

# **Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014**

## **EXPLANATORY MEMORANDUM**

### **Outline**

The *Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014* (the Bill) amends *The Criminal Code* to —

- provide mandatory minimum sentences for specific serious offences of physical or sexual violence committed in the course of an aggravated home burglary. These minimum sentences would only apply to adults offenders (18 years of age or older) and juveniles offenders (between 16 years of age and 18 years of age); and
- revise the repeat offender ‘counting’ rules for the home burglary offence (‘the three strikes legislation’); and
- increase the mandatory minimum sentence for adult repeat home burglary offenders; and
- provide a clear distinction between aggravated home burglaries and aggravated burglaries of places other than dwellings.

The Bill also amends the *Sentencing Act 1995* to provide a minimum non-parole period of 15 years for adult offenders who committed murder in the course of an aggravated home burglary.

### **Clause Notes**

#### **Part 1 — Preliminary**

##### **Clause 1      Short title**

This clause cites the short title of the Act as the *Criminal Law Amendment (Home Burglary and Other Offences) Act 2014*.

##### **Clause 2      Commencement**

This clause provides that Part 1 of the Bill will commence operation when the Act receives the Royal Assent.

The remainder of the Bill will commence operation on a day to be fixed by proclamation. This is to allow the Government of Western Australia to undertake the measures necessary to ensure its operational readiness.

## **Part 2 — *The Criminal Code* amended**

### **Division 1 - Preliminary**

#### **Clause 3 Act amended**

This clause provides that this Part amends *The Criminal Code*.

### **Division 2 – Amendments relating to offences committed in the course of aggravated home burglary**

#### **Clause 4 Section 1 amended**

This clause inserts four new definitions of *adult offender*, *aggravated home burglary*, *home burglary* and *juvenile offender* in section 1(1) of *The Criminal Code*. These definitions have been inserted in various sections of *The Criminal Code* and are relevant to the proposed mandatory minimum terms of imprisonment and detention proposed throughout the Bill.

#### **Clause 5 Section 279 amended**

Subclause (1) amends section 279(4) of *The Criminal Code* to substitute the word “case” with the words “case, subject to subsection (5A)”.

Subclause (2) inserts new section 279(5A) in *The Criminal Code*, which provides that if the murder offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 15 years.

Subclause (3) inserts new sections 279(6A) and 279(6B) in *The Criminal Code*.

New section 279(6A) provides that if the murder offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 279(6B) provides that subsection (6A) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4) or a special order under Part 7 Division 9 of that Act. The former section enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*, and the latter division deals with young persons who repeatedly commits serious offences.

#### **Clause 6 Section 280 amended**

Subclause (1) amends section 280 of *The Criminal Code* to enable the insertion of new subsections.

Subclause (2) inserts new sections 280(2), 280(3) and 280(4) in *The Criminal Code*.

New section 280(2) provides that if the manslaughter offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 15 years.

New section 280(3) provides that if the manslaughter offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 280(4) provides that subsection (3) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4) or a special order under Part 7 Division 9 of that Act. The former section enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*, and the latter division deals with young persons who repeatedly commits serious offences.

**Clause 7      Section 281 amended**

This clause inserts new sections 281(3), 281(4) and 281(5) in *The Criminal Code*.

New section 281(3) provides that if the “unlawful assault causing death” offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 75% of the term specified in subsection (1).

New section 281(4) provides that if the “unlawful assault causing death” offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 281(5) provides that subsection (4) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4) or a special order under Part 7 Division 9 of that Act. The former section enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*, and the latter division deals with young persons who repeatedly commits serious offences.

**Clause 8      Section 283 amended**

Subclause (1) amends section 283 of *The Criminal Code* to enable the insertion of new subsections.

Subclause (2) amends section 283 of *The Criminal Code* to substitute the numbering list format with a letters list format.

Subclause (3) inserts new sections 283(2), 283(3) and 283(4) in *The Criminal Code*.

New section 283(2) provides that if the “attempt to unlawfully kill” offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 15 years.

New section 283(3) provides that if the “attempt to unlawfully kill” offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 283(4) provides that subsection (3) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4) or a special order under Part 7 Division 9 of that Act. The former section enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*, and the latter division deals with young persons who repeatedly commits serious offences.

**Clause 9      Section 294 amended**

Subclause (1) amends section 294 of *The Criminal Code* to enable the insertion of new subsections.

Subclause (2) amends section 294 of *The Criminal Code* to substitute the numbering list format with a letters list format.

Subclause (3) inserts new sections 294(2), 294(3) and 294(4) in *The Criminal Code*.

New section 294(2) provides that if the “act intended to cause grievous bodily harm or prevent arrest” offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 75% of the term specified in subsection (1).

New section 294(3) provides that if the “act intended to cause grievous bodily harm or prevent arrest” offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 294(4) provides that subsection (3) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4)

or a special order under Part 7 Division 9 of that Act. The former section enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*, and the latter division deals with young persons who repeatedly commits serious offences.

**Clause 10 Section 297 amended**

Subclause (1) substitutes sections 297(5), 297(6) and 297(7) of *The Criminal Code* with three new sections 297(5), 297(6) and 297(7).

New section 297(5) provides for the minimum penalty imposed on an adult offender who commits “grievous bodily harm” in specific circumstances.

Subsection (a) provides that if the “grievous bodily harm” offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 75% of the term specified in subsection (3) where the offence is committed in circumstances of aggravation, or at least 75% of the term specified in subsection (1) in any other case.

Subsection (b) provides that if the “grievous bodily harm” offence is committed by an adult offender in prescribed circumstances, the court must impose a minimum imprisonment penalty of at least 12 months and must not suspend the term of imprisonment imposed. This subsection has the same effect as the current section 297(7) of *The Criminal Code* but with altered wording.

New section 297(6) provides for the minimum penalty imposed on a juvenile offender who commits “grievous bodily harm” in specific circumstances.

Subsection (a) provides that if the “grievous bodily harm” offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

Subsection (b) provides that if the “grievous bodily harm” offence is committed by a juvenile offender in prescribed circumstances, the court must impose a minimum imprisonment or detention penalty of at least 3 months, must not suspend any term of imprisonment imposed, and must record a conviction against the offender. This subsection has the same effect as the current section 297(5) of *The Criminal Code* but with altered wording.

New section 297(7) provides that subsection (6) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4) or a special order under Part 7 Division 9 of that Act. The former section enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*, and the latter division deals with young persons who repeatedly commits serious offences.

Subclause (2) amends section 297(8) to substitute the words “subsections (5) and (7)” with “subsections (5) and (6)”.

**Clause 11 Section 320 amended**

This clause inserts new sections 320(7), 320(8) and 320(9) in *The Criminal Code*.

New section 320(7) provides that if one of the “sexual offences against a child under 13” is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 75% of the term specified in whichever of subsection (2), (3), (4), (5) or (6) constitutes the offence.

New section 320(8) provides that if one of the “sexual offences against a child under 13” is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 320(9) provides that subsection (8) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4), which enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*.

**Clause 12 Section 321 amended**

This clause inserts new sections 321(14), 321(15) and 321(16) in *The Criminal Code*.

New section 321(14) provides that if one of the “sexual offences against a child of or over 13 and under 16” is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 75% of the term specified in whichever of subsection (7) or (8) applies to the offence.

New section 321(15) provides that if one of the “sexual offences against a child of or over 13 and under 16” is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 321(16) provides that subsection (15) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4), which enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*.

**Clause 13 Section 324 amended**

Subclause (1) amends section 324 of *The Criminal Code* to enable the insertion of new subsections.

Subclause (2) inserts new sections 324(2), 324(3), 324(4) and 324(5) in *The Criminal Code*.

New section 324(2) provides that if the “aggravated indecent assault” offence is committed in the course of conduct that constitutes an aggravated home burglary it is not to be dealt with summarily.

New section 324(3) provides that if the “aggravated indecent assault” offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 75% of the term specified in subsection (1) (not being the term specified in the summary conviction penalty in that subsection).

New section 324(4) provides that if the “aggravated indecent assault” offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 324(5) provides that subsection (4) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4) or a special order under Part 7 Division 9 of that Act. The former section enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*, and the latter division deals with young persons who repeatedly commits serious offences.

**Clause 14 Section 325 amended**

Subclause (1) amends section 325 of *The Criminal Code* to enable the insertion of new subsections.

Subclause (2) inserts new sections 325(2), 325(3) and 325(4) in *The Criminal Code*.

New section 325(2) provides that if the “sexual penetration without consent” offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 75% of the term specified in subsection (1).

New section 325(3) provides that if the “sexual penetration without consent” offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the

offender.

New section 325(4) provides that subsection (3) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4) or a special order under Part 7 Division 9 of that Act. The former section enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*, and the latter division deals with young persons who repeatedly commits serious offences.

**Clause 15 Section 326 amended**

Subclause (1) amends section 326 of *The Criminal Code* to enable the insertion of new subsections.

Subclause (2) inserts new sections 326(2), 326(3) and 326(4) in *The Criminal Code*.

New section 326(2) provides that if the “aggravated sexual penetration without consent” offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 75% of the term specified in subsection (1).

New section 326(3) provides that if the “aggravated sexual penetration without consent” offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 326(4) provides that subsection (3) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4) or a special order under Part 7 Division 9 of that Act. The former section enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*, and the latter division deals with young persons who repeatedly commits serious offences.

**Clause 16 Section 327 amended**

Subclause (1) amends section 327 of *The Criminal Code* to enable the insertion of new subsections.

Subclause (2) inserts new sections 327(2), 327(3) and 327(4) in *The Criminal Code*.

New section 327(2) provides that if the “sexual coercion” offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 75% of the term specified in subsection (1).

New section 327(3) provides that if the “sexual coercion” offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 327(4) provides that subsection (3) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4), which enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*.

**Clause 17 Section 328 amended**

Subclause (1) amends section 328 of *The Criminal Code* to enable the insertion of new subsections.

Subclause (2) inserts new sections 328(2), 328(3) and 328(4) in *The Criminal Code*.

New section 328(2) provides that if the “aggravated sexual coercion” offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 75% of the term specified in subsection (1).

New section 328(3) provides that if the “aggravated sexual coercion” offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 328(4) provides that subsection (3) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4), which enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*.

**Clause 18 Section 330 amended**

This clause inserts new sections 330(10), 330(11) and 330(12) in *The Criminal Code*.

New section 330(10) provides that if one of the “sexual offences against incapable person” is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court must impose a minimum imprisonment penalty of at least 75% of the term specified in whichever of subsection (7) or (8) applies to the offence.

New section 330(11) provides that if one of the “sexual offences against incapable person” is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court must impose

a minimum imprisonment or detention penalty of at least 3 years, must not suspend any term of imprisonment imposed and must record a conviction against the offender.

New section 330(12) provides that subsection (11) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4), which enables the court to sentence offenders between 16 and 18 years of age to prison under the *Prisons Act 1981*.

### **Division 3 – Amendments relating to home burglary repeat offenders**

#### **Clause 19 Section 400 amended**

Subclause (1) inserts a new definition of *commencement day* in section 400(1) of *The Criminal Code*.

Subclause (2) deletes sections 400(3) and (4), which currently provide for the repeat offender rules for the purposes of Chapter XXXIX of *The Criminal Code*. New repeat offender rules are proposed in new sections 401A and 401B of *The Criminal Code* (Clause 20).

#### **Clause 20 Sections 401A and 401B inserted**

This clause inserts new sections 401A and 401B in *The Criminal Code*.

New section 401A provides for the definition of a *relevant conviction*. This definition constitutes the revised ‘counting’ rules for home burglary repeat offenders.

Subsection (1) provides the rules which determine when a person’s conviction for a home burglary constitutes a *relevant conviction* (colloquially known as a ‘strike’). There are different rules for home burglaries which were committed before the commencement day of the Bill or after the commencement day of the Bill. With the latter option, there are also different rules for different age groups.

Paragraph (a) provides that if the home burglary was committed **before** the commencement day of the Bill, a person’s conviction for a home burglary is a *relevant conviction* if it is the person’s first conviction for a home burglary (the person’s *first relevant conviction*) **or** it is the person’s first conviction for a home burglary committed after the date on which the person’s first relevant conviction was recorded (the person’s *second relevant conviction*) **or** if it is a conviction for a home burglary committed after the date on which the person’s second relevant conviction was recorded. This rule is similar to the current ‘counting’ rules in section 400(3) of *The Criminal Code*, but with altered wording.

Paragraph (b) provides that if the home burglary was committed **on or after** the commencement day of the Bill, the following rules will determine if a person's conviction for a home burglary is a *relevant conviction*: 1) if the person is an adult offender with respect to the home burglary, any conviction of a home burglary would be regarded as a *relevant conviction* 2) If the person is a juvenile offender (between 16 and 18 years of age) with respect to the home burglary, it will be a relevant conviction if it is the person's first conviction for a home burglary **or**, if at the time of the home burglary, the person already had a conviction for a previous home burglary 3) If the person had not reached 16 years of age at the time of the home burglary, it is a relevant conviction if it is the person's first conviction for a home burglary **or** it is the person's first conviction for a home burglary committed after the date on which the person's first relevant conviction was recorded (the person's *second relevant conviction*) **or** if it is a conviction for a home burglary committed after the date on which the person's second relevant conviction was recorded. The rule for persons who had not reached 16 years of age at the time of the home burglary is similar to the current 'counting' rules in section 400(3) of *The Criminal Code*, but with altered wording.

Subsection (2) provides that, in section 401A, a conviction includes a finding or admission of guilt that leads to a punishment being imposed on, or an order being made in respect of the person, whether or not a conviction was recorded. In addition, a conviction does not include a conviction that has been set aside or quashed. This subsection is identical to the current sections 400(4)(b) and (c) of *The Criminal Code*.

Subsection (3) provides that for the purposes of section 401A, convictions for 2 or more home burglaries committed on the same day on or after the commencement day are to be treated as a single conviction.

Subsection (4) provides for specific circumstances which enable the sentencing court to decide to impose a lesser sentence than the mandatory minimum sentence required by section 401(4).

Subsection (5) provides for the definition of *sentence completion date*, which is referred to in section 401A(4).

Subsection (6) provides that a court making the decision referred to in section 401A(4) must give written reasons for why the decision was made.

New section 401B provides for the definition of a *repeat offender*.

Subsection (1) provides that for the purposes of Chapter XXXIX of *The Criminal Code*, a person who is being sentenced for a home burglary (the *current offence*) is a *repeat offender* if the person has at least 3 relevant convictions.

Subsection (2) provides clarifications to the rule stipulated in section 401B(1).

Paragraph (a) provides that the person's conviction for the current offence, if it is a relevant conviction, is to be counted within the 3 relevant convictions required for a person to be a repeat offender in section 401B(1).

Paragraph (b) provides that each of the person's relevant convictions is to be counted, regardless of whether the home burglary to which it relates was committed before or after the date of any previous relevant conviction. This is intended to clarify that the proposed counting rules in section 401A do not necessarily follow the common law rule of Lord Coke, which holds that if a higher penalty is to apply for a second offence, the offender must have committed the offence after already having been convicted for the first.

Subsection (c) provides that each of the person's relevant convictions is to be counted, regardless of whether it has been counted on the occasion of sentencing for a previous home burglary to determine whether the person was, on that occasion, a repeat offender. This is intended to clarify that any relevant conviction can be counted again in future determinations whether a person is a repeat offender. This means that an offender who has been determined to be a repeat offender once will always be regarded as a repeat offender when they are convicted for another home burglary offence. This provision is similar to the current rule specified in the end of section 400(3) of *The Criminal Code*.

**Clause 21 Section 401 amended**

This clause amends section 401 of *The Criminal Code* which provides for the burglary offences.

Subclause (1) amends section 401(1) of *The Criminal Code* to provide a clear distinction between aggravated home burglaries and aggravated burglaries of places other than dwellings.

Subclause (2) inserts a new summary conviction penalty into section 401(1) of *The Criminal Code*, which provides that in a case to which paragraph (ba) applies where the only circumstance of aggravation is that the offender is in company with another person or other persons, a person is liable on summary conviction to 3 years' imprisonment and a fine of \$36,000. This amendment is consequential to the amendment made by subclause (1).

Subclause (3) amends section 401(2) of *The Criminal Code* to provide a clear distinction between aggravated home burglaries and aggravated burglaries of premises other than dwellings.

Subclause (4) inserts a new summary conviction penalty into section 401(2) of *The Criminal Code*, which provides that in a case to which paragraph (ba) applies where the only circumstance of aggravation is that the offender is in company with another person or other persons, a person is liable to 3 years imprisonment and a fine of \$36,000. This amendment is consequential to the amendment made by subclause (3).

Subclause (5) substitutes the existing section 401(4) of *The Criminal Code* with a new section that provides for revised mandatory minimum sentencing of home burglary repeat offenders.

Paragraph (a) provides that where a person convicted of a home burglary (“the current offence”) is a repeat offender, if the current offence was committed **before** the commencement day of the Bill, the court must impose 1 year of imprisonment on offenders who were adults at the time of committing the current offence, **or** 1 year of imprisonment or detention on persons who were under 18 years of age. These rules apply regardless of whether or not the conviction for the current offence is a relevant conviction, and are similar in effect to the current mandatory minimum sentencing regime in section 401(4) of *The Criminal Code*.

Paragraph (b) provides that where a person convicted of a home burglary (“the current offence”) is a repeat offender, if the current offence was committed **on or after** the commencement day of the Bill, the court must impose 2 years of imprisonment on offenders who were adults at the time of committing the current offence, **or** 1 year of imprisonment or detention on persons who were under 18 years of age. The rules apply regardless of whether or not the conviction for the current offence is a relevant conviction, and, in regard to persons under 18 years of age, the rules are similar in effect to the current mandatory minimum sentencing regime in section 401(4) of *The Criminal Code*.

Subclause (6) amends section 401(5) of *The Criminal Code* to substitute the word “shall” with the word “must”. This amendment is made for consistency with other provisions in *The Criminal Code* and does not change the substance of this section.

Subclause (7) amends section 401(6) of *The Criminal Code* to alter the structure of this section without any change to the content.

## **Division 4 – Other amendments**

### **Clause 22 Section 740B inserted**

This Clause inserts a new section 740B into *The Criminal Code* to provide for review of the operation and effectiveness of the amendments made to this Code and to the *Sentencing Act 1995* by the Bill. The Minister responsible for this legislation is to undertake the review as soon as possible after the fifth anniversary of the day on which section 4 of the Bill comes into operation, and to ensure that a report of the review is laid before each House of Parliament as soon as practicable after it is done.

### **Part 3 — *Sentencing Act 1995* amended**

#### **Clause 23 Act amended**

This clause provides that this Part amends the *Sentencing Act 1995*.

#### **Clause 24 Section 90 amended**

This clause substitutes the existing section 90(1)(a) of the *Sentencing Act 1995* with a new section, which provides that if the murder offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, a court that sentences an offender to life imprisonment for that offence must set a minimum period of at least 15 years that the offender must serve before being eligible for release on parole. As stipulated in the existing section 90(1)(a) of the *Sentencing Act 1995*, if the murder offence is committed in any other circumstances, the court must set a minimum period of at least 10 years that the offender must serve before being eligible for release on parole.

Note that the option for a court that sentences an offender to life imprisonment for murder to order that the offender must never be released, under section 90(1)(b), is retained.