



Parole and Sentencing Reforms 2006

Overview of changes

BACKGROUND

On 5 April 2005, the State Government announced the establishment of the *Inquiry into the Management of Offenders in Custody and in the Community* – Justice Denis Mahoney was appointed as ‘special inquirer’.

Justice Mahoney reported to the Premier in November 2005 making 148 recommendations.

On 21 November 2005 Cabinet endorsed the Government’s response to the Inquiry report. Among the major initiatives announced were the:

- Department of Justice to split into Department of the Attorney General and Department of Corrective Services.
- Establishment of Prisoners Review Board to replace Parole Board –to provide a greater focus on community safety and increased transparency to the community.
- Development of a Corrective Services Act to amalgamate the *Prisons Act 1981* and the *Sentence Administration Act 2003*.

RESPONSE TO DATE

The Department of the Attorney General and the Department of Corrective Services were established on 1 February 2006.

In addition, legislative changes have been presented to Parliament or are being developed.

1. *Parole & Sentencing Legislation Amendment Act 2006* (Passed by Parliament, scheduled for proclamation in early 2007).

The main reforms include –

- the establishment of the Prisoners Review Board (PRB) to replace the existing Parole Board
- the appointment of a victims’ representative to the PRB
- the legal requirement for the PRB to consider victim issues when making a decision, including submissions received from victims
- ongoing training and education for all PRB members
- the transfer of chief executive officer (CEO) parole responsibility to the PRB
- provisions for case management and earlier review of serious offenders by the PRB
- the establishment of legislative authority around re-socialisation programs for serious offenders
- the abolition of re-entry release orders for prisoners serving parole terms.

2. *Prisons & Sentencing Legislation Amendment Bill 2006* (Currently being considered by the Legislative Council).

Main reforms include:

- broadening the capacity to grant temporary absences from prison
- comprehensive provisions for the exchange of information to facilitate offender management, research and victim support
- enhanced rehabilitation and wellbeing provisions for prisoners
- establishing work camps as external facilities to prisons
- the authority to withhold prisoners mail
- consequential amendments to other Acts required as a result of the separation of the Department of Justice into the Department of Corrective Services and the Department of the Attorney General.

3. Development of Corrective Services Act. .

Once developed, the Corrective Services Act will amalgamate the *Sentence Administration Act 2003* and the *Prisons Act 1981*, as amended by Parole and Prisons Bills, and will also:

- establish purposes and guiding principles for the legislation
- reform the process of prisoner discipline
- transfer the employment of prison officers from the Minister to the Department of Corrective Services.

The remaining information on this overview relates to reforms resulting from the *Parole & Sentencing Legislation Amendment Act 2006*

KEY REFORMS 1 – PRISONERS REVIEW BOARD

Membership

The establishment of the Prisoners Review Board includes the appointment of a full-time serving Judge as **Chairperson** (in the past, a part-time, retired judge has acted as Chair).

At least two **Deputy Chairpersons**, with extensive and special knowledge of the PRB's functions, will be appointed to the PRB. This will enable:

- more flexible meeting structures
- a greater number of meetings with smaller caseloads
- the Chair to be more involved with public engagement
- the Chair to review PRB decisions.

Additionally, **community members** with specific skills will be appointed to the PRB, including a victims' representative and an Aboriginal person. The Government will appoint as many community members as required to deal with the workload of the PRB. All members will receive ongoing training and professional development.

As recommended by the Mahoney Inquiry, the PRB will continue to have representatives of the **Department of Corrective Services** and the **WA Police** as members.

Operation

Although the Parole Board has always been mindful of community safety, it is now a legislative requirement for the PRB, or any other person performing functions under the Act, to regard **community safety as the paramount consideration** when

making any decision. This applies to officers undertaking assessments and providing advice to the PRB and supervising parolees in the community, for example.

Similarly, the consideration of **victims' submissions** will now be a legislative requirement. This does not necessarily mean that a prisoner will not be released, but it is likely to have impact on the conditions of release.

Parole considerations will now be known as **release considerations**. The change of name reflects the relevance of the considerations to all PRB decisions, not just parole decisions.

The PRB's **reporting requirements** in the Department of the Attorney General's annual report have been expanded from 3 to 12 items. Much greater detail is required regarding prisoners' eligibility for various orders, the PRB's decisions and prisoners' performance on early release orders.

The PRB may now refer to external **experts or professionals** to give additional advice in relation to individual prisoners, or to assist in the operation of the PRB generally.

All PRB **decisions can be reviewed** on written request from a prisoner, by the Chairperson or Deputy Chairperson, on delegation by the Chair.

KEY REFORMS 2 – OTHER REVIEW BOARDS

Changes to Supervised Release Review Board and Mentally Impaired Accused Review Board include:

- the appointment of a victims' representative to each of the Boards
- the mandatory consideration of victims' submissions.

KEY REFORMS 3 – SERIOUS OFFENDERS

Prisoner review

The PRB, as it considers necessary, will review certain prisoners early and throughout their sentence. This possible review applies to prisoners serving:

- life and indefinite sentences
- fixed term sentences with a minimum period in custody of 7 or more years (both parole and non-parole terms).

This will enable greater PRB involvement in the case management of serious offenders and result in prisoners and staff better understanding the PRB's requirements and expectations prior to release.

Re-socialisation programs (RSPs)

Re-socialisation programs were previously known as pre-release programs and were renamed to better reflect their intent. They will apply to the same groups of prisoners as described above.

They aim to help long term prisoners gradually reintegrate into the community. Among other things, RSPs can help re-establish contact with family and friends, sort out finances (banking and Centrelink payments) and make future job plans.

A RSP will include stages of varying lengths that contain a range of programs and activities. Each RSP will be designed to address the needs of the **individual** prisoner, including any risks the prisoner may pose to the community.

All life and indefinite sentence prisoners will be assessed for suitability for a RSP two years prior to their statutory review date (the date they become eligible for release on parole).

Prisoners subject to fixed term sentences will be assessed only if the PRB requests an assessment.

KEY REFORMS 4 – EARLY RELEASE ORDERS

CEO Parole

The Mahoney inquiry recommended that the parole system be simplified where possible. In response to this aim, CEO parole is now known as short term parole and, to align it with all other parole decisions, it becomes the responsibility of the PRB.

Short term parole will continue to apply to prisoners who are serving a term (or the total of a prisoner's terms) of less than 12 months.

The PRB **may** make a short term parole order in the case of a prescribed prisoner.

A prescribed prisoner means a prisoner who –

- is serving a term for a serious offence (usually a sexual or violent offence)
- was released from serving a term for a serious offence in the past 5 years, or
- was subject to an early release order that was cancelled in the past 2 years.

For all other prisoners subject to short term parole, the PRB **must** make a parole order when half the sentence has been served, unless:

- the prisoner is remanded in custody on other matters, or
- transport arrangements warrant a deferral of release on parole for up to 7 days.

Re-entry Release Orders (RROs)

There have been changes to the category of prisoner eligible for RROs.

Parole term prisoners are no longer eligible for RROs.

Prisoners may apply to the PRB to be released under a RRO if:

- they were sentenced on or after the proclamation date
- they are **not** eligible for parole
- they are **not** serving a life or indefinite term of imprisonment
- they will have been in continuous custody under sentence for at least 12 months when the RRO starts, and
- they will have completed their sentence and be eligible for release to freedom within 6 months of the start of the RRO.

Prisoners sentenced before the proclamation date and serving fixed term sentences **with** parole eligibility, will still be eligible for a RRO.

KEY REFORMS 5 – CHANGES TO SENTENCING ACT 1995

Aggregate short term sentences

Under previous legislation, prisoners lost their automatic parole eligibility when they received combined short term sentences of 12 months or more.

To overcome this issue, a court can consider parole eligibility when it imposes a sentence that, in addition to a previous sentence, delivers a total sentence of 12 months or over.

Given that this provision only relates to short term sentences, the offences are likely to be at the lesser end of the severity scale and it is considered appropriate for the sentencing court to consider the question of parole eligibility.

This change is designed to give less serious offenders a rehabilitation opportunity and to help reduce the rate of imprisonment.

Pre-sentence Orders (PSOs)

PSOs were introduced in 2003 to enable a court to defer imprisonment and give offenders an opportunity to undertake programs that address their offending behaviour.

If a prisoner successfully completes a PSO, it may reduce the penalty when sentencing eventually occurs.

Under the new legislation, a court can no longer impose a PSO for an offender who was on parole or subject to a suspended imprisonment order at the time of committing the current offence.

A prisoner under either of those orders has already been provided with an opportunity to address their offending behaviour, and as a term of imprisonment will breach the previous order, it is considered inappropriate to impose a PSO in these cases and further delay the sentencing process.

FURTHER INFORMATION

Further information is available by contacting Angela Rabbitt on 9264 1855

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