

Tabled, by leave,

MS Shurpe

CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT BILL 2024**STATEMENT OF PUBLIC INTEREST**

Clerk of the Parliament

12/2/2025

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Crimes (Administration of Sentences) Amendment Bill 2024 is part of a reform package designed to improve transparency and integrity in Corrective Services NSW (CSNSW), including providing clarity on current powers and functions necessary to manage inmates. The Bill also demonstrates the NSW Government's ongoing commitment to respond to the findings and recommendations of the *Report of the Special Commission of Inquiry into Offending by Former Corrections Officer Wayne Astill at Dillwynia Correctional Centre (Astill Inquiry)*.

The Bill amends the *Crimes (Administration of Sentences) Act 1999 (CAS Act)* to:

- Implement recommendation 4 from the Astill Inquiry by amending the misconduct offence under s.236Q of the CAS Act to expressly prohibit correctional employees engaging in an intimate relationship or sexual conduct with an inmate (this is currently only prohibited if the sexual conduct causes a risk to the safety, security or good order of a correctional centre, or compromises the proper administration of a sentence). Further to the Astill Inquiry, a correctional employee who is in a pre-existing relationship with a person who becomes an inmate will not commit an offence for continuing an intimate (non-sexual) relationship, except in certain circumstances.
- Require that services or activities approved by the Minister as 'community service work' are published in the Gazette and on a website administered by CSNSW.
- Provide that if a warrant of commitment issued under the *Crimes (Sentencing Procedure) Act 1999* does not identify the correctional centre an offender should be committed to, the Commissioner of Corrective Services can direct that an inmate be committed and conveyed to any correctional centre.
- Clarify that provisions in the Crimes (Administration of Sentences) Regulation 2014 (**CAS Regulation**) are expressly supported by the regulation making powers in the CAS Act, rather than relying on broad regulation-making powers, such as those relating to the management and administration of correctional facilities.

Objectives: What is the policy's objective couched in terms of the public interest?

The Bill aims to provide greater clarity and transparency to the operations and procedures of CSNSW operations, including the current arrangements and powers necessary to manage inmates. It also aims to ensure the ongoing validity of regulation making provisions relating to CSNSW operations.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The policy objectives of the reform can only be achieved through legislative amendment to the CAS Act.

Analysis: What were the pros/cons and benefits/costs of each option considered?

Amending the misconduct offence under section 236Q of the CAS Act to implement Recommendation 4 of the Astill Inquiry will expressly prohibit correctional employees engaging in sexual conduct with an inmate or commencing an intimate (non-sexual) relationship with an inmate. The offence is currently drafted such that these types of relationships are only prohibited if the sexual conduct or relationship causes a risk to the safety, security or good order of a correctional centre, or compromises the proper

administration of a sentence. This amendment will remove a possible barrier to prosecuting highly inappropriate relationships between correctional staff and inmates.

The amendment requiring that services or activities approved by the Minister as 'community service work' be published will enable greater transparency of CSNSW operations and assist community understanding of the kinds of activities that can be undertaken if community service work is required as part of a sentence.

The amendment enabling the Commissioner of Corrective Services to direct inmates to be conveyed to any correctional centre where a warrant of commitment does not identify the correctional centre reflects best practice as the Commissioner is best placed to determine the appropriate correctional centre.

The machinery-type amendments, which primarily relate to regulation-making powers and provisions in the CAS Regulation, will provide greater certainty and operational clarity to CSNSW. These amendments will ensure that CSNSW can continue to exercise key powers and functions necessary for the management of inmates.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The amendments in the Bill will commence by proclamation. As the CAS Act governs the NSW correctional system, sufficient time is required to ensure necessary updates to systems, procedures and training can be made to implement these reforms. Additionally, amendments to the CAS Regulation may be required to support the amendments in the Bill.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Bill was developed in consultation with key NSW Government agencies, such as Corrective Services NSW, Youth Justice NSW, the Inspector of Custodial Services and the Ombudsman. Key legal and advocacy organisations were also consulted, including the Public Service Association, Legal Aid, Bar Association, Law Society, Domestic Violence NSW, the Justice Reform Initiative, Homicide Victims Support Group and the Community Justice Coalition. Feedback from stakeholders was considered when drafting the Bill.

The Parliamentary Counsel's Office was closely consulted in relation to the amendments to clarify the regulation making powers.