

Sentence Administration Amendment (Multiple Murderers) Bill 2018

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Western Australia

LEGISLATIVE ASSEMBLY

**Sentence Administration Amendment (Multiple
Murderers) Bill 2018**

A Bill for

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

The Parliament of Western Australia enacts as follows:

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1 **1. Short title**

2 This is the *Sentence Administration Amendment (Multiple*
3 *Murderers) Act 2018*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
8 (b) the rest of the Act — on the day after that day.

9 **3. Act amended**

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

11 **4. Section 12A amended**

12 (1) In section 12A(2) delete “The Board” and insert:

13

14 Except as provided in subsection (2A), the Board

15

16 (2) After section 12A(2) insert:

17

18 (2A) The Board must not give a written report under
19 subsection (2) about a prisoner at any time when a
20 direction under section 14C is in effect in relation to
21 the prisoner.

22 (2B) If a direction under section 14C in relation to a prisoner
23 ceases to have effect, and if no other direction under
24 that section is in effect in relation to that prisoner, then
25 except as provided in subsection (2C) the Board must
26 resume giving reports about the prisoner under
27 subsection (2) as if —

28 (a) no direction under section 14C had been given
29 in relation to the prisoner; and

1 (b) each report which would have been required
2 but for a direction under section 14C had been
3 given when due.

4 (2C) If a report about a prisoner under subsection (2) is due
5 to be given within 7 months after a direction under
6 section 14C in relation to the prisoner ceases to have
7 effect, the Board must give the report by or as soon as
8 practicable after the day on which it is due but in any
9 event not later than 7 months after the direction ceases
10 to have effect.
11

12 **5. Section 13 amended**

13 (1) In section 13(4) before “the Board may” insert:
14

15 then except as provided in subsection (5A)
16

17 (2) In section 13(5) after “variations,” insert:
18

19 then except as provided in subsection (5A)
20

21 (3) After section 13(5) insert:
22

23 (5A) At any time when a direction under section 14C is in
24 effect in relation to a prisoner —

25 (a) the Board must not make a request under
26 subsection (4) in relation to the prisoner; and

27 (b) the CEO must not comply with a request under
28 subsection (4) in relation to the prisoner; and

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- 1 (c) the Board must not, for the purposes of
2 subsection (5), consider release considerations,
3 endorse a re-socialisation programme or make a
4 recommendation in relation to the prisoner.
5

6 **6. Part 2 Division 5 inserted**

7 After section 14A insert:
8

9 **Division 5 — Directions to suspend reporting**

10 **14B. Terms used**

11 In this Division —

12 ***designated prisoner*** means a Schedule 3 prisoner who
13 is serving a sentence for a relevant offence (the ***first***
14 ***relevant offence***) and who —

- 15 (a) has been convicted of 2 or more other relevant
16 offences which were committed at any time; or
17 (b) has been convicted of another relevant offence
18 which was committed on a different day than
19 the first relevant offence;

20 ***relevant offence*** means —

- 21 (a) murder; or
22 (b) an offence under the law of the
23 Commonwealth, of another State, of a
24 Territory, or of any place outside Australia,
25 which is constituted by conduct that is
26 substantially the same as the conduct
27 constituting murder;

28 ***relevant report*** means a report given by the Board to
29 the Minister under —

- 30 (a) section 12A(2); or

- 1 (b) the *Offenders Community Corrections Act 1963*
2 section 34(2)(c) or (d) as continued in operation
3 by the *Sentencing (Consequential Provisions)*
4 *Act 1995* Part 56 Division 2.

5 **14C. Minister may direct suspension of reporting**

- 6 (1) At any time after the Minister has received a relevant
7 report about a designated prisoner the Minister may
8 direct that the operation of sections 12A(2) and 13(4)
9 and (5) in relation to that designated prisoner be
10 suspended.
- 11 (2) A direction under subsection (1) must —
12 (a) be in writing; and
13 (b) specify a day on which the direction takes
14 effect, which must not be earlier than the day
15 the direction is made; and
16 (c) specify a day on which the direction ceases to
17 have effect, which must not be later than
18 6 years after the day specified under
19 paragraph (b).
- 20 (3) The Minister must give copies of a direction under
21 subsection (1) to the Board, the CEO and the
22 designated prisoner.
- 23 (4) The Minister may not make a direction under
24 subsection (1) while a previous direction in relation to
25 the same designated prisoner remains in effect, unless
26 the previous direction is to cease to have effect within
27 3 months of the Minister's direction.
- 28 (5) There is no limit to the number of directions the
29 Minister may make under subsection (1) in relation to a
30 designated prisoner.

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- 1 (6) A direction under subsection (1) does not prevent the
2 Board from giving reports under section 12 in relation
3 to the designated prisoner.
- 4 **14D. No review of direction to suspend reporting**
- 5 (1) A direction under section 14C —
- 6 (a) must not be challenged, appealed against,
7 reviewed, quashed or called into question in
8 any court; and
- 9 (b) is not subject to review or remedy by way of
10 prohibition, mandamus, injunction, declaration
11 or certiorari, or a remedy having the same
12 effect as a remedy that could be provided by
13 means of such a writ, in any court on any
14 account.
- 15 (2) Subsection (1) does not exclude or limit judicial review
16 for jurisdictional error.

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