

**Legislative Statement
for the
Ram Raid Offending and Related Measures Amendment Bill**

Presented to the House of Representatives

In accordance with Standing Order 272

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Introduction

- 1 The Ram Raid Offending and Related Measures Amendment Bill (**the Bill**) creates a new offence of ram raiding, will allow 12- and 13-year-olds to be proceeded against in the Youth Court for that offence, and will introduce new factors to be considered at sentencing when adults encourage or enable a child or young person to offend, or when anyone livestreams or posts their offending on-line.
- 2 The Bill amends the Crimes Act 1961, the Criminal Investigations (Bodily Samples) Act 1995 (**the 1995 Act**), the Oranga Tamariki Act 1989, and the Sentencing Act 2002.
- 3 The amendments in the Bill respond to offending that is predominantly undertaken by young people and will disincentivise that conduct by better holding them to account. It will ensure that there are greater interventions available and consequences for their offending. The Bill will not only deal with those young offenders but will better hold to account, through an aggravating factor at sentencing, those who encourage or enable them to offend.

Background

- 4 In July 2023 Cabinet agreed to:
 - 4.1 include in the Sentencing Act 2002 two new aggravating factors at sentencing:
 - 4.1.1 for an adult who aids, abets, incites, counsels, or procures any child or young person to commit any offence.
 - 4.1.2 for a person who livestreams or posts their offending online.
 - 4.2 include in the Oranga Tamariki Act 1989 a corresponding factor to that in paragraph 4.1.2 to be considered where a child or young person is being sentenced for offending in the Youth Court.
 - 4.3 include in the Crimes Act 1961 a new offence to specifically deal with ram raid offending.
 - 4.4 amend the Oranga Tamariki Act 1989 to allow a 12- or 13-year-olds to be proceeded against in the Youth Court for the new ram raid offence.
- 5 Legislative amendments are necessary as a new offence is created, the factors to be considered at sentencing are expanded, and the Youth Court's jurisdiction is amended, all of which are required to be set out in primary legislation.

Key legislative amendments

A new ram raid offence: Crimes Act 1961

- 6 The Bill amends the Crimes Act 1961 by introducing a new ram raid offence. This will clearly distinguish this conduct from burglary and intentional property damage. It will carry a maximum penalty of 10 years' imprisonment. The offence will apply to anyone in the vehicle, or waiting outside the building damaged, who knows that the vehicle will be used to damage the building. For criminal liability to arise they must enter without authority with intent to commit an imprisonable offence in the building.
- 7 This offence recognises the harm that ram raids have for property owners and the devastation that this may cause to their livelihoods. It will ensure that offenders are held to account for this specific form of criminal harm arising from damaging and entering property, including retail property, by using a motor vehicle.

Allowing 12- and 13-year-olds to be dealt with in the Youth Court for the new ram raid offence: Oranga Tamariki Act 1989

- 8 The amendments in the Bill allow 12- and 13-year-olds to be dealt with in the Youth Court when charged with the new ram raid offence in the Crimes Act. This will ensure that greater interventions are available to Police and Oranga Tamariki to deal with these offenders, such as bail and custodial conditions in appropriate cases. The greater range of interventions available will ensure an immediate response is available for these children. This is designed to stop repeat offending, provide greater support and to better hold them to account for their criminal conduct.

New factors to be considered at sentencing: Sentencing Act 2002 and Oranga Tamariki Act 1989

- 9 Two new aggravating factors to be taken into account at sentencing are to be included in the Sentencing Act 2002.

Adults encouraging children and young people to commit offences

- 10 The first relates to adults encouraging or enabling children or young people to commit *any* offence. This could include providing inducements or rewards for a range of offending from drug related offending to ram raids. It could include parents or older siblings or gang members encouraging children or young people to commit offences for them, on their behalf, or as part of recruitment to a gang.
- 11 The aim is to deter adults from exploiting children and young people and leading them into a life where criminal behaviour is normalised and entrenched as part of their life.

Posting or livestreaming offending on-line

- 12 The second aggravating factor at sentencing relates to livestreaming or posting offending on-line. This behaviour increases the reach of the offending with the risk that it will glamourise offending, such as ram raiding. It exacerbates the harm to victims and may encourage “copy-cat” offending.
- 13 A corresponding amendment is made to the Oranga Tamariki Act 1989 to require a Youth Court, in determining an appropriate response where a charge against a young person is proved, to consider whether that young person livestreamed or posted their offending on-line.

Other legislative amendments

- 14 The Criminal Investigations (Bodily Samples) Act (**the 1995 Act**) is amended to ensure that that the current linkages with section 272 of the Oranga Tamariki Act and the 1995 Act for the taking of bodily samples from children are maintained. The section 272 grounds for prosecuting children are reflected in sections 18 and 23 of the 1995 Act. These sections provide grounds for a juvenile compulsion order to be applied for and made where the child is a suspect for an offence to which section 272 applies.
- 15 This amendment to the 1995 Act will make the new ram raid offence, included in section 272 of the Oranga Tamariki Act, consistent with all the other offences for which children can be prosecuted under section 272 and for which bodily samples may currently be taken under the 1995 Act.
- 16 Police have recognised the importance of the ability to take DNA samples from children involved in ram-raid offending to prove or disprove their involvement, given the group dynamics of such offending.
- 17 A further consequential amendment is made to the 1995 Act by adding the new ram-raid offence to Schedule 1 of that Act as a relevant offence. The practical effect of this amendment is that an intention to charge bodily sample may be taken from a young person, just as for burglary under the current law. As with the other amendment to the 1995 Act, above, it would be anomalous not to deal with this consistently with existing law especially given the incidence of ram raid offending committed by children and young people.
- 18 In addition to the inclusion of the ram raid offence in the Crimes Act 1961, a consequential amendment is also made to that Act. Section 168 of the Crimes Act contains a definition of murder which includes circumstances where the offender means to cause grievous bodily injury in relation to the commission of a range of offences, including burglary, and death results whether death is intended or whether the offender knows death is likely to ensue. Those circumstances are equally as likely to occur in ram raid offending as for burglary so it would be anomalous not to include that new offence in section 168.