



New South Wales

Children (Criminal Proceedings) Amendment (Age of Criminal Responsibility) Bill 2021

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 *Children (Criminal Proceedings) Act 1987* to raise the age of criminal responsibility to 14 years and to provide that children under the age of 16 years are not to be detained or imprisoned as a penalty for a criminal offence.

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.

Clause 3 amends the *Children (Criminal Proceedings) Act 1987* for the purposes set out in the overview above.



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Children (Criminal Proceedings) Amendment (Age of Criminal Responsibility) Bill 2021

No. , 2021

A Bill for

An Act to amend the *Children (Criminal Proceedings) Act 1987* to raise the age of criminal responsibility to 14 years and to provide that children under the age of 16 years are not to be detained or imprisoned as a penalty for a criminal offence; and for related matters.

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Children (Criminal Proceedings) Amendment (Age of Criminal Responsibility) Act 2021</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Children (Criminal Proceedings) Act 1987 No 55	7
(1) Section 5 Age of criminal responsibility	8
Omit “10 years”. Insert instead “14 years”.	9
(2) Section 5A	10
Insert after section 5—	11
5A Minimum age for imprisonment	12
(1) A court must not sentence a child under the age of 16 years to imprisonment as a penalty for a criminal offence.	13 14
(2) A child under the age of 16 years who is charged with a criminal offence must not be detained on remand awaiting proceedings for the alleged offence.	15 16 17
(3) This section does not affect a court’s powers to—	18
(a) impose a non-custodial sentence as a penalty for a criminal offence, or	19 20
(b) deal with a person under the <i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i> or provisions of other legislation that provide for the detention of a person because of a mental health or cognitive impairment.	21 22 23 24
(4) In this section—	25
<i>imprisonment</i> includes commitment of a person to the control of the Minister administering the <i>Children (Detention Centres) Act 1987</i> under section 33(1)(g)(i).	26 27 28
(3) Section 50 Act is generally subject to Bail Act 2013	29
Insert “section 5A and” after “Subject to”.	30