



New South Wales

Bail Amendment Bill 2022

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) require bail to be refused following conviction and before sentencing for an offence for which the offender will be sentenced to imprisonment, and
- (b) require that electronic monitoring imposed as a bail condition must meet any minimum standards prescribed in the regulations.

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 the date of assent to the proposed Act.

Schedule 1 Amendment of Bail Act 2013 No 26

Schedule 1[2] provides that bail is to be refused following conviction and before sentencing for an offence for which the offender will be sentenced to a sentence of imprisonment to be served by full-time detention, unless it is established that special or exceptional circumstances exist that justify the bail decision. **Schedule 1[3]** inserts a definition of conviction to make it clear that conviction includes a plea of guilty. **Schedule 1[1]** are consequent on the amendment in Schedule 1[3].

Schedule 1[4] requires that electronic monitoring imposed as a bail condition must meet any minimum standards prescribed by regulations.



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New South Wales

Bail Amendment Bill 2022

No. , 2022

A Bill for

An Act to amend the *Bail Act 2013* to require bail to be refused following conviction and before sentencing for an offence for which the offender will be sentenced to imprisonment; and to require that electronic monitoring imposed as a bail condition must meet any minimum standards prescribed in the regulations.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Bail Amendment Act 2022*.

3

2 Commencement

4

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

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Schedule 1	Amendment of Bail Act 2013 No 26	1
[1] Section 22B		2
	Insert after section 22A—	3
22B	Limitation regarding bail during period following conviction and before sentencing for certain offences	4
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(1)	During the period following conviction and before sentencing for an offence for which the accused person will be sentenced to imprisonment to be served by full-time detention, a court—	6
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(a)	on a release application made by the accused person—must not grant bail or dispense with bail, unless it is established that special or exceptional circumstances exist that justify the decision, or	9
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(b)	on a detention application made in relation to the accused person—must refuse bail, unless it is established that special or exceptional circumstances exist that justify the decision.	12
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(2)	If the offence is a show cause offence, the requirement that the accused person establish that special or exceptional circumstances exist that justify a decision to grant bail or dispense with bail applies instead of the requirement that the accused person show cause why the accused person’s detention is not justified.	15
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(3)	Subject to subsection (1), Division 2 applies to a bail decision made by a court under this section.	19
		20
(4)	This section applies despite anything to the contrary in this Act.	21
(5)	In this section—	22
	<i>conviction</i> also includes a plea of guilty.	23
	Note— Conviction is defined in section 4(1) to include a finding of guilt.	24
[2] Section 30A		25
	Insert after section 30—	26
30A	Bail conditions requiring electronic monitoring	27
	If bail conditions impose a requirement for the accused person to be subject to electronic monitoring—	28
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(a)	the bail authority must be satisfied the electronic monitoring is of a standard that at least meets any minimum standards prescribed in the regulations, and	30
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(b)	the bail condition must require the electronic monitoring to be of a standard that at least meets any minimum standards prescribed in the regulations.	33
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