

YOUTH JUSTICE BILL 2024

(Amendments made by the Legislative Council)

1. Clause 1, page 3, line 8, omit "1977 to provide" and insert "1977, including by providing".
2. Clause 2, after line 16 insert—
 - "(1AA) The following provisions come into operation on the day after the day on which this Act receives the Royal Assent—
 - (a) this section; and
 - (b) Division 3 of Part 22.1; and
 - (c) section 904."
3. Clause 2, line 17, after "subsections" insert "(1A),".
4. Clause 2, line 17, after "and (3)," insert "the remaining provisions of".
5. Clause 2, line 17, omit "comes" and insert "come".
6. Clause 2, after line 18 insert—
 - "(1A) If Division 2 of Part 22.1 does not come into operation before 2 December 2024, it comes into operation on that day."
7. Clause 2, line 19, after "If" insert "the remaining provisions of".
8. Clause 2, line 20, after "Chapter 20," insert "the remaining provisions of".
9. Clause 3, page 22, line 13, after "law" insert "(other than a spit hood)".
10. Clause 3, page 22, line 14, after "restraint" insert "(other than a spit hood)".
11. Clause 19, after line 26 insert—

"Note

Section 92(1) establishes the hierarchy of options for alleged offending behaviour by a child. The hierarchy requires a police officer to apply the least restrictive option that is appropriate in the circumstances."

12. Clause 47, line 20, omit ", from time to time, may" and insert "must".
13. Clause 48, line 2, omit "may" and insert "must".
14. Clause 73, page 88, line 12, after "restraint" insert "(other than a spit hood)".

NEW CLAUSE

15. Insert the following New Clause to follow clause 128—

"128A Reading aloud of victim statement

- (1) A person who provides a written communication under section 128 may request that any part of that communication is read aloud, in the course of the early diversion group conference, by—
 - (a) the convenor; or
 - (b) a person chosen by the person making the request and who is approved by the convenor for that purpose.
- (2) If a request is made under subsection (1), the convenor must determine if the reading aloud of each requested part of the communication is appropriate, having regard to—
 - (a) the objects of the early diversion group conference; and
 - (b) the circumstances of the particular case.

Example

The convenor may determine that it is not appropriate to read any part of a communication that is offensive, would breach another person's privacy or could jeopardise the safety of any person.

- (3) If the convenor determines that the reading aloud of any part of the communication is appropriate, the convenor must ensure that, in the course of the early diversion group conference, that part of the communication is read aloud by the person who was requested to do so.
- (4) The convenor may direct a person who is reading aloud any part of the communication as to—
 - (a) which parts of the communication are determined appropriate to be read aloud; and
 - (b) the time available, which must be reasonable, for reading aloud those parts of the communication."

16. Clause 439, line 29, before "recreational" insert "exercise and other".

17. Clause 439, after line 33 insert—

"Example

An example of meaningful exercise and recreational activities is a child or young person having the opportunity to spend a target of 2 hours exercising or playing sport."

18. Clause 447, after line 16 insert—

"(1A) The program must be completed and agreed to within 2 weeks of the child or young person being received into a youth justice custodial centre."

19. Clause 447, after line 30 insert—

"(3) If a program does not include any particular matter referred to in subsection (2), a report explaining why must be attached to the program."

20. Clause 477, page 410, line 4, after "restraint" insert "(other than a spit hood)".

21. Clause 477, page 410, line 15, after "restraint" insert "(other than a spit hood)".

NEW CLAUSE

22. Insert the following New Clause to follow clause 504—

"504A Publication of information—unclothed searches

The Commissioner for Youth Justice must cause to be published on the Department's Internet site at the end of every 12 month period the number of unclothed searches carried out under this Division during that 12 month period."

23. Clause 524, page 447, after line 12 insert—

"(3) If—

- (a) a parent or legal representative of a child or young person requests that the Commissioner for Youth Justice give a report of the information included on the Isolations Register in relation to the use of isolation in relation to that child or young person; and

(b) the child or young person consents to the Commissioner for Youth Justice giving that report—

the Commissioner for Youth Justice must give that report as soon as reasonably practicable.

- (4) Despite subsection (3), the Commissioner for Youth Justice is not required to give a report to a parent if the giving of the report would not be appropriate in the circumstances.

Example

There is a history of family violence and the giving of the report jeopardises the safety of any person."

NEW CLAUSE

24. Insert the following New Clause to follow clause 524—

"524A Publication of information from Isolations Register

The Commissioner for Youth Justice must cause to be published on the Department's Internet site the following information from the Isolations Register at the end of every 3 month period—

- (a) the number of times isolation was used in the preceding 3 months; and
- (b) for each use of isolation in the preceding 3 months—
 - (i) the reasons for the use of isolation, including the purpose for which it was authorised; and
 - (ii) prescribed information about the duration of the isolation."

25. Clause 580, page 490, line 14, after "restraint" insert "(other than a spit hood)".

26. Clause 580, page 490, line 25, after "restraint" insert "(other than a spit hood)".

27. Clause 622, after line 2, insert—

"(1AA) This section applies if the Youth Parole Board receives information about a child or young person from a person included on the Youth Justice Victims Register in relation to that child or young person."

28. Clause 622, lines 3 to 5, omit "If the Youth Parole Board receives information from a person on the Youth Justice Victims Register, the" and insert "The".
29. Clause 622, line 5, omit "not".
30. Clause 622, line 7, omit "whether—" and insert "any of the following—".
31. Clause 622, line 8, omit "a child" and insert "whether the child".
32. Clause 622, line 10, after "(b)" insert "whether".
33. Clause 622, line 10, omit "a" and insert "the".
34. Clause 622, line 10, omit "person." and insert "person; or".
35. Clause 622, after line 10 insert—

"(c) conditions of the child's or young person's parole under section 632, 633 or 634."
36. Clause 622, lines 11 to 17, omit all words and expressions on these lines and insert—

"(2) In having regard to the information, the Youth Parole Board may, in its absolute discretion, give the information such weight as the Board sees fit."
37. Clause 623, after line 18 insert—

"(1AA) This section applies if the Youth Parole Board receives a victim impact statement in relation to a particular child or young person."
38. Clause 623, lines 19 and 20, omit "If the Youth Parole Board receives a victim impact statement, the" and insert "The".
39. Clause 623, line 21, omit "not".
40. Clause 623, line 22, omit "whether—" and insert "any of the following—".
41. Clause 623, line 23, omit "a child" and insert "whether the child".
42. Clause 623, line 25, after "(b)" insert "whether".
43. Clause 623, line 25, omit "a" and insert "the".

44. Clause 623, line 25, omit "person." and insert "person; or".
45. Clause 623, after line 25 insert—

"(c) conditions of the child's or young person's parole under section 632, 633 or 634."
46. Clause 623, lines 26 to 31, omit all words and expressions on these lines and insert—

"(2) In having regard to the victim impact statement, the Youth Parole Board may, in its absolute discretion, give the statement such weight as the Board sees fit."
47. Clause 624, line 5, omit "not".
48. Clause 624, line 7, omit "whether—" and insert "any of the following—".
49. Clause 624, line 8, omit "a child" and insert "whether the child".
50. Clause 624, line 10, after "(b)" insert "whether".
51. Clause 624, line 10, omit "a" and insert "the".
52. Clause 624, line 10, omit "person." and insert "person; or".
53. Clause 624, after line 10 insert—

"(c) conditions of the child's or young person's parole under section 632, 633 or 634."
54. Clause 624, lines 11 to 17, omit all words and expressions on these lines and insert—

"(3) In having regard to the parole stage group conference report, the Youth Parole Board may, in its absolute discretion, give the report such weight as the Board sees fit."
55. Clause 654, line 9, after "parole" insert "determinations and".
56. Clause 659, page 554, after line 3 insert—

"(aa) details of the custodial sentence being served by the child or young person, including the period of detention under that sentence;

(aab) details of an escape of the child or young person from custody that occurs while the custodial sentence is being served;"

57. Clause 664, line 6, omit "parole conditions under section 632, 633 or 634." and insert—

"any of the following—

- (a) whether a child or young person is eligible for release on parole;
- (b) whether to grant parole to a child or young person;
- (c) conditions of a child's or young person's parole under section 632, 633 or 634."

58. Clause 718, after line 21 insert—

"(5) The Secretary and the Minister must ensure that, before the first anniversary of the commencement of this section, the first approved strategic plan has been published."

59. Clause 746, line 11, omit "**devised**" and insert "**derived**".

60. Clause 855, page 735, line 13, omit "**devised**" and insert "**derived**".

61. Chapter heading before clause 899, omit "**Trial of electronic monitoring of children on bail in certain circumstances**" and insert "**Bail amendments**".

62. Insert the following Division heading before clause 899—

"Division 1—Trial of electronic monitoring of children on bail in certain circumstances".

NEW CLAUSES

63. Insert the following Division heading and New Clauses to follow clause 903—

'Division 2—Scheduled offences, unacceptable risk and conduct conditions

903A All offences—unacceptable risk test

(1) Before section 4E(1)(a)(i) of the **Bail Act 1977** insert—

"(iaa) commit a Schedule 1 offence or a Schedule 2 offence; or".

- (2) In section 4E(1)(a)(i) of the **Bail Act 1977**, after "(i)" insert "otherwise".

903B Conduct conditions

- (1) Before section 5AAA(1)(a) of the **Bail Act 1977** insert—
"(aa) commit a Schedule 1 offence or a Schedule 2 offence; or".
- (2) In section 5AAA(1)(a) of the **Bail Act 1977**, after "(a)" insert "otherwise".

903C New section 30A inserted

After section 30 of the **Bail Act 1977** insert—

"30A Offence to commit Schedule 1 offence or Schedule 2 offence while on bail

An accused on bail must not commit a Schedule 1 offence or Schedule 2 offence while on bail.

Penalty: 30 penalty units or 3 months imprisonment.

Note

See sections 16 and 33 of the **Sentencing Act 1991** and sections 411 and 413 of the **Children, Youth and Families Act 2005**."

Division 3—Examples, revocation and review

903D All offences—unacceptable risk test

For the example at the foot of section 4E(1) of the **Bail Act 1977** substitute—

"Example

An unacceptable risk that the accused, if released on bail, would—

- (a) drive dangerously; or
- (b) commit a family violence offence; or
- (c) commit an aggravated burglary; or
- (d) commit an armed robbery; or
- (e) commit a carjacking; or
- (f) commit a home invasion."

903E All offences—unacceptable risk test

For the example at the foot of section 5AAA(1) of the **Bail Act 1977 substitute—**

"Example

A bail decision maker may impose a condition in order to reduce the likelihood that the accused may—

- (a) drive dangerously; or
- (b) commit a family violence offence; or
- (c) commit an aggravated burglary; or
- (d) commit an armed robbery; or
- (e) commit a carjacking; or
- (f) commit a home invasion."

903F Application for revocation of bail

After section 18AE(1) of the **Bail Act 1977 insert—**

"(1A) Without limiting subsection (1), an application under that subsection may be made because the applicant believes on reasonable grounds that the person—

- (a) has committed an offence since bail was granted; or
- (b) is likely to commit an offence whilst on bail; or
- (c) has breached a condition of bail; or
- (d) is likely to breach a condition of bail or the bail undertaking."

903G Section 32C amended

- (1) In the heading to section 32C of the **Bail Act 1977**, for "**amendments made by Bail Amendment Act 2023**" substitute "**certain amendments**".
- (2) In section 32C(1) of the **Bail Act 1977**, for "by the **Bail Amendment Act 2023**." substitute "by—
 - (a) the **Bail Amendment Act 2023**; and
 - (b) Part 22.1 of the **Youth Justice Act 2024** (other than Division 1 of that Part).".

64. Insert the following Division heading before clause 904—

"Division 4—Transitional provisions and technical amendments".

65. Clause 904, line 10, omit 'committed.'. and insert "committed."

66. Clause 904, after line 10 insert—

'(24A) Section 30A applies in respect of an offence alleged to have been committed on or after the commencement of section 903C of the **Youth Justice Act 2024**.'. .

NEW CLAUSE

67. Insert the following New Clause to follow clause 913—

'913A Offence to commit Schedule 1 offence or Schedule 2 offence while on bail

In the Note at the foot of section 30A of the **Bail Act 1977**, for "sections 411 and 413 of the **Children, Youth and Families Act 2005**." substitute "section 327 of the **Youth Justice Act 2024**.". .

Certified –

Clerk of the Legislative Council