



New South Wales

# Crimes (Sentencing Procedure) Amendment Act 2022 No 44

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# Crimes (Sentencing Procedure) Amendment Act 2022 No 44

Act No 44, 2022

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An Act to amend the *Crimes (Sentencing Procedure) Act 1999* to require a court, except in certain circumstances, to sentence an offender in accordance with the sentencing patterns and practices at the time of sentencing and to clarify that intensive correction orders are not available in relation to certain historical sexual offences. [Assented to 18 October 2022]

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

This Act is the *Crimes (Sentencing Procedure) Amendment Act 2022*.

**2 Commencement**

This Act commences on the date of assent to this Act.

## Schedule 1      **Amendment of Crimes (Sentencing Procedure) Act 1999 No 92**

### [1]    **Section 21B**

Insert after section 21A—

#### **21B    Sentencing patterns and practices**

- (1) A court must sentence an offender in accordance with the sentencing patterns and practices at the time of sentencing.
- (2) However, the standard non-parole period for an offence is the standard non-parole period, if any, that applied at the time the offence was committed, not at the time of sentencing.
- (3) Despite subsection (1), a court may sentence an offender for an offence in accordance with the sentencing patterns and practices at the time the offence was committed if—
  - (a) the offence is not a child sexual offence, and
  - (b) the offender establishes that there are exceptional circumstances.
- (4) When varying or substituting a sentence, a court must vary or substitute the sentence in accordance with the sentencing patterns and practices at the time of the original sentencing.
- (5) This section does not affect section 19.
- (6) In this section—  
*child sexual offence* has the same meaning as in section 25AA.

### [2]    **Section 25AA Sentencing for child sexual offences**

Omit section 25AA(1), (2) and (4).

### [3]    **Section 67 Intensive correction order not available for certain offences**

Insert at the end of section 67(2), definition of *prescribed sexual offence*, paragraph (g)—  
, or

- (h) an offence under a previous enactment that is substantially similar to an offence referred to in paragraphs (a)–(g).

**[4] Schedule 2 Savings, transitional and other provisions**

Insert at the end of the Schedule, with appropriate Part and clause numbering—

**Part Provision consequent on enactment of Crimes  
(Sentencing Procedure) Amendment Act 2022**

**Sentencing patterns and practices**

The amendments made to this Act by the *Crimes (Sentencing Procedure) Amendment Act 2022* do not apply to proceedings that commenced before the commencement of the amendments.

[Second reading speech made in—

Legislative Assembly on 10 August 2022

Legislative Council on 11 October 2022]