in the Supreme Court, and
- (c) provide that a bail condition requiring the accused person be subject to electronic monitoring is a pre-release requirement for the purposes of the *Bail Act 2013*, and
- (d) prohibit registrars of the Local Court from hearing bail applications for serious personal violence offences.

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.

Schedule 1 Amendment of Bail Act 2013 No 26

Schedule 1[1] defines *serious personal violence offence*. **Schedule 1[2]** makes a consequential amendment.

Schedule 1[3] inserts proposed section 22D. Proposed section 22D(2) applies to a grant of bail for a serious personal violence offence alleged to have been committed by an accused person who is at least 18 years of age and against a person with whom the accused person has, or has had, a domestic relationship. In these circumstances, a bail authority must, unless satisfied sufficient reasons exist to justify otherwise, impose bail conditions requiring the accused person be subject to electronic monitoring and specifying places the accused person must not enter or remain in. The proposed provision does not prevent a bail authority from imposing the bail conditions in other circumstances.

Schedule 1[4] amends section 29 to provide that a requirement that an accused person be subject to electronic monitoring is a pre-release requirement that may be imposed by a bail authority.

Schedule 1[5] provides that a decision of a court or authorised justice to grant bail for a serious personal violence offence to which proposed section 22D(2) applies is stayed if—

- (a) the bail authority did not impose the bail conditions referred to in proposed section 22D(2), and
- (b) a bail decision for the offence has not previously been made by a court or authorised justice, other than a decision under section 54 to refuse bail if a bail application is not made, and
- (c) a police officer or Australian legal practitioner appearing on behalf of the Crown immediately informs the court or authorised justice that a detention application is to be made to the Supreme Court and gives the court or authorised justice a copy of the written approval of an authorised officer or the Director of Public Prosecutions to make a detention application to the Supreme Court if bail is granted without the conditions referred to in proposed section 22D(2).

Schedule 1[6] makes a consequential amendment.

Schedule 1[7] inserts proposed section 70A to provide that a registrar of the Local Court cannot hear a bail application for a serious personal violence offence.



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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Bail Amendment (Serious Personal Violence and Electronic Monitoring) Bill 2024

No. _____, 2024

A Bill for

An Act to amend the *Bail Act 2013* to make provision regarding electronic monitoring for certain serious personal violence offences; to prevent local court registrars from making bail decisions for serious personal violence offences; and for related purposes.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

The Legislature of New South Wales enacts—

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1 Name of Act

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This Act is the *Bail Amendment (Serious Personal Violence and Electronic Monitoring) Act 2024*.

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2 Commencement

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This Act commences on—

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(a) the day that is 6 months after the date of assent to this Act, or

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(b) an earlier day or days to be appointed by proclamation.

8

Schedule 1	Amendment of Bail Act 2013 No 26	1
[1] Section 4 Definitions		2
	Insert in alphabetical order in section 4(1)—	3
	<i>serious personal violence offence</i> means—	4
	(a) an offence under the <i>Crimes Act 1900</i> , Part 3 that is punishable by imprisonment for a term of 14 years or more, or	5
	(b) an offence under a law of the Commonwealth, another State or Territory or another jurisdiction that is similar to an offence under that part.	6
[2] Section 16B Offences to which the show cause requirement applies		9
	Omit section 16B(3), definition of <i>serious personal violence offence</i> .	10
[3] Section 22D		11
	Insert after section 22C—	12
22D Bail condition requiring electronic monitoring to be imposed for certain serious personal violence offences		13
	(1) Application	14
	Subsection (2) applies to a grant of bail for a serious personal violence offence if—	15
	(a) the serious personal violence offence is alleged to have been committed—	16
	(i) by an accused person who is at least 18 years of age, and	17
	(ii) against a person with whom the accused person has, or has had, a domestic relationship, and	18
	(b) a police officer or Australian legal practitioner appearing on behalf of the Crown has requested the bail authority to—	19
	(i) refuse bail, or	20
	(ii) impose a condition on the grant of bail requiring the accused person be subject to electronic monitoring.	21
	(2) Presumption that bail conditions about electronic monitoring must be imposed	22
	The bail authority, when granting the bail, must impose the following bail conditions, unless the bail authority is satisfied sufficient reasons exist that justify otherwise—	23
	(a) a condition requiring the accused person be subject to electronic monitoring,	24
	Note— See section 30A regarding bail conditions requiring accused persons be subject to electronic monitoring.	25
	(b) a condition specifying places the accused person must not enter or remain in, whether by reference to a geographical place or otherwise.	26
	(3) Bail conditions requiring electronic monitoring may be imposed in other circumstances	27
	To avoid doubt, nothing in this section prevents a bail authority, in other circumstances, from imposing the bail conditions referred to in subsection (2).	28
	Note— See section 30A regarding bail conditions requiring accused persons be subject to electronic monitoring.	29

(4) Definition	1
In this section—	2
<i>domestic relationship</i> has the same meaning as in the <i>Crimes (Domestic and Personal Violence) Act 2007</i> .	3 4
[4] Section 29 Limitation on power to impose pre-release requirements	5
Insert after section 29(1)(e)—	6
(f) a requirement that the accused person be subject to electronic monitoring.	7 8
[5] Section 40 Stay of release decision if detention sought	9
Insert after section 40(1)—	10
(1A) A decision of a court or authorised justice to grant bail for a serious personal violence offence to which section 22D(2) applies is stayed if—	11 12
(a) the bail authority did not impose the bail conditions referred to in section 22D(2), and	13 14
(b) a bail decision for the offence, other than a bail decision under section 54, has not previously been made by a court or authorised justice, and	15 16
(c) a police officer or Australian legal practitioner appearing on behalf of the Crown immediately—	17 18
(i) informs the court or authorised justice that a detention application is to be made to the Supreme Court, and	19 20
(ii) gives the court or authorised justice a copy of the written approval of an authorised officer or the Director of Public Prosecutions to make a detention application to the Supreme Court if bail is granted without the conditions referred to in section 22D(2).	21 22 23 24 25
[6] Section 40(2)	26
Omit “The stay of the decision”.	27
Insert instead “A stay of a decision under subsection (1) or (1A)”.	28
[7] Section 70A	29
Insert after section 70—	30
70A Registrars of Local Court cannot hear bail applications about serious personal violence offences	31 32
A registrar of the Local Court cannot hear a bail application for a serious personal violence offence.	33 34