

WESTERN AUSTRALIA
LEGISLATIVE COUNCIL
AMENDMENTS AND SCHEDULES
Supplementary Notice Paper No. 137
Issue No. 12
TUESDAY, 17 MARCH 2020

HIGH RISK OFFENDERS BILL 2019 [137-1]

When in committee on the *High Risk Offenders Bill 2019*:

Clause 29

Hon Michael Mischin: To move —

23/29 Page 21, line 1 — To delete “standard”.

Clause 33

Leader of the House representing the Attorney General: To move —

5/33 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.

Leader of the House representing the Attorney General: To move —

6/33 Page 25, line 22 — To delete “If” and insert:

Except as provided in subsection (4A), if

Leader of the House representing the Attorney General: To move —

7/33 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.

Clause 46

Hon Michael Mischin: To move —

26/46 Page 34, line 26 — To insert after “high risk”:

serious

Clause 48

Hon Michael Mischin: To move —

29/48 Page 36, line 9 — To insert after “high risk”:

serious

Clause 56

Hon Michael Mischin: To move —

30/56 Page 41, line 5 — To delete “substantially”.

Hon Michael Mischin: To move —

31/56 Page 41, line 5 — To delete “standard”.

Hon Michael Mischin: To move —

32/56 Page 41, line 7 — To delete “standard”.

Clause 62

Hon Michael Mischin: To move —

33/62 Page 44, line 21 — To delete “may” and insert:

must

Clause 68

Hon Michael Mischin: To move —

36/68 Page 46, line 28 — To insert after “high risk”:

serious

Hon Michael Mischin: To move —

39/68 Page 47, lines 1 and 2 — To insert after “high risk”:

serious

Clause 80

Leader of the House representing the Attorney General: To move —

8/80 Page 54, line 16 — To delete “IF” and insert:

Except as provided in subsection (2A), if

Leader of the House representing the Attorney General: To move —

9/80 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.

Clause 82

Hon Aaron Stonehouse: To move —

3/82 Page 57, lines 1 to 3 — To delete the lines and insert:

- (2) Except as provided by section 7(1), subsection (1) does not require anything that is to be evidenced for the purposes of this Act to be evidenced to a standard higher than a high degree of probability.

New Clause 90A

Hon Aaron Stonehouse: To move —

4/NC90A Page 60, after line 24 — To insert:

90A. Review of Act

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as practicable after every 5th anniversary of the date on which this section comes into operation.
- (2) The Minister must prepare a report based on each review and cause it to be laid before each House of Parliament —
 - (a) as soon as practicable after the review is completed; but
 - (b) not later than 1 year after each 5 year anniversary.

New Clause 90A.**Hon Michael Mischin:** To move —**40/NC90** 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 section 48 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.

Clause 92**Hon Michael Mischin:** To move —**48/92** Page 61, line 12 — To insert after “*High Risk*”:*Serious***Hon Michael Mischin:** To move —**49/92** Page 61, line 14 — To insert after “*High Risk*”:*Serious***Clause 97****Hon Michael Mischin:** To move —**50/97** Page 63, line 25 — To insert after “*High Risk*”:*Serious***Clause 100****Leader of the House representing the Attorney General:** To move —**44/100** Page 64, line 15 — To delete “(Sexual and Violent)” and insert:

Serious

Hon Michael Mischin: To move —

51/100 Page 64, line 21 — To insert after “*High Risk*”:

Serious

Clause 101

Leader of the House representing the Attorney General: To move —

66/101 Page 64, line 27 — To insert after “*High Risk*”:

Serious

Leader of the House representing the Attorney General: To move —

67/101 Page 65, line 4 — To insert after “*High Risk*”:

Serious

New Clause 102A

Leader of the House representing the Attorney General: To move —

10/NC102 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.

Clause 103

Hon Michael Mischin: To move —

52/103 Page 65, line 15 — To insert after “*High Risk*”:

Serious

Clause 104**Leader of the House representing the Attorney General:****63/104** Page 65, lines 17 to 26 — To oppose the clause.**Leader of the House representing the Attorney General:** To move —**68/104** Page 65, line 21 — To insert after “*High Risk*”:*Serious***Leader of the House representing the Attorney General:** To move —**64/104** 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.**Hon Michael Mischin:** To move —**53/104** Page 65, line 24 — To insert after “*High Risk*”:*Serious***Clause 113****Hon Michael Mischin:** To move —**54/113** Page 70, line 4 — To insert after “*High Risk*”:*Serious*

Clause 115**Leader of the House representing the Attorney General:** To move —**69/115** Page 70, line 15 — To insert after “*High Risk*”:*Serious***Hon Michael Mischin:** To move —**55/115** Page 70, line 23 — To insert after “*High Risk*”:*Serious***Hon Michael Mischin:** To move —**56/115** Page 71, line 16 — To insert after “**High Risk**”:**Serious****Clause 116****Hon Michael Mischin:** To move —**57/116** Page 71, line 22 — To insert after “*High Risk*”:*Serious***Leader of the House representing the Attorney General:** To move —**70/116** Page 71, line 25 — To insert after “*Risk*”:*Serious***Hon Michael Mischin:** To move —**58/116** Page 71, line 28 — To insert after “*High Risk*”:*Serious***Clause 117****Hon Michael Mischin:** To move —**59/117** Page 72, line 7 — To insert after “*High Risk*”:*Serious*

Clause 118**Hon Michael Mischin:** To move —**60/118** Page 72, line 15 — To insert after “*High Risk*”:*Serious***Hon Michael Mischin:** To move —**61/118** Page 73, line 6 — To insert after “*High Risk*”:*Serious***Clause 119****Hon Michael Mischin:** To move —**62/119** Page 73, line 15 — To insert after “*High Risk*”:*Serious***Schedule 1, Division 1, Subdivision 3****Hon Michael Mischin:** To move —**41/S1** Page 79, before line 1, the Table after the 12th row item 35 — To insert:

35A.	s. 401	Burglary
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Schedule 1, Division 2, Subdivision 1**Hon Michael Mischin:** To move —**42/S1** 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), (ba) or (b), or (2)(a), (ba) or (b) (aggravated burglary or home burglary)
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Postponed Clause 11**Hon Michael Mischin:** To move —**65/11** Page 9, after line 22 — To insert:

- (4A) Despite anything in the *Director of Public Prosecutions Act 1991* Part 4, subsection (1) allows the Attorney General to bring an appeal under section 69 even if —
- (a) the appeal is against a decision made in proceedings taken by the Director of Public Prosecutions under subsection (2) or by the State Solicitor under subsection (3); or
 - (b) an authorisation under subsection (2) or (3) allows the Director of Public Prosecutions or the State Solicitor to bring the appeal.

Postponed Clause 14**Leader of the House representing the Attorney General:** To move —**46/P2H** Page 11, line 1 — To delete “(Sexual and Violent)” and insert:**Serious****Leader of the House representing the Attorney General:** To move —**47/14** Page 11, line 5 — To delete “(Sexual and Violent)” and insert:**Serious****Long Title****Hon Michael Mischin:** To move —**43/LT** Page 1, line 6 — To delete “persons of a particular class,” and insert:

high risk serious offenders,

**Recommitted Clause 3****Leader of the House representing the Attorney General:** To move —**45/3** Page 2, line 12 — To delete “(Sexual and Violent)” and insert:**Serious**