

Dangerous Sexual Offenders Amendment Bill 2012

CONTENTS

1.	Short title	2
2.	Commencement	2
3.	Act amended	2
4.	Section 5 amended	2
5.	Section 18 amended	2
6.	Sections 19A to 19C inserted	3
	19A. Electronic monitoring	3
	19B. Curfew	4
	19C. Enforcement of electronic monitoring and curfew requirement	6
7.	Section 40A amended	8
8.	Schedule 1 clause 2 inserted	8
	2. Provisions for <i>Dangerous Sexual Offenders Amendment Act 2012</i>	8

Western Australia

LEGISLATIVE ASSEMBLY

**Dangerous Sexual Offenders Amendment
Bill 2012**

A Bill for

An Act to amend the *Dangerous Sexual Offenders Act 2006* to provide for the imposition of curfew requirements on, and electronic monitoring of, certain dangerous sexual offenders, and for related purposes.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Dangerous Sexual Offenders Amendment Act 2012*.

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 *Dangerous Sexual Offenders Act 2006*.

11 **4. Section 5 amended**

12 In section 5(a) after “section” insert:

13

14 19C or

15

16 **5. Section 18 amended**

17 (1) In section 18(1):

18 (a) in paragraph (d) delete “officer;” and insert:

19

20 officer, which includes, comply with any reasonable
21 direction of the officer (including a direction for the
22 purposes of section 19A or 19B); and

23

24 (b) in paragraph (f) delete “order.” and insert:

25

26 order; and

27

- 1 (c) after paragraph (f) insert:
2
- 3 (g) be subject to electronic monitoring under
4 section 19A.
5
- 6 (2) Delete section 18(3) and insert:
7
- 8 (3) Without limiting subsection (2), the supervision order
9 may provide that —
- 10 (a) the person be subject to a curfew under
11 section 19B, for the period specified in the
12 order; and
- 13 (b) the photograph and locality of the person are
14 not to be published under the *Community*
15 *Protection (Offender Reporting) Act 2004*
16 section 85G.
17
- 18 (3) In section 18(1) after each of paragraphs (a) to (c) insert:
19
- 20 and
21
- 22 **6. Sections 19A to 19C inserted**
- 23 At the end of Part 2 Division 2 insert:
24
- 25 **19A. Electronic monitoring**
- 26 (1) The purpose of electronic monitoring of a person
27 subject to a supervision order is to enable the location
28 of the person to be monitored.

- 1 (2) For the purposes of the electronic monitoring of a
2 person, a community corrections officer may —
- 3 (a) direct the person to wear an approved electronic
4 monitoring device;
- 5 (b) direct the person to permit the installation of an
6 approved electronic monitoring device at the
7 place where the person resides or, if the person
8 does not have a place of residence, at any other
9 place specified by the community corrections
10 officer;
- 11 (c) give any other reasonable direction to the
12 person necessary for the proper administration
13 of the electronic monitoring of the person.
- 14 (3) In subsection (2) —
- 15 *approved* means approved by the chief executive
16 officer.
- 17 (4) A community corrections officer may suspend the
18 electronic monitoring of a person subject to a
19 supervision order —
- 20 (a) while satisfied that it is not practicable to
21 subject the person to electronic monitoring; or
- 22 (b) while satisfied that it is not necessary for the
23 person to be subject to electronic monitoring.

24 **19B. Curfew**

- 25 (1) The purpose of a curfew is to allow for the movements
26 of a person subject to a supervision order to be
27 restricted during periods when there is a risk of the
28 person committing a serious sexual offence.
- 29 (2) The curfew is a requirement that the person must
30 remain at a specified place, for specified periods,
31 subject to subsection (5).

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- 1 (3) In subsection (2) —
2 *specified* means specified by a community corrections
3 officer from time to time.
- 4 (4) The person is not to be required by the curfew to
5 remain at a place for periods that amount to less than
6 2 or more than 12 hours in any one day.
- 7 (5) The person may only leave the specified place during a
8 specified period —
- 9 (a) to obtain urgent medical or dental treatment for
10 the person; or
- 11 (b) for the purpose of averting or minimising a
12 serious risk of death or injury to the person or
13 to another person; or
- 14 (c) to obey an order issued under a written law
15 (such as a summons) requiring the person's
16 presence elsewhere; or
- 17 (d) for a purpose approved of by a community
18 corrections officer; or
- 19 (e) at the direction of a community corrections
20 officer.
- 21 (6) A community corrections officer may give any
22 reasonable direction to the person necessary for the
23 proper administration of the curfew requirement.
- 24 (7) Without limiting subsection (6), if the person is
25 authorised under subsection (5) to leave the specified
26 place, a community corrections officer may give
27 directions as to —
- 28 (a) when the person may leave; and
- 29 (b) the period of the authorised absence; and
- 30 (c) when the person must return; and
- 31 (d) the route and method of travel to be used by the
32 person during the absence; and

- 1 (e) the manner in which the person must report his
2 or her whereabouts.
- 3 **19C. Enforcement of electronic monitoring and curfew**
4 **requirement**
- 5 (1) A community corrections officer may —
- 6 (a) direct the occupier of a place where an
7 electronic monitoring device has been installed
8 under section 19A(2) to give the device to a
9 community corrections officer within a
10 specified time; and
- 11 (b) at any time, enter a place where an electronic
12 monitoring device has been installed under
13 section 19A(2) and retrieve the device.
- 14 (2) A person must not —
- 15 (a) fail to comply with a direction under
16 subsection (1)(a); or
- 17 (b) hinder a community corrections officer
18 exercising powers under subsection (1)(b).
- 19 Penalty: a fine of \$12 000 or imprisonment for
20 12 months.
- 21 (3) A person must not, without reasonable excuse,
22 unlawfully interfere with the operation of an electronic
23 monitoring device required to be worn or installed
24 under section 19A(2).
- 25 Penalty: imprisonment for 12 months.
- 26 (4) If a person is convicted of an offence under
27 subsection (3) committed at a time when the person
28 had reached 18 years of age, then, despite any other
29 written law, the court sentencing the person —
- 30 (a) must sentence the person to a term of
31 imprisonment of 12 months; and
- 32 (b) must not suspend the term of imprisonment.

- 1 (5) To ascertain whether or not a person who is subject to a
2 curfew is complying with the curfew, a community
3 corrections officer may, at any time —
- 4 (a) enter or telephone a place specified under
5 section 19B(2) in relation to the person;
- 6 (b) enter or telephone the person’s place of
7 employment or any other place where the
8 person is authorised or required to attend;
- 9 (c) question any person at any place referred to in
10 paragraph (a) or (b).
- 11 (6) A person must not —
- 12 (a) hinder a community corrections officer
13 exercising powers under subsection (5); or
- 14 (b) fail to answer a question put under
15 subsection (5)(c) or give an answer that the
16 person knows is false or misleading in a
17 material particular.
- 18 Penalty: a fine of \$12 000 or imprisonment for
19 12 months.
- 20 (7) An act or omission of a person subject to a supervision
21 order that is a contravention of subsection (2), (3)
22 or (6) —
- 23 (a) does not constitute an offence under this
24 section; but
- 25 (b) is, for the purposes of this Act, to be taken to be
26 a contravention of a requirement of the order (if
27 it is not otherwise).
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1 **7. Section 40A amended**

2 After section 40A(1) insert:

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4 (2A) If a person is convicted of an offence under
5 subsection (1) for an act or omission that is also a
6 contravention of section 19C(3) then, despite any other
7 written law, the court sentencing the person —

8 (a) must sentence the person to a term of
9 imprisonment of at least 12 months; and

10 (b) must not suspend the term of imprisonment.

11

12 **8. Schedule 1 clause 2 inserted**

13 After Schedule 1 clause 1 insert:

14

15 **2. Provisions for *Dangerous Sexual Offenders Amendment***
16 ***Act 2012***

17 (1) In this clause —

18 *commencement day* means the day on which the *Dangerous*
19 *Sexual Offenders Amendment Act 2012*, other than
20 sections 1 and 2, comes into operation.

21 (2) The validity of any requirement, under a supervision order,
22 in the nature of a curfew or electronic monitoring that was
23 in effect before commencement day is not affected by the
24 commencement of the *Dangerous Sexual Offenders*
25 *Amendment Act 2012*.

26 (3) If a person is subject to a supervision order that was in effect
27 immediately before commencement day then, on and from
28 commencement day, the person is subject to electronic
29 monitoring under section 19A during the remainder of the
30 term of the order, as if the person were required to be
31 subject to electronic monitoring by the order.

- 1 (4) Subclause (3) does not prevent a community corrections
2 officer from exercising his or her discretion under
3 section 19A(4) in relation to a person referred to in
4 subclause (3).
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