

FACT SHEET

Community Protection (Offender Reporting) Amendment Bill 2024

The Community Protection (Offender Reporting) Amendment Bill 2024 (the Bill) amends the *Community Protection (Offender Reporting) Act 2005* (the Act).

The Act was initially introduced as an offender centric piece of legislation requiring offenders convicted of sexual and other serious offences, to be registered as reportable offenders and keep police informed of their personal details and whereabouts for a period of time. The Act has strict confidentiality provisions that limit the sharing of information between police in general and with child protection agencies.

In 2023 the Tasmanian Government committed to amend the Act and ensure that information is collected and recorded on the Register for use to safeguard children and uphold their right to be protected from the harms of sexual offending by known reportable offenders.

Key Elements of the Bill

The Bill broadens the purpose of the Act to explicitly include the object of the protection of children and the community from sexual harm caused by known offenders.

The Bill strengthens the wording of section 6 relevant to the court's decision to register a reportable offender, to align with national standards, and incorporates youth justice principles. The current section requires the court to register a person sentenced for a reportable offence unless satisfied that the person does not pose a future risk of committing a reportable offence. The Bill omits that section and instead, introduces a range of considerations tailored to youths, adults and different levels of offending, where the court's paramount focus must be the safety and protection of children and the community. The Bill expands the material that can be taken into account in deciding whether to register an offender to include prior convictions and previous orders. The duration of a reporting order has been amended to establish both upper and lower limits, corresponding to the severity of the offending.

Where the Commissioner is satisfied that a reportable offender poses a risk to the safety or wellbeing of any child or children and applies to the court to have the reportable offender placed on a community protection order under section 10A, the Bill establishes that the court can order electronic monitoring as a condition of the order, restrict internet access and require the surrender of any passport.

The Bill inserts Part 2A that provides a suite of powers for police to collect information from persons charged with reportable offences regarding any child related employment they are engaged in and any children with whom they have reportable contact. The section also provides for disclosure of the information collected under this part to employers, parents and guardians for the purpose of protecting children including that Police are required to report information to the Registrar under the *Registration to Work with Vulnerable People Act 2013*. This part also expressly excludes reportable offenders from engaging in work in child-related services. Offences are created under this part for unlawful disclosures.

The Bill improves the accuracy of personal information collected from reportable offenders under the Act with amendments to section 17, 18 and 19 that include:

- Relationship status must be reported.
- The name and address of any person they have a personal relationship with or are staying with for more than one night, and the names and ages of any children of the person.
- Amendments to keep abreast of technological advancements.
- The seizure of any working with vulnerable people card.
- Exact details of travel to be reported by a reportable offender including contact details, reason for travel, method of travel including booking details, the names and ages of travel companions and details of locations and contact with children consequential to travel.
- Whether they are subject to any electronic monitoring under any other Act. The Bill makes this data available to the Commissioner for the purposes of this Act.

The Bill mandates the flow of information and the sharing of information for the purposes of protecting children and the community and for monitoring offenders and preventing sexual abuse. The Bill provides that:

- All police officers will have access to information on the Register, including through the radio room so that they are alert and informed when they encounter or observe a reportable offender.
- There are clear requirements for the Registrar to provide information to the courts on application for matters that impact the safety and protection of children.
- The *Community Protection (Offender Reporting) Regulations 2016* are expanded in scope to include prescribed entities operating under reportable offender legislation, and child protection, ensuring a nationally consistent approach to information sharing.
- The Commissioner is able to publicly report on de-identified data related to offender monitoring and compliance, registration of reportable offenders, charges for offences under the Act, and disclosures of information. The data shared is to be de-identified and used for public education and reporting purposes.

The Bill requires the Commissioner to establish a set of guidelines about access to, and the verification and disclosure of, personal details in the Register that ensure that access to the personal information in the Register is restricted to the greatest extent possible without interfering with the purpose of the protection of children, adults and the community.

The Bill establishes a Disclosure Scheme that allows the public display of a reportable offender's details when their whereabouts are unknown. It also enables parents or guardians to inquire about an individual with regular unsupervised access to their child, to check if they are listed on the Community Protection Offender Register. To prevent the misuse of information, sections 34A and 34B are inserted, ensuring that any information disclosed from the Register cannot be used to harass a registered offender, thereby mitigating the risk of harm or physical danger.

The Bill amends, clarifies and combines the following police powers:

- Section 21, which grants police the power to take photographs and conduct non-intimate forensic procedures, now authorizes the use of reasonable force to carry out such procedures and to prevent the loss, destruction, or contamination of evidence. Additionally, it is now an offence for a person to refuse to comply with a request under this section.

- Powers of search and entry have been combined and clarified around monitoring and compliance of reportable offenders with their order.
- A new provision has been added to allow police to frisk search a reportable offender in some instances and police are empowered by the Bill to seize any items they reasonably believe may constitute evidence that the offender is committing an offence.
- The Bill also allows police to seize and retain devices for forensic examination in some instances.

The Bill mandates that reportable offenders must refrain from committing any additional reportable offences as part of their reporting obligations. It also strengthens penalties for non-compliance with the Act. Furthermore, the Bill amends section 11A of the *Sentencing Act 1997*, making the commission of a sexual offence by a reportable offender while subject to an order an aggravating factor at sentencing.

The Bill repeals and replaces the current schedules of offences, making several key changes. It reclassifies some offences for consistency with community expectations, separates child exploitation material offences committed by children from those by adults, and moves some serious adult-related offences to a higher severity schedule. The Bill also updates the schedules to reflect additional sexual offences and corrects drafting errors.

The legislative reforms enhance alignment with legislation in other Australian jurisdictions to ensure a path to a nationally consistent approach to the monitoring of offenders within and across state and territory borders.

The Bill will commence on a day or days to be proclaimed.