

Crimes (Blood Samples) Bill

EXPLANATORY MEMORANDUM

The purpose of the Bill is to amend the *Crimes Act 1958* to:

- (a) permit the taking of blood samples from persons who are suspected of having committed indictable offences or have been charged or summonsed in relation to such offences, where the suspect has given informed consent, and
- (b) when consent is not given, the Bill authorises the taking of a blood sample pursuant to a Court Order where there are reasonable grounds to believe that the person has committed murder, manslaughter or a sexual offence or has been charged with one of these offences.

Special provisions relate to the obtaining of blood samples from children. A member of the police force may not request that a child provide a sample unless:

- (a) there is a Court Order authorising the taking of the sample,
- (b) the young person is aged between 10 and 17 years, and
- (c) there are reasonable grounds to believe that the young person has committed murder, manslaughter or a sexual offence, or where he or she has been charged with one of these offences.

The Bill creates a comprehensive scheme dealing with the taking and use of blood samples by regulating matters such as the manner in which a sample is taken, the obtaining and executing of a warrant to arrest a person to take a sample, the admissibility of evidence relating to a blood sample, and the destruction of identifying information in certain circumstances.

Clause 1 states the purpose of the Bill.

Clause 2 is a commencement provision.

Clause 3 refers to the *Crimes Act 1958* as the Principal Act.

Clause 4 defines “Relevant Suspect”, “Sexual Offence”, and “detained or protected person”.

Clause 5 inserts new sections dealing with the following matters:

specifying when a blood sample may be obtained and how it is to be taken (s. 464s);

requiring a suspect to be given the opportunity to give informed consent to the taking of a sample (s. 464t);

allowing a Court to order the taking of a blood sample in certain circumstances from both adults and children (s. 464u and s. 464v);

authorising a Court to issue a warrant to allow for the search, arrest and detention of a suspect to attend a hearing and to facilitate the taking of a sample of blood (s. 464w);

requiring a caution to be given to the suspect prior to the taking of the sample (s. 464x);

- regulating the execution of a Court Order to obtain a blood sample (s. 464Y);
- regulating the analysis of blood samples (s. 464Z);
- requiring part of material reasonably believed to be from the body of a person who committed an indictable offence to be delivered to a suspect in certain circumstances (s. 464ZA);
- requiring forensic reports to be made available to the suspect (s. 464ZB);
- rendering evidence in respect of a sample of blood inadmissible when certain requirements under the Act are not met unless exceptional circumstances justify the reception of the evidence (s. 464ZC);
- specifying when blood samples and details in relation to samples of blood must be destroyed (s. 464ZD);
- providing an immunity for medical practitioners and those assisting medical practitioners regarding anything properly and necessarily done under the Subdivision (s. 464ZE);
- authorising the Governor in Council to make regulations in certain circumstances (s. 464ZF);
- providing that the subdivision does not affect the operation of other Acts or enactments (s. 464ZG).

Clause 6 amends section 464J of the Principal Act.

Clause 7 makes amendments consequential on the *Magistrates' Court Act 1989*.

Clause 8 makes amendments consequential on the *Children and Young Persons Act 1989*.

Clause 9 is a transitional provision.