

BAIL (DOMESTIC VIOLENCE) AMENDMENT BILL 1993*

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Crimes (Domestic Violence) Amendment Bill 1993.

The objects of this Bill are:

- (a) to remove the presumption in favour of bail in relation to domestic violence offences (including breaches of apprehended domestic violence orders involving violence) if the accused has a history of violent behaviour; and
- (b) to remove the presumption in favour of bail in the case of murder; and
- (c) to make other miscellaneous amendments to the Bail Act 1978.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be proclaimed.

Clause 3 gives effect to the Schedules of amendments to the Bail Act 1978.

Clause 4 is a transitional provision that applies the amendments made by the proposed Act to determinations in relation to bail made after the commencement of those amendments, even if the offence was committed or the proceedings were instituted before that commencement.

SCHEDULE 1—AMENDMENTS RELATING TO DOMESTIC OR OTHER PERSONAL VIOLENCE

Schedule 1 (1) and (2) remove the presumption in favour of bail for domestic violence offences and for breaches of apprehended domestic violence orders involving violence if the defendant has a history of violence against any person in the last 10 years.

*Amended in committee—see table at end of volume.

Bail (Domestic Violence) Amendment 1993 [Act 1993 No. 102]

Schedule 1 (1) (b) removes the presumption in favour of bail for the offence of murder.

SCHEDULE 2—OTHER AMENDMENTS

Schedule 2 (1) repeals a provision relating to the arrangement of the principal Act. The information is now provided in a table of provisions to the Act.

Schedule 2 (2) is consequential on the amendment made by Schedule 2 (8) (b).

Schedule 2 (3) makes a minor amendment to make it clear that the power of the Supreme Court under section 22A to refuse to entertain repeated applications for bail relates to repeated applications by the same person.

Schedule 2 (4) and (5) repeal provisions relating to the application to the determination of bail of the background and community ties questionnaire (the “Manhattan Points System”).

Schedule 2 (6) and (8) (a) make it clear that bail may be continued following a Magistrate’s committal of an accused person to the Supreme Court or District Court for trial or sentence.

Schedule 2 (7) gives a court the discretion to discharge a surety from liability following a breach of a bail condition or undertaking by the accused person and the appearance of the accused person before the court.

Schedule 2 (8) (b) provides for the automatic continuation of bail if the court in which proceedings are continued fails to give any direction with respect to bail.

Schedule 2 (9) enables a justice employed in the Department of Courts Administration to vary bail reporting conditions imposed by any court, but only with respect to the police station to which the accused person must report and the times at which and the days on which he or she must report. The justice may not vary the total number of days on which the accused person must report.

Schedule 2 (10) requires a court to be satisfied that an accused person on bail has failed (or is about to fail) to comply with the person’s bail undertaking or agreement as to bail before revoking bail or refusing to grant further bail.
