

**DANGEROUS CRIMINALS AND HIGH RISK OFFENDERS AMENDMENT
BILL 2025 (No. 46)**

Second Reading

[2.59 p.m.]

Mr BARNETT (Lyons - Minister for Justice, Corrections and Rehabilitation) -
Honourable Speaker, I move -

That the bill be now read the second time.

The amendments contained in this bill are the same as those that were included in the Dangerous Criminals and High Risk Offenders Amendment Bill 2025 that I introduced into parliament earlier this year, but which lapsed with the calling of the 2025 state election. This bill makes several amendments to the *Dangerous Criminals and High Risk Offenders Act 2021* about the making and operation of high-risk offenders' orders.

The act commenced in December 2021 providing for the Supreme Court to make dangerous criminal declarations or high-risk offender orders in relation to certain offenders following an application from the Director of Public Prosecutions (DPP).

Dangerous criminal declarations have the effect of detaining an offender in custody indefinitely after all of their relevant custodial sentences have expired, subject to regular reviews by the court to determine if the declaration remains necessary. Dangerous criminal provisions were previously contained in the *Sentencing Act 1997* but were repealed so that updated and improved provisions could be included in the new standalone legislation.

The *Dangerous Criminals and High Risk Offenders Act* also introduced a second-tier scheme for high-risk offenders to provide for post-sentence supervision of serious sex or violent offenders in the community, subject to various conditions imposed through a high-risk offender order.

This second-tier scheme applies to serious offenders who do not meet the threshold for indefinite detention but nevertheless are considered to pose an unacceptable risk of committing another serious offence unless they are made subject to a high-risk offender order. A high-risk offender (HRO) order may also operate as a step-down mechanism for the court to consider when reviewing a dangerous criminal declaration.

A high-risk offender order may be made for a period of up to five years and it is possible for the DPP to apply for a further high-risk offender order to enable continued supervision beyond the period of an initial order.

An interim HRO order may be made in circumstances where the DPP has applied for an HRO order, but it appears to the court that the application will not be determined before the offender has been released from custody or made subject to an HRO order. An interim HRO order may not be less than three months or more than six months in duration, unless the court considers that a longer operational period is warranted.

The amendments in this bill only apply to the high-risk offender order provisions of the act and not to dangerous criminal declarations. I will now outline the key clauses in the bill.

Schedule 1 to the act lists those offences that are considered to be serious offences for purposes of the act. The term 'serious offence' is defined in section 3 and appears throughout part 3 of the act in relation to high-risk offender orders. In particular, the term is used in section 24 to define who is a relevant offender, who in turn determines whether an application for an HRO order can be made in relation to that person.

Clause 4 of the bill replaces the current definition of 'serious offence' with an expanded definition that includes an offence of attempting to commit an offence against the provision listed in Schedule 1. This means that where an offender has been convicted for attempting one of these crimes, they may be considered eligible for a high-risk offender order application by the DPP.

This amendment addresses the current gap where, for example, a person could be considered eligible for a high-risk offender order on the basis of having been convicted of murder, but not on the basis of having been convicted of attempted murder, where the intent to commit a violent act may be indistinguishable regardless of the outcome.

Another example would be where an offender has been convicted of multiple attempted rapes over a period of time, but because the sexual act was never completed in any of these attempts, the offender would not have committed a serious offence for the purposes of the act and could not be considered for a high-risk offender audit based on that offending alone.

While this amendment slightly broadens the range of offenders who may be considered for a high-risk offender order, it remains at the discretion of the DPP to decide whether to apply for an order in relation to any particular offender based on their individual circumstances and risk profile.

Honourable Speaker, clause 5 of the bill inserts a new subsection (4) into section 35 of the act to provide that when making an HRO order, the court may order that the offender is detained for a period of not more than seven days beyond the day on which they would cease to be in custody, if it is satisfied that such a period of time is required to make arrangements to give effect to the conditions imposed under the order.

Related amendments concerning the issue of a warrant of committal are also included through the insertion of new subsections (5) and (6) to ensure that any extended period of detention is properly authorised. These amendments mirror the existing provisions in section 37 of the act that apply to interim high-risk offender orders. As with section 37, the amendments are designed to facilitate the successful release from custody persons subject to high-risk offender orders so as to avoid a lack of suitable arrangements leading to a breach of conditions. It is important to note that this limited extension of the detention period may only be granted where the court considers it is necessary. It will not occur by default or simply as a matter of course.

I now turn to clause 6 of the bill which amends section 39 of the act. Under section 39, a high-risk offender order or an interim high-risk offender order is suspended when the offender who is subject to that order is in lawful custody - for example, if they are remanded in custody when charged with a crime or sentenced to a custodial term.

Suspension means that the order remains in place but the obligations under that order, such as reporting to a probation officer or residing at certain premises, are suspended. This ensures that an offender is not found in breach of the conditions of their order simply because they are physically unable to meet these conditions due to being held in custody. Interim high-risk offender orders are not normally made for a period of more than six months.

Section 39(5) provides that if an interim high-risk offender order is suspended for a period, the operational period is extended by the period. This means that if an offender subject to an interim high-risk offender order is placed in custody, time stops running for the order and then resumes again when the offender is released. This ensures that the relatively short duration of an interim high-risk offender order does not completely expire during any custodial period.

Subsection (5) is intentionally drafted to apply only to interim high-risk offender orders and not high-risk offender orders, which may have an operational period of up to five years. Where an offender subject to a high-risk offender order is placed in lawful custody, their obligations under the order are suspended, but the time period of the audit continues to run. Despite this deliberate drafting, questions were raised within my Department of Justice around the desirability of explicitly reflecting this intention in the act for the removal of any doubt.

Clause 6 of the bill inserts a new subsection into section 39 of the act to make this clear and unambiguous. I note that this is not a change of policy but rather confirms the policy intent when the act was originally passed by the parliament and reflects the distinction between high-risk offender orders and interim high-risk offender orders. The high-risk offender order provisions are premised on the court being able to satisfy itself in relation to the risk profile the offender at the time the court makes the order.

If section 39(5) were to apply to high-risk offender orders as well as interim high-risk offender orders, it could potentially extend the high-risk offender order's operational period and its obligations on the offender well beyond what the court considered appropriate at the time the order was made.

Finally, I turn to clause 7 of the bill, which expands the list of serious offences within Schedule 1 of the act to include 18 additional offences relating to children and young people. This will enable an offender who has been convicted of one or more of these offences to be considered for a risk assessment by the High-Risk Offenders Assessment Committee and for the DPP to apply for a high-risk offender order in relation to such offenders. This is provided that they meet the other requirements for being a relevant offender as set out in section 24 of the Act.

This change delivers on the Government's 2024 election commitment to ensure that child sex-offenders can be assessed for the risk that they pose to the community, and the need for monitoring through high-risk offender order. As with the expansion to the definition of a serious offence to include attempts, this reform will broaden the range of offenders who may potentially be made subject to a high-risk offender order. However, whether a risk assessment is undertaken in relation to a particular offender will remain for determination by the Risk Assessment Committee. Similarly, whether an application for a high-risk offender order is ultimately made in relation to a particular offender will remain at the discretion of the DPP.

It is also important to note that none of the amendments in this bill make any change to the statutory test that the Supreme Court applies under section 35(2) of the act in deciding whether to make a high-risk offender order. Nor do they change the matters that the Court, under section 36, must have regard to in making that decision.

I thank all of the stakeholders who provided feedback during the development of this bill and the public consultation process. That feedback is always considered carefully and is an important part of improving and updating Tasmania's legislation.

I commend the bill to the House.

