

## Sentence Administration Amendment Bill 2017

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Western Australia

LEGISLATIVE ASSEMBLY

## **Sentence Administration Amendment Bill 2017**

**A Bill for**

**An Act to amend the *Sentence Administration Act 2003*.**

The Parliament of Western Australia enacts as follows:

**s. 1**

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1   **1.     Short title**

2           This is the *Sentence Administration Amendment Act 2017*.

3   **2.     Commencement**

4           This Act comes into operation as follows —

- 5           (a) sections 1 and 2 — on the day on which this Act  
6                receives the Royal Assent;
- 7           (b) the rest of the Act — on a day fixed by proclamation,  
8                and different days may be fixed for different provisions.

9   **3.     Act amended**

10          This Act amends the *Sentence Administration Act 2003*.

11   **4.     Section 12 amended**

12          In section 12(4) delete “A report —” and insert:

13

14          Subject to section 66B(1), a report —

15

16   **5.     Section 12A amended**

17          In section 12A(5) delete “A report” and insert:

18

19          Subject to section 66B(1), a report

20

21   **6.     Section 20 amended**

22          Before section 20(2)(a) insert:

23

- 24                   (aa) the requirements of section 66B(1); and

25



- 1                    ***homicide related offence*** means any of the following  
2 offences, if the offence relates to the death of a  
3 person —
- 4                    (a) counselling or procuring the commission of a  
5 homicide offence; or
  - 6                    (b) inciting another person to commit a homicide  
7 offence; or
  - 8                    (c) becoming an accessory after the fact to a  
9 homicide offence; or
  - 10                   (d) conspiring with another person to commit a  
11 homicide offence;
- 12                   ***release action*** means making a parole order under  
13 section 23(3)(b) in respect of a prisoner;
- 14                   ***release decision*** means —
- 15                   (a) a decision to recommend, in a report given  
16 under section 12 or 12A, that a prisoner be  
17 released; or
  - 18                   (b) a decision under section 20(2) that it is  
19 appropriate to release a prisoner on parole; or
  - 20                   (c) a decision under section 23(3)(a) to make a  
21 parole order in respect of a prisoner; or
  - 22                   (d) a decision under section 52(1) to make an RRO  
23 in respect of a prisoner;
- 24                   ***relevant prisoner*** means —
- 25                   (a) a person serving a sentence for a homicide  
26 offence or homicide related offence; or
  - 27                   (b) a person subject to a sentence of detention  
28 imposed under *The Criminal Code*  
29 section 279(5)(b); or
  - 30                   (c) a person in, or regarded as being in, strict or  
31 safe custody by virtue of an order under  
32 *The Criminal Code* section 282 (repealed by the

1                                    *Criminal Law Amendment (Homicide) Act 2008*  
2                                    section 10); or

3                                    (d) a person subject to a direction or sentence  
4                                    under *The Criminal Code* section 661 or 662  
5                                    (repealed by the *Sentencing (Consequential*  
6                                    *Provisions) Act 1995* section 26) where at least  
7                                    one of the offences referred to in *The Criminal*  
8                                    *Code* section 661 or 662 was a homicide  
9                                    offence or homicide related offence;

10                                   ***remains of the victim***, in relation to a homicide  
11                                   offence, means the remains of the person against whom  
12                                   the homicide offence was committed.

13                                   **66B. Board not to release or recommend release unless**  
14                                   **prisoner cooperates or victim's remains located**

15                                   (1) The Board must not make a release decision, or take  
16                                   release action, in relation to a relevant prisoner in  
17                                   custody for a homicide offence or homicide related  
18                                   offence unless the Board is satisfied that —

19                                   (a) the prisoner has cooperated with a member of  
20                                   the Police Force in the identification of the  
21                                   location, or last known location, of the remains  
22                                   of the victim of the homicide offence; or

23                                   (b) a member of the Police Force knows the  
24                                   location of the remains of the victim of the  
25                                   homicide offence.

26                                   (2) The Board may be satisfied under subsection (1)(a) in  
27                                   relation to a relevant prisoner in custody for a homicide  
28                                   offence or homicide related offence even if the prisoner  
29                                   did not cooperate —

30                                   (a) before being sentenced for the offence; or

31                                   (b) before the determination of an appeal against  
32                                   the conviction or sentence for the offence.

1           (3) This section applies to a decision or action in relation  
2           to a relevant prisoner in custody for a homicide offence  
3           or homicide related offence whether the offence was  
4           committed before, on or after the day on which the  
5           *Sentence Administration Amendment Act 2017*  
6           section 9 comes into operation.

7           **66C. Commissioner of Police report**

8           (1) On each occasion on which the Board is required to  
9           consider whether to make a release decision, or take  
10          release action, in relation to a relevant prisoner in  
11          custody for a homicide offence or homicide related  
12          offence, the Board must make a written request to the  
13          Commissioner of Police for a written report.

14          (2) The Board does not have to request a report if the  
15          Board is already satisfied that a member of the Police  
16          Force knows the location of the remains of the victim  
17          of the homicide offence.

18          (3) The report must deal with each of the following  
19          matters —  
20               (a) in relation to the prisoner's cooperation  
21               described in section 66B(1)(a) —  
22                   (i) the nature and extent of the prisoner's  
23                   cooperation; and  
24                   (ii) the timeliness of the prisoner's  
25                   cooperation; and  
26                   (iii) the truthfulness, completeness and  
27                   reliability of any information or  
28                   evidence provided by the prisoner; and  
29                   (iv) the significance and usefulness of the  
30                   prisoner's cooperation;  
31               (b) whether a member of the Police Force knows  
32               the location of the remains of the victim of the  
33               homicide offence.

- 1 (4) The Commissioner of Police must give the Board the  
2 report within a reasonable period of time after  
3 receiving the request.
- 4 (5) If the Board requests a report the Board must, when  
5 deciding whether it is satisfied for the purposes of  
6 section 66B(1), take into account the matters referred  
7 to in subsection (3) as dealt with in the report.  
8

9 **10. Section 112 amended**

10 After section 112(e) insert:  
11

- 12 (ea) the number of prisoners whose cooperation was  
13 considered by the Board for the purposes of  
14 section 66B(1)(a) during the previous financial  
15 year;
- 16 (eb) the number of prisoners referred to in  
17 paragraph (ea) who were released under an  
18 early release order by the Board or the  
19 Governor during the previous financial year;  
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