

Words struck out by the Statutes Revision Committee are shown in italics within bold round brackets or in roman enclosed in panel; words inserted are shown in roman underlined with a double rule, or with double rule down side.

Hon. Mr Mason

CRIMINAL JUSTICE AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Criminal Justice Act 1954

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title (and commencement)**—(1) This Act may be cited as the Criminal Justice Amendment Act 1960, and shall be read together with and deemed part of the Criminal Justice Act 1954 (hereinafter referred to as the principal Act).

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Struck Out

(2) This Act shall come into force on the first day of January, nineteen hundred and sixty.

2. Sentence for original offence on breach of probation or conviction of another offence—Section eleven of the principal Act is hereby amended—

- (a) By inserting in subsection one, after the word “probationer”, the words “including a probationer who, in addition to being released on probation, was also sentenced to pay a fine”:
- (b) By inserting in subsection four, after the words “releasing him on probation”, the words “and, in any case where he was also sentenced to pay a fine, other than by sentencing him to pay a further fine”.

3. Imprisonment or detention of persons under twenty-one years of age—Section fourteen of the principal Act is hereby amended—

- (a) By repealing paragraph (a) of subsection one:
- (b) By omitting from subsection one the words “so detained or”.

4. Sections as to detention centres substituted—The principal Act is hereby amended by repealing sections fifteen to seventeen, and substituting the following sections:

“15. **Commencement of sections 16, 16A, and 17**—Sections sixteen, sixteen A, and seventeen of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council; and different dates may from time to time be so appointed for the coming into force of those sections in respect of different parts of New Zealand or in respect of specified Courts or in respect of male or female offenders.

“16. **Detention in a detention centre**—(1) Subject to the provisions of this section and of section sixteen A of this Act, where any person who is not less than sixteen and is under twenty-one years of age is convicted of any offence punishable by imprisonment, the Court, instead of passing any other sentence, may sentence that person to detention in a detention centre.

“(2) The Court sentencing any person to detention in a detention centre may at the same time order that on his release on probation under subsection three A of section thirty-five of this Act he shall be subject to all or any of the additional conditions set out in subsection one of section eight of this Act, and the provisions of subsections two and three of that section, as far as they are applicable and with the necessary modifications, shall apply as if those additional conditions had been imposed under that section.

“(3) Nothing in this section shall apply where the offence of which the person is convicted is an offence under Part VIII of the Destitute Persons Act 1910.

5 “(4) Nothing in this section shall be construed to apply to any case where the liability of any person to imprisonment arises out of default in payment of any fine imposed on that person by any Court or in payment of any sum adjudged or ordered to be paid by any conviction or order.

10 “(5) No Court shall sentence any person to detention in a detention centre if it is shown to the Court that at any time previously he has been sentenced—

“(a) To detention in a detention centre, or to borstal training, or to corrective training; or

“(b) To imprisonment for a term of one month or more.

15 “(6) Where any person serves a sentence of detention in a detention centre and is later brought before a Court for any other offence, any probation officer or any Superintendent of a penal institution or any other officer of the Department of Justice may make a report in writing to the Court on the conduct of that person while in the detention centre; and where
20 the report is made by a person other than the probation officer the provisions of section five of this Act shall apply with the necessary modifications.

25 **“16A. Court to consider report of probation officer and medical report—**(1) No Court shall sentence any person to detention in a detention centre until a report on his character and personal history has been made by a probation officer and has been considered by the Court, and until a medical practitioner has examined him and certified to the Court that he
30 is fit for such a sentence.

“(2) No sentence of detention in a detention centre shall be deemed to be invalid on the ground that a report by a probation officer was not made or was not considered by the Court or that such a certificate by a medical practitioner was
35 not given.

“(3) If any Court sentences any offender to detention in a detention centre before a report has been made and considered, or a certificate given, under this section, the defendant or the prosecutor or any counsel or solicitor on behalf of the Crown
40 may at any time apply to have the sentence reviewed; and for that purpose the provisions of subsections four to six of section nineteen of this Act, as far as they are applicable and with the necessary modifications, shall apply as if the application had been made under that section.

“17. **Period of detention**—Every person sentenced to detention in a detention centre shall be detained in a detention centre for three months:

“Provided that the Minister may remit any part, not exceeding one month, of the period for which any offender is liable to be detained under this section.” 5

5. Preventive detention on second conviction of sexual offence – Commencement—(1) Section twenty-four of the principal Act is hereby amended by repealing paragraph (a) of subsection one, and substituting the following paragraph: 10

“(a) Having been previously convicted on at least one occasion, since he attained the age of seventeen years, of a sexual offence, is convicted of any sexual offence, being an offence committed after such previous conviction as aforesaid; or” 15

(2) Section twenty-four of the principal Act is hereby further amended by repealing subsection six, and substituting the following subsection:

“(6) For the purposes of this section, the expression ‘sexual offence’ means— 20

“(a) If committed against a child under sixteen years of age at the time of the commission of the offence, any offence against any of the following sections of the Crimes Act 1960 that is to say, sections one hundred and thirty-nine to one hundred and forty-two, section one hundred and forty-six, and sections one hundred and forty-nine to one hundred and fifty-one (, and section one hundred and fifty-three): 25

“(b) If committed against any person, whether or not a child under sixteen years of age at the time of the commission of the offence, any offence against section one hundred and thirty-seven or section one hundred and thirty-eight of the Crimes Act 1960.” 30

New

(3) This section shall come into force on the first day of January, nineteen hundred and sixty-one. 35

6. Committal for sentence of defendant liable to preventive detention—Section twenty-four of the principal Act is hereby further amended by repealing subsections three to five, and substituting the following subsection: 40

“(3) Where any person is convicted by a Magistrate’s Court of any offence, and the Court has reason to believe from the report of a probation officer or otherwise that the offender is liable to preventive detention, the provisions of section forty-
5 four of the Summary Proceedings Act 1957 shall apply, whether the offence is an indictable offence or not, as if there were added to subsection one the words ‘and a statement that the Court has declined jurisdiction upon the ground that the
10 Court has reason to believe that the offender is liable to preventive detention’. Where any person to whom this subsection applies is committed to the Supreme Court for sentence, a Judge may sentence or otherwise deal with the offender in any way authorised by law.”

7. Functions of Parole Board—Section thirty-three of the
15 principal Act is hereby amended by omitting from paragraph (b) of subsection one and also from paragraph (c) of that subsection the word “released”, and substituting in each case the words “who is on probation”.

**8. Release on probation of offender sentenced to preventive
20 detention**—(1) Section thirty-five of the principal Act is hereby amended—

(a) By inserting in subsection one, after the words
“imprisonment for life, or”, the words “not being
25 a person to whom paragraph (a) of subsection one of section twenty-four of this Act applies”:

(b) By inserting in subsection two, after the words
“imprisonment for life”, the words “or, being a
30 person to whom paragraph (a) of subsection one of section twenty-four of this Act applies, detained under a sentence of preventive detention”.

(2) Section thirty-six of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:

“(1) Whenever any offender detained under a sentence
35 of imprisonment for life or preventive detention is released from detention, the Minister may, at any time while the offender is on probation, direct that the offender be recalled. On the giving of the direction, the probation shall be deemed to be cancelled, and the offender may be arrested without
40 warrant by any constable, and shall continue to serve his sentence unless he is again released on the recommendation of the Parole Board under this Part of this Act.”

(3) Section thirty-eight of the principal Act is hereby amended by inserting, after subsection five, the following sub-
45 section:

“(5A) Any probationer under this Part of this Act released from preventive detention, being a person to whom paragraph (a) of subsection one of section twenty-four of this Act applies, may apply to the Parole Board for his discharge from probation at any time after the expiry of three years from the time of his release on probation: 5

“Provided that no such application may be made until after the expiry of fourteen years from the commencement of his sentence.”

9. Offender released from detention centre to be on probation—(1) Section thirty-five of the principal Act is hereby further amended by inserting, after subsection three, the following subsection:

“(3A) Subject to the provisions of this Part, where any offender detained under a sentence of detention in a detention centre is released from detention, whether before or at the expiry of the maximum term for which he is liable to be detained under the sentence, he shall be on probation for one year from the time of his release.” 15

(2) Section thirty-eight of the principal Act is hereby further amended— 20

(a) By inserting in subsection one, after the words “imposed under this Part”, the words “or under section sixteen of this Act”:

(b) By adding to subsection four and also to paragraph (a) of subsection six the words “or under section sixteen of this Act or under section thirty-one of the Penal Institutions Act 1954”. 25

New

10. Discharge from probation of person convicted of murder—Section 34 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection: 30

“(2) Where—

“(a) Any person has been convicted of murder, whether before or after the commencement of this subsection, and upon conviction he has been sentenced to death and the sentence has been commuted to imprisonment for life, or upon conviction he has been sentenced to imprisonment for life; and 40

“(b) The Board recommends his discharge from probation,—

then, notwithstanding anything in this Part of this Act, he shall not be discharged from probation except by the Governor-General, acting on the recommendation of the Minister.” 45