

Western Australia

**Community Protection (Offender Reporting)
Amendment Act (No. 2) 2012**

As at 03 Dec 2012

No. 54 of 2012

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Community Protection (Offender Reporting) Amendment Act (No. 2) 2012

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Western Australia

**Community Protection (Offender Reporting)
Amendment Act (No. 2) 2012**

No. 54 of 2012

An Act to amend the *Community Protection (Offender Reporting) Act 2004* and to make consequential amendments to the *Freedom of Information Act 1992*.

[Assented to 3 December 2012]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Community Protection (Offender Reporting) Amendment Act (No. 2) 2012*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

**Part 2 — Community Protection (Offender Reporting)
Act 2004 amended**

Division 1 — Main amendments

3. Act amended

This Part amends the *Community Protection (Offender Reporting) Act 2004*.

4. Section 3 amended

- (1) In section 3 in the definition of *past offender reporting order* delete “section 19;” and insert:

section 19 or 20A;

- (2) In section 3 in the definition of *public authority* delete paragraph (c) and insert:

- (c) a body, whether incorporated or not, or the holder of an office, being a body or office that is established for a public purpose under a written law and that, under the authority of a written law, performs a function on behalf of the State;

5. Section 7 amended

In section 7(b)(i) delete “longer period than he or she would be required to report under this Act; or” and insert:

particular period; or

6. Section 13 amended

- (1) In section 13(5) delete “must” and insert:

may

- (2) After section 13(6) insert:

(7A) If the order is not made at the time the person is sentenced for the offence, an application for the imposition of the order may be made to the court by the Commissioner —

- (a) within the period of 6 months after the person is sentenced for the offence; or
- (b) if the person is in government custody during all or any part of that period — within the period that begins when the person is sentenced for the offence and ends 6 months after the person ceases to be in government custody.

(7B) For the purposes of an application made under subsection (7A), the reference in subsection (4)(b) to the prosecution is taken to include a reference to the Commissioner.

(7C) Sections 16, 17, 18, 20 and 21 apply in relation to an application made under subsection (7A) —

- (a) as if any reference to a court in those sections were a reference to the court referred to in this section; and
- (b) as if any reference to a reporting order in those sections were a reference to an order made under this section; and

- (c) as if any reference to the respondent in those sections were a reference to the offender referred to in this section; and
- (d) with any other necessary modifications.

7. Section 14A inserted

At the end of Part 2 Division 1 insert:

14A. Consent orders

On an application under section 13(6) or (7A), a court may make an offender reporting order without being subject to section 13 if the applicant and the offender consent to the making of the order.

8. Section 17 amended

- (1) In section 17 delete “Evidence” and insert:

(1) Evidence

- (2) At the end of the section insert:

(2) An affidavit for use in the hearing must be confined to the evidence the person making it could give orally, except that it may contain statements based on information and belief if the person making the affidavit states the source of the information and the grounds for the belief.

(3) For the purposes of the hearing, the Commissioner is entitled, on request, to inspect or obtain a copy of any

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document relating to the respondent held by the
Children's Court —

- (a) that is part of the court record; or
 - (b) that was received by that court in sentencing proceedings.
- (4) In subsection (3) —
court record has the meaning given in the *Children's Court of Western Australia Act 1988* section 51A(1).
- (5) Subsection (3) does not limit the *Children's Court of Western Australia Act 1988* section 51A(3).

9. Section 19 amended

(1) In section 19(1):

- (a) after “that a person” insert:

(the *past offender*)

- (b) delete “person poses” and insert:

past offender poses

(2) After section 19(2) insert:

(3A) In deciding whether to make an order under this section in respect of an offence, the court may take into account the following —

- (a) any evidence given during proceedings for the offence;
- (b) any document or record (including an electronic document or record) served on the

past offender by the prosecution or the Commissioner;

- (c) any statement tendered, or deposition made, or exhibit tendered, at any proceedings in relation to the offence;
 - (d) the period of time since the offence was committed;
 - (e) the age of the past offender and the age of any victim of the offence at the time the offence was committed;
 - (f) the difference in age between the past offender and any victim of the offence;
 - (g) the seriousness of the past offender's total criminal record;
 - (h) any other matter the court considers relevant.
- (3B) The fact that an offence in respect of which a past offender has been found guilty becomes spent does not affect the consideration of the offence as part of the past offender's total criminal record for the purposes of subsection (3A)(g).

10. Section 20A inserted

After section 19 insert:

20A. Consent orders

- (1) In this section —
past offender has the same meaning as in section 19.
- (2) On an application under section 15, a court may make a reporting order without being subject to section 19 if the applicant and the past offender consent to the making of the order.

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11. Section 22 amended

In section 22(1)(b) delete “order,” and insert:

order under section 19,

12. Section 24 amended

(1) In section 24(1) delete “A” and insert:

Subject to subsection (2A), a

(2) After section 24(1) insert:

(2A) A reportable offender who must comply with the reporting obligations of this Act because of the making of an offender reporting order or a past offender reporting order must report his or her personal details to the Commissioner —

(a) within 7 days after the order is made; or

(b) if he or she is in government custody — within 7 days after ceasing to be in government custody.

(3) In section 24(2) delete “subsection (1),” and insert:

subsections (1) and (2A),

13. Section 26 amended

(1) In section 26(1):

(a) after paragraph (c) insert:

(daa) details of any passport that he or she holds, including its number and expiry date and the name of the country that issued it; and

(b) in paragraph (de)(i) delete “internet”;

(c) after paragraph (de) insert:

(df) any user name, code, password or other information that he or she uses to gain access to —

(i) the internet generally or a particular website, other than a website operated by an authorised deposit-taking institution, as defined in the *Banking Act 1959* (Commonwealth), or a website approved by the Commissioner under subsection (1b); or

(ii) an email address referred to in paragraph (db) or a communication service referred to in paragraph (de);

and

(d) after paragraph (e) insert:

(fa) the address of each of the premises at which —

(i) he or she is regularly present; and

(ii) any children generally reside;

and

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(2) After section 26(1a) insert:

(1b) For the purposes of subsection (1)(df)(i), the Commissioner may, at the written request of a reportable offender, approve a website used by the offender if the Commissioner is satisfied that the website is used by the offender only for lawful purposes in connection with recording financial information or making financial transactions.

(3) In section 26(2):

(a) in paragraph (a) delete “14 days” and insert:

7 days

(b) in paragraphs (b) and (c) delete “14 days” and insert:

3 days

(c) after paragraph (c) insert:

(da) a reportable offender is not regularly present at any premises unless he or she is present at those premises for at least 7 days (whether consecutive or not) in any period of 12 months;
and

(db) a child does not generally reside at any premises unless he or she resides at those premises for at least 3 days (whether consecutive or not) in any period of 12 months;
and

(d) in paragraphs (d) and (e) delete “14 days” and insert:

7 days

(e) after each of paragraphs (a), (b) and (c) insert:

and

14. Section 29 amended

(1) Delete section 29(1) and insert:

(1) A reportable offender must report to the Commissioner any change in his or her personal details —

(a) if subsection (2)(a) or (b) applies to the change, within 24 hours after that change occurs; or

(b) otherwise, within 7 days after that change occurs.

(2) In section 29(2):

(a) after paragraph (b) insert:

(ca) as to when the reportable offender is present at a place; or

(b) delete “14 day period referred to in section 26(2).” and insert:

7 day period referred to in section 26(2)(a), (da), (d) or (e) or the relevant 3 day period referred to in section 26(2)(b), (c) or (db).

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(c) after each of paragraphs (a) and (b) insert:

or

15. Section 37 amended

(1) In section 37(1) delete “this Part,” and insert:

Division 1,

(2) In section 37(3):

(a) after “If a report” insert:

under this Part

(b) in paragraph (b) delete “and” and insert:

and, if applicable,

16. Section 38 amended

(1) Delete section 38(1)(a) and insert:

(a) present for inspection to verify or support
details in the report —

(i) any passport that the reportable offender
holds; or

(ii) if the reportable offender does not hold
a passport — the identification
documents, relating to the identity of the
reportable offender, required by
subsection (2A);

and

(2) Delete section 38(1)(c) and insert:

- (c) if not the reportable offender — present for inspection —
 - (i) any passport that the person holds; or
 - (ii) if the person does not hold a passport — the identification documents, relating to the identity of the person making the report, required by subsection (2A).

(3) After section 38(1) insert:

(2A) For the purposes of subsection (1)(a)(ii) and (c)(ii), the identification documents required are —

- (a) any one of the following —
 - (i) a current driver's licence that displays a photograph or digital image of the licence holder;
 - (ii) an Australian naturalisation or citizenship document;
 - (iii) an original birth certificate or a certified copy, or certified extract, of a birth certificate;
 - (iv) a form of identification or document prescribed for the purposes of this paragraph;

and

- (b) any one of the following —
 - (i) a current signed credit or debit card, a passbook or a statement of account

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issued by a bank, building society or credit union;

- (ii) a current Medicare card;
- (iii) a gas, water, electricity or telephone account issued within 12 months before the report is made;
- (iv) a notice of rates from a local government (however described) or a notice of water service charges or land valuation;
- (v) a pensioner concession card, a Commonwealth seniors health card, an entitlement card issued under the *Veterans' Entitlements Act 1986* (Commonwealth) or another entitlement card issued by the Commonwealth government or a State or Territory government;
- (vi) a lease or rental agreement;
- (vii) a motor vehicle registration notice or certificate;
- (viii) a renewal notice for a home building or contents, or a motor vehicle, policy of insurance;
- (ix) a student identity card or a certificate or statement of enrolment from an educational institution;
- (x) an electoral enrolment card or other evidence of electoral enrolment;
- (xi) a form of identification or document prescribed for the purposes of this paragraph.

(2B) A form of identification or other document is not valid for the purposes of subsection (2A)(b)(iv) to (xi) unless

it was issued or entered into, as the case requires,
within 2 years before the report is made.

- (2C) Except as stated in subsection (2A)(a)(iii), a form of identification or other document is not valid for the purposes of subsection (2A) unless it is an original.

17. Section 40 amended

- (1) In section 40(2) delete “this section,” and insert:

subsection (1),

- (2) After section 40(2) insert:

(3) An authorised person may photograph any premises or vehicle included in the personal details reported by a reportable offender under this Part.

(4) Subsection (3) does not confer a power on an authorised person to enter any premises or vehicle.

18. Section 41 amended

- (1) In section 41(1) delete “or 40,” and insert:

or 40(1),

- (2) In section 41(2)(b) delete “section 40” and insert:

section 40(1)

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(3) In section 41(3) delete “or 40,” and insert:

or 40(1),

19. Section 49 amended

In section 49(1) delete “for the longer period (the *recognised foreign reporting period*) referred to in section 7(b)(i).” and insert:

for —

- (a) the period (the *recognised foreign reporting period*) referred to in section 7(b)(i); or
- (b) the period that, apart from this section, he or she would be required to report under this Act,

whichever is the longer period.

20. Section 62 amended

After section 62(1) insert:

- (2A) The approval of the suspension of a reportable offender’s reporting obligations under this Division also ceases to have effect if the Commissioner —
 - (a) is no longer satisfied that the reportable offender does not pose a risk to the lives or the sexual safety of one or more persons, or persons generally; and
 - (b) gives the reportable offender written notice to that effect.

21. Section 63 amended

- (1) In section 63(1) delete “an offence.” and insert:

a crime.

- (2) In section 63(1) delete the Penalty and insert:

Penalty: imprisonment for 5 years.

Summary conviction penalty: a fine of \$12 000 and
imprisonment for 2 years.

22. Section 64 amended

- (1) In section 64 delete “an offence.” and insert:

a crime.

- (2) In section 64 delete the Penalty and insert:

Penalty: imprisonment for 5 years.

Summary conviction penalty: a fine of \$12 000 and
imprisonment for 2 years.

23. Part 4A inserted

After section 79 insert:

Part 4A — Change of name

80A. Terms used

In this Part —

change of name application means an application proposed to be made by or in respect of a reportable offender for the registration of a change of the reportable offender's name for which approval is required under section 80C;

interstate Registrar means an authority responsible under a law of another State or a Territory for the registration of births, deaths and marriages;

Registration Act means the *Births, Deaths and Marriages Registration Act 1998*;

WA Registrar means the Registrar as defined in the Registration Act section 4.

80B. Application

This Part applies despite anything to the contrary in the Registration Act.

80C. Application for change of name by or in respect of reportable offender

- (1) A reportable offender must not —
 - (a) apply to the WA Registrar to register a change of his or her name under the Registration Act;
or
 - (b) apply to an interstate Registrar to register a change of his or her name under a law of

another State or a Territory that is the equivalent of the Registration Act,

without having first obtained the written approval of the Commissioner.

Penalty: a fine of \$12 000 and imprisonment for 2 years.

- (2) A person must not in respect of a reportable offender —
- (a) apply to the WA Registrar to register a change of the reportable offender's name under the Registration Act; or
 - (b) apply to an interstate Registrar to register a change of the reportable offender's name under a law of another State or a Territory that is the equivalent of the Registration Act,

without having first obtained the written approval of the Commissioner.

Penalty: a fine of \$12 000 and imprisonment for 2 years.

80D. Approval by Commissioner

- (1) A person may apply to the Commissioner for approval of a change of name application.
- (2) The application must be made in a manner approved by the Commissioner.
- (3) The Commissioner may approve a change of name application only if the Commissioner is satisfied that the change of name is in all the circumstances necessary or reasonable.
- (4) The Commissioner must not approve a change of name application if the Commissioner is satisfied that the

change of name would, if registered, be reasonably likely —

- (a) to be regarded as offensive by a victim of crime or a significant sector of the community; or
 - (b) to frustrate the administration of this Act in respect of the reportable offender who is the subject of the change of name application.
- (5) If the Commissioner approves a change of name application, the Commissioner must —
- (a) as soon as is practicable, give written notice of the approval to the person who made the application under subsection (1); and
 - (b) give a copy of the written notice of approval to the WA Registrar or the interstate Registrar, as the case requires.

80E. Registration of change of name

- (1) The WA Registrar must not register a change of name under the Registration Act if —
 - (a) the WA Registrar knows that the change of name relates to the name of a reportable offender; and
 - (b) the WA Registrar has not received a copy of the written notice of approval of the Commissioner under section 80D.
- (2) If the WA Registrar does not register a change of name because of the operation of subsection (1), the WA Registrar must give written notice to the Commissioner of the application to register the change of name.

80F. WA Registrar to correct Registration Act Register

- (1) In this section —

Registration Act Register means the Register referred to in the Registration Act section 49(1).

- (2) Without limiting the Registration Act section 51, the WA Registrar must correct the Registration Act Register under that section if the WA Registrar knows that —

- (a) the name of a reportable offender on the Registration Act Register has been changed on or after the commencement of this Part; and
- (b) the Commissioner has not approved that change under this Part.

80G. Exchange of information between Commissioner and WA Registrar

- (1) The Commissioner must notify the WA Registrar —

- (a) of the name (including any other name by which the reportable offender is or has previously been known of which the Commissioner is aware) and date of birth of every reportable offender; and
- (b) of an application made to the Commissioner to approve a change of name application.

- (2) Without limiting section 80E(2), the WA Registrar may notify the Commissioner of an application made to the WA Registrar to register a change of name that the WA Registrar suspects may relate to the name of a reportable offender.

- (3) The WA Registrar must maintain the confidentiality of any information given by the Commissioner under this Part.

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- (4) This section has effect despite any written or other law to the contrary.

24. Section 80 amended

In section 80(2)(d) delete “prohibition order” and insert:

protection order, or supervision order under the
Dangerous Sexual Offenders Act 2006,

25. Section 82 amended

In section 82(1):

- (a) after paragraph (c) insert:

(da) for the purpose of proceedings on an application for, or for the variation or revocation of, a protection order; or

- (b) after each of paragraphs (a), (b) and (c) insert:

or

26. Section 85 amended

In section 85 insert in alphabetical order:

authorised police officer means a police officer authorised in writing by the Commissioner for the purposes of the provision in which the term is used;

27. Section 86 amended

(1) In section 86 delete “Evidence” and insert:

(1) Evidence

(2) At the end of the section insert:

(2) An affidavit for use in the hearing must be confined to the evidence the person making it could give orally, except that it may contain statements based on information and belief if the person making the affidavit states the source of the information and the grounds for the belief.

(3) For the purposes of the hearing, the Commissioner is entitled, on request, to inspect or obtain a copy of any document held by the Children’s Court relating to the reportable offender —

(a) that is part of the court record; or

(b) that was received by that court in sentencing proceedings.

(4) In subsection (3) —

court record has the meaning given in the *Children’s Court of Western Australia Act 1988* section 51A(1).

(5) Subsection (3) does not limit the *Children’s Court of Western Australia Act 1988* section 51A(3).

28. Section 87 replaced

Delete section 87 and insert:

87. Commissioner may apply for orders

- (1) The Commissioner may apply to a court for a protection order —
 - (a) prohibiting a reportable offender from engaging in specified conduct; or
 - (b) requiring a reportable offender to comply with the orders of the Commissioner, as referred to in section 94A; or
 - (c) imposing on a reportable offender a prohibition under paragraph (a) and a requirement under paragraph (b).
- (2) If the reportable offender is in government custody, an application may be made for an interim protection order only if the offender is expected to be released from government custody within the period of 30 days after the application is made.

29. Section 90 amended

- (1) In section 90(1) delete “prohibition order prohibiting a person from engaging in conduct specified in the”.
- (2) After section 90(3)(f) insert:
 - (ga) any document or record (including an electronic document or record) served on the reportable offender by the Commissioner;

30. Section 91 amended

Delete section 91(2) and insert:

- (2) Subject to subsection (3), the term for which a child protection order remains in force is at the discretion of the court, but an application can be made for a further order.
- (3) The term for which a child protection order remains in force, including the term of any further order, cannot extend beyond the reporting period that applies to the reportable offender.

31. Section 92 amended

(1) Delete section 92(1) and insert:

- (1) A court may make an interim child protection order prohibiting a reportable offender from engaging in conduct specified in the order if it appears to the court that it is necessary to do so —
 - (a) to prevent an immediate risk to the lives or the sexual safety of one or more children, or children generally; or
 - (b) if the reportable offender is in government custody — to prevent such a risk from arising on the offender's release from government custody.

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(2) After section 92(4) insert:

- (5A) Despite section 88, a court sentencing a reportable offender for an offence may, after imposing the sentence —
- (a) hear an application for an interim protection order; and
 - (b) dispose of the application in accordance with section 89.

(3) In section 92(5)(a) delete “fix” and insert:

subject to subsection (6A), fix

(4) After section 92(5) insert:

- (6A) If the reportable offender is in government custody when an interim protection order is made, the court must fix the further hearing of the application for a time after the offender’s release from government custody.

32. Section 93 amended

(1) Delete section 93(1)(c) and insert:

- (ca) residing at a specified place;
- (cb) a person changing the place where he or she generally resides (as described in section 29A(1)) without first having obtained the permission of the Commissioner to do so;

- (cc) travelling out of Australia without first having obtained the permission of the Commissioner to do so;
- (cd) consuming or using alcohol, drugs or other specified substances;
- (c) engaging in other specified behaviour;

(2) In section 93(4) delete “a place” and insert:

a place, including a place where he or she resides,

(3) After section 93(5) insert:

- (6) A protection order may, in addition to or instead of prohibiting conduct, impose requirements on a reportable offender as the court considers appropriate to reduce the risk posed by the reportable offender to the lives or sexual safety of one or more children, or children generally.

33. Sections 94A, 94B and 94C inserted

After section 93 insert:

94A. Reportable offenders may be required to undergo assessment and treatment

- (1) Without limiting section 93(6), a protection order may require a reportable offender to comply with the orders of the Commissioner as to undergoing assessment by a medical practitioner, a psychiatrist, a psychologist or a social worker, or more than one of them and, if necessary, appropriate treatment.

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- (2) The Commissioner must not order a reportable offender to undergo treatment of any sort unless a person qualified to recommend or administer the treatment has recommended that the offender undergo that treatment.
- (3) A person must not administer treatment of any sort that is the subject of an order of the Commissioner without the informed consent of the reportable offender who is to undergo the treatment.
- (4) The requirement for a reportable offender to comply with the orders of the Commissioner as to undergoing any assessment or treatment ceases to be in force when —
 - (a) the Commissioner, on the recommendation of the person administering the treatment (if applicable), gives the offender notice to that effect; or
 - (b) the protection order, or that requirement imposed by the protection order, ceases to be in force,whichever happens first.
- (5) The regulations may —
 - (a) provide for the authorisation of absences from assessment or treatment required to be undergone by the orders of the Commissioner under subsection (1);
 - (b) regulate the consequences of injury or sickness with respect to complying with the orders of the Commissioner under subsection (1);
 - (c) prescribe the matters that a person providing assessment or administering treatment for the purposes of a protection order under this section must report to the Commissioner;

- (d) without limiting section 96, provide for the variation of protection orders under this section in relation to reportable offenders —
 - (i) who fail to comply with the orders of the Commissioner under subsection (1); or
 - (ii) whose compliance with those orders is affected by an authorised absence, injury or sickness,including the variation of protection orders by the imposition of additional requirements on those offenders;
- (e) authorise the Commissioner to approve forms for the purposes of this subsection.

94B. Reportable offenders may be required to submit to tests or give samples for analysis

- (1) If a protection order prohibits a reportable offender from consuming or using alcohol, drugs or any other specified substance, or requires a reportable offender to comply with an order of the Commissioner to undergo treatment that consists of or includes the taking of any specified medication, an authorised police officer may exercise the powers under this section to determine whether there is any evidence that the person has breached the order.
- (2) An authorised police officer may require the reportable offender to do one or more of the following —
 - (a) submit to a breath test or an oral fluid test;
 - (b) give a sample of the offender's blood, hair, urine or oral fluid for analysis.
- (3) A requirement under subsection (2)(b) must —
 - (a) state that the reportable offender is to accompany a police officer to a police station

or another specified place or specify the day on which and time and place at which the reportable offender is to attend; and

- (b) indicate what sample or samples are to be given.
- (4) If a requirement is made under subsection (2) —
- (a) any breath test or oral fluid test is to be conducted; and
 - (b) any sample is to be taken and dealt with, in accordance with the regulations.
- (5) A person who, without reasonable excuse, fails to comply with a requirement under subsection (2) commits an offence.
Penalty: a fine of \$12 000 and imprisonment for 2 years.
- (6) When requiring a reportable offender to submit to a test or give a sample under subsection (2), an authorised police officer must warn the offender that it is an offence to fail to comply with the requirement unless the offender has a reasonable excuse.
- (7) A person must not use a sample provided in compliance with a requirement under subsection (2) to obtain the DNA of the person who provided the sample.
Penalty: imprisonment for 12 months.
- (8) The regulations may provide for the following matters —
- (a) the manner of making requirements under subsection (2);
 - (b) the manner of conducting breath tests and oral fluid tests and taking, collecting or dealing with

- samples of blood, hair, urine and oral fluid and their analysis;
- (c) the authorisation of persons as analysts for the purposes of this section;
 - (d) the reporting of the results of breath or oral fluid tests or blood, hair, urine or oral fluid analysis;
 - (e) the collection, keeping and disposal of samples;
 - (f) the approval of equipment or apparatus for the purposes of testing or analysis;
 - (g) the devices used in conducting breath tests and oral fluid tests, including the calibration, inspection and testing of those devices;
 - (h) the requirement that a person who submits to a breath test or oral fluid test, or who gives a sample of blood, hair, urine or oral fluid for analysis, is to provide proof of his or her identity;
 - (i) the admissibility in any proceedings of certificate evidence, including certificate evidence of —
 - (i) the authorisation referred to in paragraph (c); and
 - (ii) the results referred to in paragraph (d); and
 - (iii) the approval referred to in paragraph (f).
- (9) The powers that a police officer may exercise under this section are in addition to, and do not derogate from, the powers that the police officer has under any other law.

94C. Authorised police officers may enter premises to inspect computers

(1) In this section —

computer includes any device capable of storing electronic data;

generally resides has the meaning given to that term in section 29A(1);

senior police officer means a police officer who is, or is acting as, a sergeant or an officer above the rank of sergeant.

(2) If a protection order prohibits conduct that relates to the use by a reportable offender of the internet, an authorised police officer may, at any time and without a warrant, enter premises where the offender generally resides and exercise a power under subsection (3) to determine whether there is any evidence that the offender has breached the order.

(3) The authorised police officer may —

- (a) inspect any computer that is at the premises; or
- (b) seize any computer at the premises and remove it from the premises for the purpose of inspecting it.

(4) The reportable offender must if required by the authorised police officer to do so —

- (a) provide the officer with any user name, code, password or other information the offender knows is needed to gain access to the electronic data stored in a computer; or
- (b) otherwise assist the officer to gain access to the electronic data stored in a computer.

Penalty: a fine of \$12 000 and imprisonment for 2 years.

- (5) If a person is found guilty of an offence —
- (a) under section 101 in relation to conduct of the kind referred to in subsection (2); or
 - (b) under subsection (4),
- in relation to a computer, the computer is forfeited to the State.
- (6) The *Criminal and Found Property Disposal Act 2006* applies to and in relation to a computer that is seized under subsection (3) or forfeited under subsection (5).
- (7) An authorised police officer may use reasonable force in the exercise of a power under subsection (2) or (3).
- (8) Unless the exercise of the power is authorised by a senior police officer, a power under subsection (2) or (3) must not be exercised in relation to particular premises more than once in any period of 12 months.
- (9) The powers that a police officer may exercise under this section are in addition to, and do not derogate from, the powers that the police officer has under any other law.

34. Section 101 amended

- (1) In section 101(1) delete “an offence.” and insert:

a crime.

- (2) In section 101(1) delete the Penalty and insert:

Penalty: imprisonment for 5 years.

Summary conviction penalty: a fine of \$12 000 and imprisonment for 2 years.

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(3) After section 101(1) insert:

(2A) Subsection (1) does not apply in relation to a failure to comply with an order of the Commissioner under section 94A(1) to undergo assessment or treatment.

35. Section 105 deleted

Delete section 105.

36. Section 110A inserted

After section 109 insert:

110A. Public authorities to provide Commissioner with certain information

(1) In this section —

application means —

- (a) an application under section 13(7A) for the imposition of an offender reporting order; or
- (b) an application under section 15 for an order that a person comply with the reporting obligations of this Act; or
- (c) an application for an order under Part 5;

management, of a reportable offender, includes monitoring the reportable offender's compliance with the reporting obligations of this Act.

- (2) The Commissioner may, by notice in writing, direct any public authority to provide to the Commissioner, on or before a day specified in the notice, any information held by the public authority that is relevant to —
 - (a) the assessment and management of a reportable offender; or
 - (b) the Commissioner's determination whether to make an application; or
 - (c) the Commissioner's making or responding to an application.
- (3) A public authority given a direction under subsection (2) is authorised and required to provide to the Commissioner the information sought by the direction.
- (4) A public authority is not required to give information that is subject to legal professional privilege.

37. Section 115B inserted

After section 115A insert:

115B. Further transitional arrangements for certain offenders sentenced for Class 2 offences

- (1) This section applies to a person —
 - (a) who was sentenced on or after the commencement day and before the day (the *relevant day*) on which the *Community Protection (Offender Reporting) Amendment Act (No. 2) 2012* section 38 came into operation for an offence (a *relevant offence*) against —
 - (i) *The Criminal Code* section 204A; or
 - (ii) *The Criminal Code* section 332 or 343, if the person against whom the offence

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was committed was, at the time the offence was committed, a child who was neither a de facto child nor lineal relative, as defined in *The Criminal Code* section 329(1), of the offender;

and

- (b) who is not, apart from this section, a reportable offender.
- (2) This section also applies to a person —
- (a) who would have been an existing controlled reportable offender on the commencement day if the amendments made to Schedule 2 by the *Community Protection (Offender Reporting) Amendment Act (No. 2) 2012* section 38 were in effect on that day; and
 - (b) who is not, apart from this section, a reportable offender.
- (3) If this section applies to a person, the person is taken for the purposes of this Act —
- (a) to be a reportable offender in respect of a Class 2 offence; and
 - (b) to have been sentenced for that offence on the relevant day.
- (4) Nothing in this section limits the operation of this Act in respect of a person who is sentenced for a relevant offence on or after the relevant day.

38. Schedule 2 amended

In Schedule 2:

- (a) after the item relating to *The Criminal Code* section 186
insert:

s. 204A Showing offensive material to child
under 16

- (b) after the item relating to *The Criminal Code*
section 331D insert:

s. 332 Kidnapping (if the person against whom the
offence is committed is a child who is
neither a de facto child nor lineal relative, as
defined in *The Criminal Code*
section 329(1), of the offender)

s. 343 Child stealing (if the child against whom the
offence is committed is neither a de facto
child nor lineal relative, as defined in
The Criminal Code section 329(1), of the
offender)

**Division 2 — Various references to “prohibition order” or
“prohibition orders” amended**

39. Section 3 amended

- (1) In section 3 delete the definition of *prohibition order*.
(2) In section 3 insert in alphabetical order:

protection order has the meaning given to that term in
section 85;

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40. Part 5 heading amended

In the heading to Part 5 delete “**Prohibition**” and insert:

Protection

41. Section 85 amended

(1) In section 85 delete the definitions of:

child protection prohibition order

corresponding prohibition order

interim prohibition order

prohibition order

(2) In section 85 insert in alphabetical order:

child protection order means a child protection order made under section 90 or 95(1);

corresponding protection order means an order made by a court of a foreign jurisdiction that falls within a class of orders that are prescribed by the regulations to be corresponding protection orders for the purposes of this Act;

interim protection order means an interim child protection order made under section 92 or 95(2);

protection order means a child protection order or an interim protection order;

(3) In section 85 in the definition of *registrar* delete “prohibition” and insert:

protection

- (4) In section 85 in the definition of *respondent*:
- (a) in paragraph (a) delete “prohibition” (each occurrence) and insert:

protection

- (b) in paragraph (b) delete “prohibition”.

42. Other references to “prohibition order” or “prohibition orders” amended

- (1) In section 108(1) and (2) delete “prohibition orders” (each occurrence) and insert:

protection orders

- (2) In the provisions listed in the Table delete “prohibition order” (each occurrence) and insert:

protection order

Table

s. 26(1)(j)	s. 59(1)(a), (2)(b)(i) and (3)
s. 62(1)(a), (2)(b)(i) and (3)	s. 88
s. 89(a)	s. 90(4)
s. 92(3), (4), (5) and (7)	s. 93(1), (2), (3), (4) and (5)
s. 94(1)	s. 95(2)
s. 100	s. 101(1)

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s. 102(1)(b)	s. 106(1)
s. 107(2) and (3)	s. 111(1)(e)

(3) In the provisions listed in the Table delete “prohibition”.

Table

s. 44(3) and (4)	s. 91(1)
s. 95(1)	s. 96(1) and (2)
s. 97(1) and (3)	s. 98(a)

Note: The headings to the amended sections listed in the Table are to read as set out in the Table.

Table

Amended section	Heading
s. 90	Court may make child protection orders
s. 91	Term of child protection orders
s. 92	Interim child protection orders
s. 96	Variation or revocation of child protection orders
s. 107	Protection orders have no effect to extent of inconsistency with certain other orders
s. 108	Recognition of protection orders made in other jurisdictions

Part 3 — *Freedom of Information Act 1992* amended

43. Act amended

This Part amends the *Freedom of Information Act 1992*.

44. Schedule 1 clause 14 amended

In Schedule 1 clause 14(5):

(a) in paragraph (e) delete “or (3).” and insert:

or (3); or

(b) after paragraph (e) insert:

(f) a person in respect of whom information is contained in the Community Protection Offender Register established under the *Community Protection (Offender Reporting) Act 2004* section 80.

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