

Sentencing (Protection of Children from Criminal Offending) Amendment Bill

Member's Bill

Explanatory note

General policy statement

Criminal offending by adults often exposes minors to serious harm. A primary example of such offending is the production of drugs, particularly methamphetamine. Production of these substances is regularly conducted in residential buildings, putting the lives and health of resident children at risk of poisoning and burns resulting from the highly dangerous and unstable chemicals used in such production. Minors are often innocent parties to criminal offending by adults, and deserve protection from adult offending that puts them at risk of harm.

This Bill amends the Sentencing Act 2002 to make criminal offending in the presence of a minor an aggravating factor at sentencing. Where the offending endangers or exposes a minor to potential adverse effects from that offending, the sentence must reflect this.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Sentencing Act 2002 (the **principal Act**).

Clause 4 amends section 4 by inserting definitions of terms used in the amendment to section 9 made by *clause 5*.

Clause 5 amends section 9 to make it an aggravating factor in the consideration of sentencing of an offender aged 17 or over for the crime to have been committed in the presence of a minor if the actions undertaken to commit the offence put the minor at risk of harm.

Le'aufa'amulia Asenati Lole-Taylor

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Sentencing (Protection of Children from Criminal Offending) Amendment Act **2012**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**
This Act amends the Sentencing Act 2002 (the **principal Act**).
- 4 Section 4 amended (Interpretation)** 10
In section 4(1), insert in their appropriate alphabetical order:
in the presence of a minor means—
 - (a) in a place or building where a minor is present or could reasonably be expected to be present; or

(b) in close proximity to a place or building where a minor is present or could reasonably be expected to be present

minor means a person under the age of 17 years

5 Section 9 amended (Aggravating and mitigating factors)

In section 9(1), after paragraph (j), insert:

5

(k) that the offence was committed by an offender aged 17 years or over in the presence of a minor and the actions undertaken to commit the offence put the minor at risk of physical, emotional, or mental harm (for example, illness or injury).