



New South Wales

Crimes (Sentencing Procedure) Amendment (Children in Vehicles) Bill 2011

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crimes (Sentencing Procedure) Act 1999* to make it an aggravating factor to be taken into account in sentencing an offender for certain traffic offences if the offence is committed while a child under 16 years of age is a passenger in the offender's vehicle (or if the offence is connected with the driving of a vehicle with such a passenger). The traffic offences concerned include drink driving, drug driving, driving in a police pursuit, dangerous driving under the influence of alcohol or drugs and failing to undergo a test for alcohol or drugs.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

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

Schedule 1 [1] provides that it is an aggravating factor if the offence was a *prescribed traffic offence* and was committed while a child under 16 years of age was a passenger in the offender's vehicle. **Schedule 1 [3]** specifies the prescribed traffic offences, which are as follows:

- (a) driving with the prescribed concentration of alcohol in the person's breath or blood,
- (b) driving with drugs in the person's oral fluid, blood or urine,
- (c) driving under the influence of alcohol or drugs,
- (d) refusing a breath test or analysis for alcohol or an oral fluid test or sample for drugs,
- (e) refusing, or preventing a medical practitioner or nurse from taking, a urine test or blood sample, or wilfully altering a blood or urine sample,
- (f) dangerous driving occasioning death or grievous bodily harm while under the influence of alcohol or drugs or in a police pursuit,
- (g) driving dangerously and not stopping when being pursued by police officers.

Schedule 1 [2] provides that certain prescribed traffic offences which may occur away from the vehicle, such as at a police station or hospital, are taken to have been committed while a child under 16 years of age was a passenger in the offender's vehicle if the offence was part of a series of events that involved the driving of the vehicle while the child was a passenger in the vehicle.

Schedule 1 [4] enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

First print



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Crimes (Sentencing Procedure) Amendment (Children in Vehicles) Bill 2011

No. , 2011

A Bill for

An Act to amend the *Crimes (Sentencing Procedure) Act 1999* to make it an aggravating factor in sentencing for certain traffic offences where a child was present in the offender's vehicle.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Crimes (Sentencing Procedure) Amendment (Children in Vehicles) Act 2011</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Crimes (Sentencing Procedure) Act 1999 No 92	1
		2
[1]	Section 21A Aggravating, mitigating and other factors in sentencing	3
	Insert after section 21A (2) (o):	4
	(p) without limiting paragraph (ea), the offence was a prescribed traffic offence and was committed while a child under 16 years of age was a passenger in the offender's vehicle.	5 6 7 8
[2]	Section 21A (5C)	9
	Insert after section 21A (5B):	10
	(5C) For the purpose of subsection (2) (p), an offence under section 13 (2), 15 (4), 18B (2), 18D (2), 22 (2), 24D (1) or 29 (2) of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> is taken to have been committed while a child under 16 years of age was a passenger in the offender's vehicle if the offence was part of a series of events that involved the driving of the vehicle while the child was a passenger in the vehicle.	11 12 13 14 15 16 17
[3]	Section 21A (6)	18
	Insert in alphabetical order:	19
	<i>prescribed traffic offence</i> means an offence under any of the following provisions:	20 21
	(a) sections 9, 11B (1) and (3), 12 (1), 13 (2), 15 (4), 18B (2), 18D (2), 22 (2), 24D (1) and 29 (2) of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> ,	22 23 24
	(b) sections 51B (1) and 52A (1) (a) and (3) (a) of the <i>Crimes Act 1900</i> ,	25 26
	(c) section 52A (2) and (4) of the <i>Crimes Act 1900</i> in the circumstances of aggravation referred to in section 52A (7) (a), (c) or (d) of that Act.	27 28 29

[4] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

*Crimes (Sentencing Procedure) Amendment (Children in
Vehicles) Act 2011*

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