

**2024**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**TENTH ASSEMBLY**

**CRIMES (SENTENCE ADMINISTRATION) AMENDMENT BILL 2024**

**EXPLANATORY STATEMENT  
and  
HUMAN RIGHTS COMPATIBILITY STATEMENT  
(*Human Rights Act 2004, s 37*)**

**Presented by  
EMMA DAVIDSON MLA  
MINISTER FOR CORRECTIONS AND JUSTICE HEALTH  
APRIL 2024**

## **CRIMES (SENTENCE ADMINISTRATION) AMENDMENT BILL 2024**

The *Crimes (Sentence Administration) Amendment Bill 2024* (the Bill) is not a Significant Bill.

### **OVERVIEW OF THE BILL**

The policy objective of this Bill is to address identified opportunities for improving the administration of corrective services and community-based sentences. The Bill amends the *Crimes (Sentence Administration) Act 2005* (the CSA Act) to allow for crediting of community service work (CSW) hours to offenders in particular circumstances.

The amendment will allow no more than 8 hours to be credited in a week which will be no more than 10% of the total number of CSW hours required to be performed by the offender. The Director-General Justice and Community Safety is required to consider the purposes of sentencing under section 7 of the CSA Act in exercising the discretion.

A similar provision inserted into the CSA Act during the COVID-19 health emergency allowed the Director-General to take an offender to have performed CSW where the failure of the offender to attend community service was due to the COVID-19 health emergency. That provision expired on 29 September 2023.

Without the amendment in this Bill, the CSA Act only permits the Director-General to credit an offender with CSW hours where the failure of the offender to report to perform CSW is due to the offender being remanded in custody or detained under the *Mental Health Act 2015*. In other circumstances, ACT Corrective Services (ACTCS) is limited to making or supporting an application to the court pursuant to section 74 or section 112 of the CSA Act to amend a GBO or ICO by reducing the total number of hours of CSW that must be performed.

The amendment is intended to address circumstances where an offender makes themselves available to perform the required CSW but is unable to perform the CSW due to circumstances beyond the offender's control. The two main reasons which are intended to be captured by this provision are weather conditions and unplanned staff absences.

In circumstances where an offender believes that they have made themselves available to do community service work but it could not be done due to circumstances beyond their control, and the Director-General does not use the discretion introduced by the Bill, the offender could apply to the court pursuant to section 74 or section 112 of the CSA Act to have their GBO or ICO amended, for example, to reduce the total number of CSW hours that must be performed.

## **CONSULTATION ON THE PROPOSED APPROACH**

The amendment was developed in consultation with the following key justice stakeholders:

- Aboriginal Legal Service
- ACT Bar Association
- ACT Corrective Services
- ACT Courts and Tribunal
- ACT Director of Public Prosecutions
- ACT Human Rights Commission
- ACT Law Society
- ACT Policing
- Civil Liberties Australia
- CMTEDD (including Treasury)
- CSD
- Justice Caucus
- Legal Aid ACT
- Sentence Administration Board
- Victims of Crime Commissioner

## **CLIMATE IMPACT**

This proposal will not have an impact on climate change.

## **CONSISTENCY WITH HUMAN RIGHTS**

During the development of this Bill due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004*.

# CRIMES (SENTENCE ADMINISTRATION) AMENDMENT BILL 2024

## *Human Rights Act 2004 - Compatibility Statement*

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Crimes (Sentence Administration) Amendment Bill 2024**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly **is** consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA  
Attorney-General

# CRIMES (SENTENCE ADMINISTRATION) AMENDMENT BILL 2024

## CLAUSE NOTES

### **Clause 1 Name of Act**

This is a technical clause that names the short title of the Act. The name of the Act will be the *Crimes (Sentence Administration) Amendment Act 2024*.

### **Clause 2 Commencement**

This clause provides that the Act will commence on the 7th day after its notification day.

### **Clause 3 Legislation amended**

This clause provides that the Act will amend the *Crimes (Sentence Administration) Act 2005* (the CSA Act).

### **Clause 4 Intensive correction orders—community service work—failure to report etc; New section 47 (5) to (7)**

This clause operates to provide that, if an offender fails to do community service work for a period, and the Director-General Justice and Community Safety is satisfied that the offender's failure to do the community service work in accordance with the direction is because of circumstances beyond the offender's control, the Director-General may direct that the offender is taken to have done the community service work. This clause is intended to be directed at circumstances such as weather conditions or unforeseeable supervising staff absences.

The Director-General must consider the purposes of sentencing under the CSA Act in making a decision. The amount of community service work that the Director-General can direct to have been taken to be done is limited to not more than 8 hours in a week and cumulatively must be no more than 10% of the total number of hours of community service work required to be performed by the offender.

### **Clause 5 Good behaviour orders—community service work—failure to report etc; New section 92 (5) to (7)**

This clause operates to provide that, if an offender fails to do community service work for a period, and the Director-General Justice and Community Safety is satisfied that the offender's failure to do the community service work in accordance with the direction is because of circumstances beyond the offender's control, the Director-General may direct that the offender is taken to have done the community service work. This clause is intended to be directed at circumstances such as weather conditions or unforeseeable supervising staff absences.

The Director-General must consider the purposes of sentencing under the CSA Act in making a decision. The amount of community service work that the Director-General can direct to have been taken to be done is limited to not more than 8 hours in a week and cumulatively must be no more than 10% of the total number of hours of community service work required to be performed by the offender.