

# LEGISLATIVE ASSEMBLY

Read 1° 12 October 1983

(Brought in by Mrs Toner and Mr Spyker)

## A BILL

To provide for a community-based pre-release programme to better integrate prisoners back into the community during the final portion of their prison sentences, to amend the *Community Welfare Services Act 1970* and the *Penalties and Sentences Act 1981* and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. This Act may be cited as the *Community Welfare Services (Pre-Release Programme) Act 1983*. Short title.

2. The several provisions of this Act shall come into operation on a day or on the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*. Commencement.

3. In this Act the *Community Welfare Services Act 1970* is called the Principal Act. Principal Act No. 8089.  
Reprinted to No. 9554.  
Subsequently amended by Nos. 9879 and 9902.

Amendment of  
No. 8089, s. 1.  
Table of Parts  
and Divisions.

4. In section 1 of the Principal Act in the table of Parts and Divisions, in the item relating to Division 4 of Part VIII. for the expression "198" there shall be substituted the expression "198E".

Amendment of  
No. 8089, s. 191.  
Order of serving  
sentences.

5. In section 191 of the Principal Act, after sub-section (2) there shall be inserted the following sub-section:

"(2A) Despite the generality of sub-section (2), where a court has made an order under section 11A of the *Penalties and Sentences Act* 1981 in respect of an offender, any sentence imposed by the court when making that order shall be served ahead of any other sentence imposed on the offender."

Amendment of  
No. 8089.  
New Ss. 198A to  
198F.

6. After section 198 of the Principal Act there shall be inserted the following sections:

Pre-release  
permit may be  
granted.

'198A. (1) Subject to sub-section (3), the Adult Parole Board may grant a pre-release permit to a prisoner who is undergoing a prison sentence.

(2) The Adult Parole Board, in determining whether to grant, vary or cancel a permit—

(a) is not bound by the rules of natural justice; and

(b) may arrange for examination of the person by a legally qualified medical practitioner, psychiatrist or psychologist, and may require the medical practitioner, psychiatrist or psychologist or any other person whom the Board believes may be able to do so to furnish a report in relation to the person.

(3) A pre-release permit may be granted only if—

(a) an order under section 11A of the *Penalties and Sentences Act* 1981 is not in force in relation to the prisoner;

(b) the prisoner is undergoing a prison sentence of twelve months or more;

(c) at least three months but not more than twelve months of the prisoner's prison sentence is unserved; and

(d) the period of the permit does not exceed one third of the prison sentence which the prisoner is undergoing.

(4) In this section "prison sentence" in relation to a person means the total of the following sentences or terms which have been imposed or determined in relation to that person:

- (a) Where a minimum term has not been fixed in relation to a sentence of imprisonment—the sentence of imprisonment;
- (b) Where a minimum term has been fixed in relation to a sentence of imprisonment and the prisoner has not served the minimum term—the minimum term;
- (c) Where a minimum term has been fixed in relation to a sentence of imprisonment and the prisoner has served the minimum term and is not on parole—so much of the sentence as the Adult Parole Board determines for the purposes of this sub-section; and
- (d) Where a sentence or portion of a sentence of detention in a Youth Training Centre is transferred or is to be served as imprisonment—so much of the sentence as the Adult Parole Board determines for the purposes of this sub-section.

15 198B. A pre-release permit authorizes the release from prison of the person to whom it is granted. Permit authorizes release.

198C. (1) A pre-release permit is subject to the prescribed conditions (unless the Adult Parole Board varies or revokes those conditions in the particular case) and any other conditions specified in the permit. Conditions and revocation.

(2) The Adult Parole Board may at any time before the expiration of a pre-release permit—

- (a) subject to sub-section (3), vary or revoke any condition (including a prescribed condition), or impose additional conditions;
- (b) cancel the permit;
- (c) subject to sub-section (3), vary the period of the permit.

(3) The varying of a condition or period of a pre-release permit or the imposing of an additional condition pursuant to sub-section (2) does not have effect until notice thereof has been given to the person to whom the permit was granted.

198D. (1) Where a person has been granted a pre-release permit and the permit is cancelled the Adult Parole Board may— Defaulter may be arrested.

- (a) authorize any member of the police force, by warrant signed by the secretary or a member of the Adult Parole Board, to apprehend the person and return the person to prison; or
- (b) whether or not a warrant is issued under paragraph (a), authorize the making of an application to a stipendiary magistrate for a warrant authorizing any member of the police force or other officer to apprehend the person and return the person to prison.

- (2) A permit shall be deemed to be cancelled—
- (a) at the expiration of the period specified in the permit or any varied period; or
  - (b) if the person to whom it was granted is sentenced to imprisonment or committed to prison in default of payment of a fine. 5
- (3) Where a permit granted to a person is cancelled—
- (a) the original warrant of commitment or other authority for the person's imprisonment shall again be in force; and
  - (b) unless the Adult Parole Board otherwise directs, the period during which the permit was in force shall be regarded as time served in respect of the term of imprisonment. 10

Attendance centres.

198E. Subject to sections 198A to 198D, where a pre-release permit granted to a person is subject to the condition that the person shall attend at an attendance centre appointed under section 42 of the *Penalties and Sentences Act 1981*— 15

- (a) the requirements as to attendance and conduct which apply to a person in respect of whom an attendance centre order is in force shall apply in respect of the person to whom the permit was granted as if those requirements were conditions of the permit; and 20
- (b) without limiting the meaning of paragraph (a), the provisions of sections 38 and 39 of the *Penalties and Sentences Act 1981* shall apply in relation to the person.' 20

Amendment of No. 8089, s. 203. Regulation-making power.

7. In section 203 of the Principal Act— 25
- (a) after paragraph (t) there shall be inserted the following paragraph:
    - “(ta) prescribing conditions to which pre-release permits shall be subject;”; and
  - (b) in paragraph (ac) after the word “warrants” there shall be inserted the word “permits”. 30

Amendment of No. 9554. New s. 11A. Eligibility for pre-release.

8. After section 11 of the *Penalties and Sentences Act 1981* there shall be inserted the following section:

- “11A. (1) This section applies where a court—
- (a) imposes upon a person a sentence of imprisonment for a term of twelve months or more; or 35
  - (b) imposes upon a person sentences of imprisonment which are cumulative and total twelve months or more.

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(2) Where this section applies, the court, when sentencing the person, may order that the person shall be ineligible for release on permit under section 198A of the *Community Welfare Services Act 1970*.

5 (3) An order under this section is in force until the expiration of all sentences imposed by the court when making the order, or, where a minimum term is fixed, the expiration of that minimum term.”.

