



MESSAGE No. 131

Mr Speaker

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *High Risk Offenders Bill 2019* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

A handwritten signature in blue ink, appearing to read "K Doust".

Hon Kate Doust
President of the Legislative Council

Legislative Council Chamber
Perth, 25 June 2020

Schedule indicating the amendments made by the Legislative Council in the High Risk Offenders Bill 2019

No. 1

Clause 1, page 2, line 3 — To delete “*High Risk Offenders Act 2019*” and insert —

High Risk Serious Offenders Act 2019

No. 2

Clause 2, page 2, after line 7 — to insert —

(ab) section 90A — on the day after that day;

No. 3

Clause 2, page 2, after line 9 — To insert:

(2) However —

- (a) if no day is fixed under subsection (1)(b) before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, this Act is repealed on the day after that period ends; or
- (b) if paragraph (a) does not apply, and a provision of this Act does not come into operation before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, the provision is repealed on the day after that period ends.

No. 4

Clause 3, page 2, line 12 — To delete “(Sexual and Violent)” and insert:

Serious

No. 5

Clause 3, page 2, line 26 — To delete “*high risk offender*” and insert —

high risk serious offender

No. 6

Clause 6, page 6, line 26 — To insert after “found” —

not

No. 7

Clause 7, page 6, line 30 — To delete “*high risk offender*” and insert —

high risk serious offender

No. 8

Clause 8, page 8, line 11 — To delete “*persons of a particular class*” and insert —

high risk serious offenders

No. 9

Clause 8, page 8, line 15 — To delete “*persons of a particular class*” and insert —

high risk serious offenders

No. 10

Clause 14, page 11, line 1 — To delete “**(Sexual and Violent)**” and insert:

Serious

No. 11

Clause 14, page 11, line 5 — To delete “(Sexual and Violent)” and insert:

Serious

No. 12

Clause 33, page 25, lines 18 to 20 — To delete the lines and insert —

- (3) A person must not without reasonable excuse remove, or interfere with, or interfere with the operation of, an electronic monitoring device required to be worn or installed under section 31(3) in such a way as to prevent or impede monitoring of the offender’s location.

No. 13

Clause 33, page 25, line 22 — To delete “If” and insert:

Except as provided in subsection (4A), if

No. 14

Clause 33, page 25, after line 28 — To insert:

- (4A) If a term of imprisonment of at least 12 months would be clearly unjust given the circumstances of the offence and the person, the court may decide —
- (a) to sentence the person to a term of imprisonment of less than 12 months; or
 - (b) not to sentence the person to a term of imprisonment.

No. 15

Clause 46, page 34, line 26 — To insert after “high risk”:

serious

No. 16

Clause 48, page 36, line 9 — To insert after “high risk”:

serious

No. 17

Clause 62, page 44, line 21 — To delete “may” and insert:

must

No. 18

Clause 62, page 44, line 26 — To delete the line and insert:

- (b) that is withdrawn; or
- (c) to the extent that it contains material not relating to the need to ensure adequate protection of the victim.

No. 19

Clause 68, page 46, line 28 — To insert after “high risk”:

serious

No. 20

Clause 68, page 47, line 1 — To insert after “high risk”:

serious

No. 21

Clause 80, page 54, line 16 — To delete “If” and insert:

Except as provided in subsection (2A), if

No. 22

Clause 80, page 54, after line 22 — To insert:

- (2A) If a term of imprisonment of at least 12 months would be clearly unjust given the circumstances of the offence and the person, the court may decide —
- (a) to sentence the person to a term of imprisonment of less than 12 months; or
 - (b) not to sentence the person to a term of imprisonment.

No. 23

New Clause 90A, page 60, after line 24 — To insert:

90A Review of this Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review —
 - (a) as soon as practicable after the 5th anniversary of the day on which this section comes into operation; and
 - (b) after that, at intervals of not more than 5 years.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary or the expiry of the period of 5 years, as the case may be.
- (3) The Minister must transmit a copy of the report to the Clerk of a House of Parliament if —
 - (a) the report has been prepared; and
 - (b) the Minister is of the opinion that the House will not sit during the period of 21 days after the finalisation of the report.
- (4) A copy of the report transmitted to the Clerk of a House is taken to have been laid before that House.
- (5) The laying of a copy of a report that is taken to have occurred under subsection (4) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

No. 24

Clause 92, page 61, line 12 — To insert after “*High Risk*”:

Serious

No. 25

Clause 92, page 61, line 14 — To insert after “*High Risk*”:

Serious

No. 26

Clause 97, page 63, line 25 — To insert after “*High Risk*”:

Serious

No. 27

Clause 100, page 64, line 15 — To delete “(Sexual and Violent)” and insert:

Serious

No. 28

Clause 100, page 64, line 21 — To insert after “*High Risk*”:

Serious

No. 29

Clause 101, page 64, line 27 — To insert after “*High Risk*”:

Serious

No. 30

Clause 101, page 65, line 4 — To insert after “*High Risk*”:

Serious

No. 31

New Clause 102A, page 65, after line 10 — To insert:

102A. Section 4 amended

- (1) In section 4(2) insert in alphabetical order:

community has a meaning affected by subsection (4);

- (2) After section 4(3) insert:

- (4) A reference in this Act to the *community* includes any community and is not limited to the community of Western Australia or Australia.

No. 32

Clause 103, page 65, line 15 — To insert after “*High Risk*”:

Serious

No. 33

Clause 104, page 65, lines 17 to 26 — To delete the clause.

No. 34

New Clause 104, page 65, after line 26 — To insert:

104. Section 74A amended

- (1) In section 74A delete the definitions of *prisoner* and *serious violent offence*.
(2) In section 74A insert in alphabetical order:

prisoner means a person —

- (a) who is serving a fixed term for a serious offence; or
(b) who —
(i) is serving a fixed term for an offence or offences other than a serious offence; and
(ii) has been serving that term at all times since completing a fixed term for a serious offence;

serious offence has the meaning given in the *High Risk Serious Offenders Act 2019* section 5;

serious offender under restriction has the meaning given in the *High Risk Serious Offenders Act 2019* section 3.

No. 35

Clause 113, page 70, line 4 — To insert after “*High Risk*”:

Serious

No. 36

Clause 115, page 70, line 15 — To insert after “*High Risk*”:

Serious

No. 37

Clause 115, page 70, line 23 — To insert after “*High Risk*”:

Serious

No. 38

Clause 115, page 71, line 16 — To insert after “**High Risk**”:

Serious

No. 39

Clause 116, page 71, line 22 — To insert after “*High Risk*”:

Serious

No. 40

Clause 116, page 71, line 25 — To insert after “*Risk*”:

Serious

No. 41

Clause 116, page 71, line 28 — To insert after “*High Risk*”:

Serious

No. 42

Clause 117, page 72, line 7 — To insert after “*High Risk*”:

Serious

No. 43

Clause 118, page 72, line 15 — To insert after “*High Risk*”:

Serious

No. 44

Clause 118, page 73, line 6 — To insert after “*High Risk*”:

Serious

No. 45

Clause 119, page 73, line 15 — To insert after “*High Risk*”:

Serious

No. 46

Schedule 1, Division 2, Subdivision 1, page 80, after line 4, the Table after the 1st row before item 1 — To insert:

| | | | |
|-----|--------|----------|---|
| 1A. | s. 401 | Burglary | If within s. 401(1)(a) or (ba) or (2)(a) or (ba) (aggravated home burglary or aggravated burglary) and if the circumstances of aggravation are not merely being in company with another person or other persons |
|-----|--------|----------|---|

No. 47

Long Title, page 1 — To delete “persons of a particular class,” and insert:

high risk serious offenders,



Clerk of the Legislative Council