

2004–2005

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

MINUTES OF PROCEEDINGS

No. 44

TUESDAY, 22 NOVEMBER 2005

1 The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Berry) took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 **LEGAL AFFAIRS—STANDING COMMITTEE (PERFORMING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE)—SCRUTINY REPORT 19—STATEMENT BY CHAIR**

Mr Stefaniak (Chair) presented the following report:

Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 19, dated 21 November 2005, together with the relevant minutes of proceedings—

and, by leave, made a statement in relation to the report.

3 **CRIMES (SENTENCING) BILL 2005**

The Assembly, according to order, resumed further consideration at the detail stage.

Detail Stage

Clause 34—

Mr Stefaniak, by leave, moved his amendments Nos. 13 to 16 together (*see* [Schedule 1](#)).

Debate continued.

Amendments negatived.

Clause 34 agreed to.

Clause 35 agreed to.

Clauses 36 to 39, by leave, taken together and agreed to.

Proposed new part—

Mr Stefaniak moved his amendment No. 18 (*see* [Schedule 1](#)), which inserts a new part 4.1A in the Bill.

Debate continued.

Question—put.

The Assembly voted—

AYES, 7		NOES, 10	
Mrs Burke	Mr Smyth	Mr Berry	Mr Hargreaves
Mrs Dunne	Mr Stefaniak	Mr Corbell	Ms MacDonald
Mr Mulcahy		Dr Foskey	Ms Porter
Mr Pratt		Ms Gallagher	Mr Quinlan
Mr Seselja		Mr Gentleman	Mr Stanhope

And so it was negatived.

Clauses 40 and 41, by leave, taken together and agreed to.

Clause 42 agreed to.

Clauses 43 to 57, by leave, taken together and agreed to.

Clause 58—

On the motion of Mr Stanhope (Attorney-General), his amendment No. 5 (*see* [Schedule 2](#)) was made.

Clause 58, as amended, agreed to.

Clauses 59 to 66, by leave, taken together and agreed to.

Proposed new clause—

Mr Stefaniak moved his amendment No. 22 (*see* [Schedule 1](#)), which inserts a new clause 66A in the Bill.

Debate continued.

Question—put.

The Assembly voted—

AYES, 6		NOES, 9	
Mrs Burke	Mr Stefaniak	Mr Berry	Mr Hargreaves
Mr Mulcahy		Mr Corbell	Ms MacDonald
Mr Pratt		Dr Foskey	Mr Quinlan
Mr Seselja		Ms Gallagher	Mr Stanhope
Mr Smyth		Mr Gentleman	

And so it was negatived.

Clauses 67 to 133, by leave, taken together and agreed to.

New clause—

On the motion of Mr Stanhope, new clause 133A (his amendment No. 6—*see* [Schedule 2](#)) was inserted in the Bill, after debate.

Remainder of Bill, by leave, taken as a whole and agreed to.

Question—That this Bill, as amended, be agreed to—put and passed.

4 CRIMES (SENTENCE ADMINISTRATION) BILL 2005

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Question—That this Bill be agreed to in principle—put and passed.

Detail Stage

Bill, by leave, taken as a whole—

On the motion of Mr Stanhope (Attorney-General), by leave, his amendments Nos. 1 to 20 (*see* [Schedule 3](#)) were made together, after debate.

Paper: Mr Stanhope presented a supplementary explanatory statement to the Government amendments.

Bill, as a whole, as amended, agreed to.

Question—That this Bill, as amended, be agreed to—put and passed.

5 SUSPENSION OF STANDING ORDERS—CONSIDERATION OF PRIVATE MEMBERS' BUSINESS

Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent order of the day No. 3, Private Members' business relating to the Sentencing and Corrections Reform Amendment Bill 2005, being called on forthwith.

Question—put and passed, with the concurrence of an absolute majority.

6 SENTENCING AND CORRECTIONS REFORM AMENDMENT BILL 2005

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Question—That this Bill be agreed to in principle—put and negatived.

7 HEALTH RECORDS (PRIVACY AND ACCESS) AMENDMENT BILL 2005 (NO. 2)

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Question—That this Bill be agreed to in principle—put and passed.

Detail Stage

Clause 1—

Debate adjourned (Mr Corbell—Minister for Health) and the resumption of the debate made an order of the day for the next sitting.

8 ADMINISTRATION (INTERSTATE AGREEMENTS) REPEAL BILL 2005

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

9 QUESTIONS

Questions without notice were asked.

10 PUBLIC SECTOR MANAGEMENT ACT—EXECUTIVE CONTRACTS—PAPERS AND STATEMENT BY MINISTER

Mr Stanhope (Chief Minister) presented the following papers:

Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—

Contract variations:

Brett Phillips, dated 3 November 2005.

Bronwen Overton-Clarke, dated 17 and 27 October 2005.

David Collett, dated 19 October 2005.

Elizabeth Kelly, dated 26 October 2005.

Ian Hubbard, dated 21 October 2005.

Jennifer Brogan, dated 17 October 2005.

June Bronwyn Leslie, dated 28 October 2005.

Lana Junakovic, dated 28 September 2005.

Martin Hehir, dated 21 October 2005.

Maureen Sheehan, dated 21 October 2005.

Long-term contract:

Andrew Taylor, dated 22 September 2005.

Short-term contracts:

Helen Pappas, dated 19 October 2005.

John Robertson, dated 18 October 2005.

June Bronwyn Leslie, dated 19 September 2005.

Neil Bulless, dated 8 November 2005—

and, by leave, made a statement in relation to the papers.

11 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—UNITED NATIONS INTERNATIONAL DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN

The Assembly was informed that Mrs Burke, Mrs Dunne, Dr Foskey, Mr Gentleman, Ms MacDonald, Mr Mulcahy, Ms Porter, Mr Seselja, Mr Smyth (Leader of the Opposition) and Mr Stefaniak had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Ms MacDonald be submitted to the Assembly, namely, “The importance of the United Nations International Day for the Elimination of Violence Against Women for women in the ACT.”.

Discussion ensued.

Discussion concluded.

12 PLANNING AND ENVIRONMENT—STANDING COMMITTEE—REPORT 17—WILDLIFE CORRIDORS AND DV231—EAST GUNGAHLIN SUBURBS OF KENNY AND THROSBY AND GOOROOPYARROO NATURE RESERVE—PUBLICATION OF REPORT—MOTION THAT REPORT BE NOTED

Mr Gentleman (Chair) presented the following report:

Planning and Environment—Standing Committee—Report 17—*Wildlife corridors and DV231—East Gungahlin suburbs of Kenny and Throsby and Goorooyaroo Nature Reserve*, dated 22 November 2005, together with a copy of the extracts of the relevant minutes of proceedings—

and, by leave, moved—That the report be authorised for publication.

Question—put and passed.

Mr Gentleman moved—That the report be noted.

Debate ensued.

Mr Seselja addressing the Assembly—

A power failure having occurred—

Suspension of sitting: The Deputy Speaker, at 4.37 p.m., suspended the sitting and announced that the Chair would be resumed at the ringing of the bells.

Resumption of sitting: The bells having been rung, the Speaker resumed the Chair at 5.18 p.m.

Mr Seselja continued.

Dr Foskey moved—That the debate be adjourned.

Question—put.

The Assembly voted—

AYES, 7		NOES, 8	
Mrs Burke	Mr Pratt	Mr Berry	Mr Hargreaves
Mrs Dunne	Mr Seselja	Mr Corbell	Ms MacDonald
Dr Foskey	Mr Stefaniak	Ms Gallagher	Ms Porter
Mr Mulcahy		Mr Gentleman	Mr Quinlan

And so it was negatived.

Debate continued.

Mr Mulcahy addressing the Assembly—

Debate interrupted in accordance with standing order 34 and the resumption of the debate made an order of the day for the next sitting.

13 ADJOURNMENT

It being 6 p.m.—The question was proposed—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.28 p.m., adjourned until tomorrow at 10.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting.

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

CRIMES (SENTENCING) BILL 2005

Amendments circulated by Mr Stefaniak

1

Clause 10 (2)

Page 7, line 5—

omit

2

Clause 14 (3), note

Page 13, line 14—

omit the note, substitute

Note Section 33 (1) (m) requires the court, in deciding the sentence to be imposed on an offender, to consider the offender's financial circumstances if relevant and known to the court.

3

Proposed new clauses 24A to 24C

Page 23, line 10—

insert

**24A Non-association and place restriction orders—
suspension while offender in custody**

- (1) A non-association order or place restriction order for an offender is suspended while the offender is in lawful custody.
- (2) The suspension of the non-association order or place restriction order does not operate to postpone the date when the order ends.
- (3) The offender is not taken to be in lawful custody only because the offender is serving a sentence by way of periodic detention.

**24B Non-association and place restriction orders—
contravention**

- (1) An offender must not engage in conduct that contravenes a non-association order or place restriction order to which the offender is subject.

Maximum penalty: 500 penalty units, imprisonment for 5 years, or both.

- (2) Subsection (1) does not apply if—
- (a) the offender associated unintentionally with a person in contravention of a non-association order and the offender immediately ended the association; or
 - (b) the offender otherwise has a reasonable excuse for the contravention.
- (3) In this section:
engage in conduct—see the Criminal Code, section 13.

**24C Non-association and place restriction orders—
changing or revoking after subsequent conviction**

- (1) This section applies to an offender who is sentenced by a court in relation to an offence (the *new offence*) while subject to a non-association order or place restriction order in relation to another offence (the *old offence*).
- (2) When sentencing the offender for the new offence, the court may change or revoke the non-association order or place restriction order for the old offence.

4

Clause 33 (1)
Page 32, line 19—

omit everything before clause (1) (a), substitute

- (1) In deciding the sentence to be imposed on an offender for an offence, a court must have regard to any of the following matters that are relevant and known to the court:

5

Clause 33 (1) (g)
Page 33, line 15—

omit clause 33 (1) (g), substitute

- (g) the offender has shown remorse for the offence by making reparation for any injury, loss or damage or in any other way;

6

Clause 33 (1) (l)
Page 33, line 24—

omit

cultural background,

7

Clause 33 (1) (n)
Page 33, line 27—

omit

 8

Clause 33 (1) (q)
Page 34, line 6—

omit

9

Clause 33 (1) (v)
Page 34, line 16—

omit

10

Clause 33 (1) (y)
Page 34, line 26—

omit clause 33 (1) (y), substitute

(y) current sentencing practices in the States.

11

Clause 33 (2) and (3)
Page 34, line 27—

omit clause 33 (2) and (3), substitute

- (2) The court may have regard to any other matter the court considers appropriate.
-

12

Proposed new clause 33A
Page 35, line 12—

insert

33A Sentencing—regard to guideline judgments

- (1) In deciding the sentence to be imposed on an offender for an offence, a court must have regard to any relevant guideline judgment.
- (2) If a court imposes on the offender a sentence that is inconsistent with the relevant guideline judgment, the court must give written reasons for the inconsistency.
- (3) This section is in addition to and does not limit section 33.
- (4) In this section:

guideline judgment, for an offence, means a judgment of the Court of Appeal that is expressed to contain guidelines to be taken into account by courts sentencing offenders.

Note For the power to make guideline judgments, see pt 4.1A.

13**Clause 34 (1)****Page 35, line 14—**

omit everything before clause 34 (1) (a), substitute

- (1) In deciding the sentence to be imposed on an offender for an offence, a court must not increase the severity of the sentence it would otherwise have imposed because of any of the following:

14**Clause 34 (1) (d)****Page 35, line 22—**

omit

15**Clause 34 (1) (e)****Page 35, line 24—**

omit

16**Clause 34 (2)****Page 36, line 4—**

omit

In deciding how an offender should be sentenced

substitute

In deciding the sentence to be imposed on an offender

17**Clause 35 (2)****Page 36, line 15—**

omit

In deciding how the offender should be sentenced (if at all)

substitute

In deciding the sentence to be imposed on an offender

18**Proposed new part 4.1A****Page 41, line 13—**

insert

Part 4.1A**Guideline judgments**

39A Guideline judgments—generally

- (1) The Court of Appeal may, on its own initiative or at the request of the Attorney-General under section 39B, give a guideline judgment to be taken into account by courts when sentencing offenders.
- (2) A guideline judgment may be given separately or in any proceeding that the Court of Appeal considers appropriate.
- (3) A guideline judgment may be given in a proceeding even if it is not necessary for deciding the proceeding.
- (4) A guideline judgment may be reviewed, varied or revoked in a later guideline judgment.
- (5) This section does not limit any power or jurisdiction that the Court of Appeal has apart from this section.

39B Guideline judgments—request by Attorney-General

- (1) The Attorney-General may request the Court of Appeal to give a guideline judgment.
- (2) The request for a guideline judgment may include submissions about the proposed guidelines.

19**Clause 42 (4) (b)****Page 45, line 11—***omit*

(including cultural background)

20**Clause 52 (1)****Page 51, line 26—***omit clause 52 (1), substitute*

- (1) If a victim impact statement by a victim is tendered in respect of an offence and the victim asks the court to allow the victim to read it to the court, the court must allow the victim to read the statement.

21**Clause 53 (1)****Page 52, line 9—***omit*

In deciding how the offender should be sentenced (if at all)

substitute

In deciding the sentence to be imposed on an offender

22**Proposed new clause 66A****Page 65, line 9—***insert***66A Nonparole periods—standard periods**

- (1) This section applies if a court is setting a nonparole period for an offender under section 65 or section 66 in relation to an offence for which there is a standard nonparole period.
- (2) The court must set the standard nonparole period as the nonparole period for the offence unless the court considers that there are reasons for setting a nonparole period for the offence that is longer or shorter than the standard nonparole period.
- (3) When setting the nonparole period for the offence, the court may have regard to any relevant aggravating circumstance mentioned in subsection (4) (other than a circumstance that is an element of the offence) and any relevant mitigating circumstance mentioned in subsection (5).
- (4) Aggravating circumstances to which the court may have regard include the following:
 - (a) the victim is a police officer, emergency services worker, correctional officer, judicial officer, health professional, health or community worker or teacher and the offence arose because of the victim's occupation;
 - (b) the offence involved the actual or threatened use of violence;
 - (c) the offence involved the actual or threatened use of a weapon;
 - (d) the offender has a record of previous convictions;
 - (e) the offence was committed in company with someone else;
 - (f) the offence involved gratuitous cruelty;
 - (g) the injury, emotional harm, loss or damage caused by the offence was substantial;
 - (h) the offence was committed without regard for public safety;
 - (i) the offence was committed while the offender was on bail in relation to an offence or alleged offence;
 - (j) the offender abused a position of trust or authority in relation to the victim;
 - (k) the victim was vulnerable because of age or occupation;

Examples

- 1 the victim was very young or old
- 2 the victim had a disability
- 3 the victim was a taxi driver, bank teller or service station attendant

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (l) the offence involved multiple victims or a series of criminal acts;
 - (m) the offence was part of a planned or organised criminal activity.
- (5) Mitigating circumstances to which the court may have regard include the following:
- (a) the injury, emotional harm, loss or damage caused by the offence was not substantial;
 - (b) the offence was not part of a planned or organised criminal activity;
 - (c) the offender was provoked by the victim;
 - (d) the offender was acting under duress;
 - (e) the offender does not have any record, or any significant record, of previous convictions;
 - (f) the offender was a person of good character;
 - (g) the offender is unlikely to reoffend;
 - (h) the offender has good prospects of rehabilitation, whether because of age or otherwise;
 - (i) the offender has shown remorse for the offence by making reparation for any injury, loss or damage or in any other way;
 - (j) the offender was not fully aware of the consequences of his or her actions because of the offender's age or any disability;
 - (k) a plea of guilty by the offender;
 - (l) if the offender is tried on indictment—the degree of pre-trial disclosure by the defence for the purposes of the trial;
 - (m) the degree to which the offender has assisted, or undertaken to assist, law enforcement authorities in the prevention, detection or investigation of, or in a proceeding in relation to, the offence concerned or any other offence.
- (6) If the court sets a nonparole period that is different to the standard nonparole period for the offence, the court must state the reasons for the difference.

- (7) The *standard nonparole period* for an offence mentioned in table 66A, column 2 is the period mentioned in column 3 of the same item.

Table 66A Standard nonparole periods

column 1 item	column 2 offence	column 3 period
1	offence against <i>Crimes Act 1900</i> , section 12 (Murder), other than an offence to which item 2 applies	20 years
2	offence against <i>Crimes Act 1900</i> , section 12 (Murder), if the victim is a police officer, emergency services worker, correctional officer, judicial officer, health professional, health or community worker or teacher and the offence arose because of the victim's occupation	25 years
3	offence against <i>Crimes Act 1900</i> , section 19 (Intentionally inflicting grievous bodily harm)	7 years
4	offence against <i>Crimes Act 1900</i> , section 20 (Recklessly inflicting grievous bodily harm)	5 years
5	offence against <i>Crimes Act 1900</i> , section 27 (4) (b) (Acts endangering life etc)	7 years
6	offence against <i>Crimes Act 1900</i> , section 51 (2) (Sexual assault in the first degree)	15 years
7	offence against the Criminal Code, section 44 (Attempt), if the offence attempted is murder	10 years
8	offence against Criminal Code, section 310 (Aggravated robbery)	7 years
9	offence against Criminal Code, section 311 (Burglary), if the offender has been convicted of a burglary offence in the previous 5 years	1 year
10	offence against Criminal Code, section 312 (Aggravated burglary), if serious injury is caused to a person	7 years
11	offence against <i>Drugs of Dependence Act 1989</i> , section 164 (2) (Sale or supply) if the quantity of the drug to which the offence relates is at least 50 times the quantity prescribed as a trafficable quantity	15 years
12	offence against <i>Drugs of Dependence Act 1989</i> , section 164 (2) (Sale or supply) if the quantity of the drug to which the offence relates is at least 30 but less than 50 times the quantity prescribed as a trafficable quantity	10 years
13	offence against <i>Drugs of Dependence Act 1989</i> , section 164 (2) (Sale or supply) if the quantity of the drug to which the offence relates is at least 20 but less than 30 times the quantity prescribed as a trafficable quantity	5 years

Schedule 2

CRIMES (SENTENCING) BILL 2005

Amendments circulated by the Attorney-General

1

Clause 18 (4)

Page 17, line 23—

omit clause 18 (4), substitute

- (4) This section is subject to section 133A (Operation of ancillary and restitution orders).
-

2

Clause 19 (4)

Page 19, line 7—

after

chapter 7 (Reparation orders)

insert

and section 133A (Operation of ancillary and restitution orders)

3

Clause 20 (5)

Page 20, line 11—

after

chapter 7 (Reparation orders)

insert

and section 133A (Operation of ancillary and restitution orders)

4

Proposed new clause 33 (1) (fa)

Page 33, line 14—

insert

- (fa) if a victim of the offence was a pregnant woman—
- (i) whether the offender knew, or ought reasonably to have known, that the woman was pregnant; and
 - (ii) whether the offender intended to cause, or was reckless about causing, loss of or harm to the pregnancy; and
 - (iii) the loss of or harm to the pregnancy; and
 - (iv) whether the offender intended to cause, or was reckless about causing, the death of or harm to a child born alive as a result of the pregnancy; and

- (v) the death of or harm to a child born alive as a result of the pregnancy.

5
Clause 58 (5)**Page 56, line 23—**

omit clause 58 (5), substitute

- (5) This section is subject to section 133A (Operation of ancillary and restitution orders).

6
Proposed new clause 133A**Page 109, line 1—**

insert

133A Operation of ancillary and restitution orders

- (1) In this section:

finalised—proceedings in relation to an appeal are *finalised* if—

- (a) the appeal is dismissed, withdrawn or struck out or ends without a retrial being ordered and the period for making any further appeal against that decision ends; or
- (b) if a retrial is ordered—the proceedings on the retrial are finalised within the meaning of paragraph (a).

relevant order means—

- (a) an ancillary order under—
- (i) section 18 (Non-conviction orders—ancillary orders); or
- (ii) section 58 (Ancillary orders relating to offences taken into account in sentencing); or
- (c) a reparation order.

- (2) A relevant order takes effect on the day after—

- (a) the end of the period for appealing against the conviction or finding of guilt to which the relevant order relates; or
- (b) if an appeal in relation to the conviction or finding of guilt is made within the period for making the appeal—the day proceedings in relation to the appeal are finalised.

- (3) However, an appeal court may, on application or its own initiative, if satisfied it is in the interests of justice, order that a relevant order take effect on a stated day earlier than the day fixed under subsection (2).

- (4) A court may, on application or its own initiative, by order, give such directions as it considers appropriate for—
 - (a) the custody of property to which a relevant order relates; or
 - (b) the giving of security, with or without sureties, for payment of an amount under a relevant order.
 - (5) A relevant order automatically lapses if the conviction or finding of guilt to which the order relates is reversed or set aside.
 - (6) An application under this section may be made by the director of public prosecutions or a person whose interests are affected by a relevant order.
 - (7) This section is subject to section 61 (Reopening proceedings to correct penalty errors).
-

Schedule 3

CRIMES (SENTENCE ADMINISTRATION) BILL 2005

Amendments circulated by the Attorney-General

1

Clause 17 (3), example heading

Page 10, line 17—

omit

par (b)

substitute

par (a)

2

Clause 43 (1) (c)

Page 28, line 15—

omit clause 43 (1) (c), substitute

- (c) any change in the offender's contact details is approved by the chief executive under subsection (1A);
-

3

Proposed new clause 43 (1A) and (1B)

Page 29, line 2—

insert

- (1A) If an offender applies to the chief executive for approval for a change in the offender's contact details, the chief executive must—
- (a) approve, or refuse to approve, the change to which the application relates; and
 - (b) give the offender notice of the decision, orally or in writing.
- (1B) An application for approval under subsection (1A)—
- (a) may be made orally or in writing; and
 - (b) must be made—
 - (i) before the change to which it applies; or
 - (ii) if it is not possible to apply before the change—as soon as possible after, but no later than 1 day after, the day of the change.
-

4

Proposed new clause 66 (3A)

Page 45, line 12—

insert

- (3A) If the chief executive applies under section 59 (Failing to perform periodic detention—referral to board) for an inquiry, the board must conduct the inquiry as soon as practicable.

5

Proposed new clause 68A

Page 46, line 28—

*insert***68A Cancellation of periodic detention—repeated failures to perform**

- (1) This section applies if—
- (a) the chief executive applies to the board under section 59 (Failing to perform periodic detention—referral to board) for an inquiry in relation to an offender; and
 - (b) at the inquiry, the board decides that section 58 (Failing to perform periodic detention—extension of periodic detention period) applies to the offender in relation to 2 or more detention periods of the offender's periodic detention period.

Examples of s 58 applying to offender

1 or more of the following apply to the offender:

- without approval under section 55 (Periodic detention—approval not to perform etc), the offender fails to report to perform periodic detention for a detention period
- without approval under section 55 (Periodic detention—approval not to perform etc), the offender reports late to perform detention for a detention period and is directed under section 58 not to perform periodic detention and to leave the reporting place
- when reporting to perform periodic detention for a detention period, the offender gives a positive test sample in response to a direction under section 45 (Periodic detention—alcohol and drug tests) and is directed under section 58 not to perform periodic detention and to leave the reporting place

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) Without limiting section 68, the board must cancel the offender's periodic detention as soon as practicable under that section.

6**Clause 101 (2) and (3)****Page 69, line 7—**

omit clause 101 (2) and (3), substitute

- (2) The corrections officer must report the belief to the sentencing court.

7**Clause 105****Page 71, line 1—**

omit clause 105, substitute

105 Good behaviour—summons to attend court

- (1) This section applies if information alleging that an offender has breached any of the offender's good behaviour obligations is before the offender's sentencing court.
- (2) The sentencing court may issue a summons directing the offender to appear before the court to be dealt with under this part.
- (3) The registrar of the sentencing court must ensure that a copy of the summons is given to each interested person for the good behaviour order.

8**Proposed new clause 120 (7)****Page 85, line 8—**

insert

- (7) Despite subsections (2) and (6), a regulation may limit the making of special parole applications.

Note The power to make regulations includes power to make different provisions in relation to different matters or different classes of matters, and provisions that apply differently by reference to stated exceptions or factors (see Legislation Act, s 48).

9**Clause 136 (1) (c)****Page 97, line 24—**

omit clause 136 (1) (c), substitute

- (c) any change in the offender's contact details is approved by the chief executive under subsection (1A);
-

10**Proposed new clause 136 (1A) and (1B)****Page 98, line 9—***insert*

- (1A) If an offender applies to the chief executive for approval for a change in the offender's contact details, the chief executive must—
- (a) approve, or refuse to approve, the change to which the application relates; and
 - (b) give the offender notice of the decision, orally or in writing.
- (1B) An application for approval under subsection (1A)—
- (a) may be made orally or in writing; and
 - (b) must be made—
 - (i) before the change to which it applies; or
 - (ii) if it is not possible to apply before the change—as soon as possible after, but no later than 1 day after, the day of the change.

11**Clause 142 (2) and (3)****Page 101, line 11—***omit clause 142 (2) and (3), substitute*

- (2) The corrections officer must report the belief to the board in writing.

12**Proposed new clause 155 (1) (ab)****Page 108, line 18—***insert*

- (ab) counsel or warn the offender about the need to comply with the offender's parole obligations;

13**Clause 160 (2)****Page 112, line 14—***omit*

offender's release date for the sentence

*substitute*offender's parole release date

14**Clause 177 (2) (a)****Page 126, line 14—***omit*

meetings of the board,

substitute

meetings of the board (other than a meeting of a division of the board)

15**Proposed new clause 177 (2) (ab)****Page 126, line 15—***insert*

- (ab) if the member is assigned to a division of the board and is absent from 3 consecutive meetings of the division without leave approved by the chair; or

16**Clause 179****Page 128, line 2—***omit clause 179, substitute***179****Meaning of board's *supervisory functions***For this Act, the board's *supervisory functions* are—

- (a) its functions under the following provisions:
- (i) chapter 5 (Periodic Detention);
 - (ii) chapter 7 (Parole);
 - (iii) part 13.1 (Release on licence); and
- (b) any other function of the board declared by regulation to be a supervisory function.

17**Clause 209 (3) (a)****Page 143, line 12—***omit*

2 days

substitute

7 days

18**Clause 210 (1)****Page 144, line 2—**

omit subclause 210 (1), substitute

- (1) The chief executive must ensure that a sound or audiovisual record is made of each hearing for an inquiry in relation to an offender.

19**Clause 300 (1) (c)****Page 215, line 5—**

omit clause 300 (1) (c), substitute

- (c) any change in the offender's contact details is approved by the chief executive under subsection (1A);

20**Proposed new clause 300 (1A) and (1B)****Page 215, line 17—**

insert

- (1A) If an offender applies to the chief executive for approval for a change in the offender's contact details, the chief executive must—
- (a) approve, or refuse to approve, the change to which the application relates; and
 - (b) give the offender notice of the decision, orally or in writing.
- (1B) An application for approval under subsection (1A)—
- (a) may be made orally or in writing; and
 - (b) must be made—
 - (i) before the change to which it applies; or
 - (ii) if it is not possible to apply before the change—as soon as possible after, but no later than 1 day after, the day of the change.
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