Purpose

The main aim of this Bill is to change the law relating to managing offenders in the community and relate particularly to: administrative issues arising from sentencing and parole reforms; home detention and community-based sentences; electronic monitoring; parole and extended supervision orders.

The Bill as introduced is described in Bills Digest No.1950.

Main changes

Bail Act 2000 and Bail Amendment Act 2011 commencement problem

The Select Committee has recommended “deleting clauses 5, 6, and 7 of the bill and replacing them with new clauses 7A–7G to amend sections of the Bail Amendment Act 2011, rather than the Bail Act.
2000. As introduced, the bill sought to amend sections 45–47, 70, and schedule 1 of the Bail Act. The Bail Amendment Act, which comes into force in October 2013 or earlier if by Order in Council, replaces parts 3 and 4 of the Bail Act, into which the provisions in clauses 5–7 of this bill would be inserted. If the Bail Amendment Act were to come into force after this bill, the provisions inserted by clauses 5–7 would cease to have legislative effect. New clauses 7A–7G would have similar effect to that of clauses 5–7.

Need for probation officer to review suitability of home detention residence

The Select Committee has made provision for the situation where: “an appellant could surrender himself or herself when released on bail from home detention and apply for the discharge of bail. In this situation, the court might order the resumption of home detention, which, as amended, would require the probation officer to review the suitability of the home detention residence. This might cause unnecessary delays in cases where bail was discharged shortly after being granted.

The bar-2 Bill requires the court to consider a probation officer’s review only if the appellant has been on bail for longer than two months (New Part 1A, New Section 7G(2) of the Bail Act 2000 inserted into the Bail Amendment Act 2011).

Sentencing Act

The integrity of community-based and home detention sentences

The bar-2 Bill allows the Court to exercise discretion when considering periods of compliance since application in determining the amount of time served on the sentence (Part 2, amending Clauses 14, 16, 22, and 31 of the Bill).

Converting a proportion of community work sentences into training

The bar-2 Bill provides that a probation officer (at present only the Court may make such an authorisation) may direct that up to 20 per cent of a community work sentence of at least 80 hours be spent in training in basic work and living skills (Part 2, inserting Clause 18A, substituting Section 66A of the Sentencing Act 2002 and repealing Section 66B).

Change of home detention or curfew address

The bar-2 Bill empowers the chief executive to vary a home detention residence or curfew address if he or she is satisfied that all the following conditions are fulfilled: the address specified by the court is no longer suitable; an alternative address is suitable; the relevant occupants of the alternative address have given their informed consent; the residence is in an area in which a home detention or community detention scheme is operated by the department; and the offender has provided his or her written consent to the change of address. If the offender did not provide written consent, the probation officer would need to apply to the court to vary or cancel the sentence (Part 2, inserting New Clause 22A, inserting New Section 69J into the Sentencing Act 2002; inserting New Clause 22B, repealing Section 69K of the Act; inserting New Clause 27A, inserting New Section 80FA into the Act; inserting New Clause 27B, repealing Section 80H of the Act).

1 Administration of Community Sentences and Orders Bill, 2012 No 3 39-2, As reported from the Law and Order Committee, Commentary, pp. 2 and 3.
Comment
If a residence where an offender is serving a home or community detention sentence becomes unsuitable, his or her probation officer may temporarily approve an alternative address, provided an application to approve the change is made to the court within five working days of the decision to relocate the offender. This process can be an unnecessary use of a probation officer’s and the court’s time and resources when only a short period of the sentence remains. The uncertainty while awaiting the court’s decision may hamper the offender’s reintegration into the community.

Registrar notification requirement
The bar-2 Bill requires the appeal court registrar to notify the controlling officer of the probation area and the offender, if not in court, of the date on which the home detention sentence resumes after an unsuccessful appeal of that sentence (Part 2, inserting New Clause 27A, inserting New Section 80MA into the Sentencing Act 2002).

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