



New Zealand House of Representatives
Te Whare Māngai o Aotearoa

Justice Committee

Komiti Whiriwhiri Take Ture

54th Parliament

March 2025

**Child Protection (Child Sex Offender
Government Agency Registration)
Amendment Bill**

**Report of the Attorney-General under the New
Zealand Bill of Rights Act 1990**

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Child Protection (Child Sex Offender Government Agency Registration) Amendment Bill

Recommendation

The Justice Committee has examined the Child Protection (Child Sex Offender Government Agency Registration) Amendment Bill and recommends that the bill proceed without amendment.

Introduction

The bill would amend the Child Protection (Child Sex Offender Government Agency Registration) Act 2016. It seeks to improve how the register of convicted child sex offenders works, and to support government agencies to assess and manage the risks presented by these offenders living in the community. The bill would make the Act clearer and enhance consistency, update the Act for evolving technology, and make it easier for offenders to comply with the Act's requirements.

The bill's main changes include requiring registrable offenders:

- to report 48 hours before a child will reside at the same address as them (rather than 72 hours after)
- to report attendance at education or training courses
- to report at least 7 days before they travel overseas (rather than 48 hours before)
- to report their return to New Zealand, electronically or by phone, no more than 72 hours after re-entering (rather than 10 days after, in person).

The bill would also add seven qualifying offences to Schedule 2 of the Act related to making intimate visual recordings, importing or exporting objectionable publications, involvement in commercial sexual services, and sexual exploitation.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We wish to bring the House's attention to issues the Attorney-General has raised relating to the bill's consistency with the New Zealand Bill of Rights Act 1990, which we discuss later in this report.

Submissions received on the bill

We received 22 submissions and heard oral evidence from 5 submitters. A full summary of submissions, along with responses from officials, is available in the departmental report on the bill, published on the Parliament website. We thank submitters for sharing their views on the bill.

Below we summarise some of the main themes from submissions on the bill.

Evidence on the effectiveness of the register

Some submitters suggested that a review of the Child Sex Offender Register was needed to demonstrate its effectiveness. We note that when the principal Act was developed, the Register was complemented by a risk management framework (RMF). They were evaluated after the first three years of operation in October 2019. The evaluation found that the Act, the Register, and the RMF were broadly performing as intended, and recommended minor changes. These recommendations informed some of the changes that would be made by this bill.

In addition to the evaluation, we heard that the Police commissioned the University of Waikato to begin a study on longitudinal recidivism evaluating the effectiveness of the Register and RMF. An interim report is expected in 2027. We note that the Police also commissioned PhD research to understand the experiences of registered offenders, identify factors associated with reoffending, and assess whether the Register is reducing recidivism. The preliminary findings indicate that the Register has shown a 40–70 percent reduction in the likelihood of reoffending. The PhD research is expected to be published in mid-2026.

Retrospective nature of the bill

Some submitters commented on the retrospective elements of the bill, noting its inconsistency with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990. These inconsistencies relate to the right to benefit from a lesser penalty when penalties change (section 25(g)) and freedom from double jeopardy (section 26(2)).

We note that, without retrospective application, offenders who are currently on the Register would be subject to fewer reporting requirements than offenders registered after the commencement of the bill. Registry staff would be unable to identify or manage the risks presented by offenders currently on the Register to the same extent as those registered after the commencement date. We think retrospective application is necessary to ensure that information can be collected from about 4,000 offenders on the Register. Collecting this information would support the purpose of the bill, which is to improve the safety of children and young people in the community.

Amending the wording of additional qualifying offences

Some submitters suggested that the wording of some of the qualifying offences being added to Schedule 2 should be amended, including:

- changing “commercial sex services” to “sexual services of any nature”
- extending section 20 of Prostitution Reform Act 2003 to explicitly cover online facilitation and exploitation
- amending the section 216H offence in the Crimes Act 1961 to define “recklessly”
- removing the word “consent” in the description of the qualifying offences.

We think that amending the wording of any qualifying offence would be outside the scope of this bill. In addition, consistency is needed between the description of offences in the bill and the principal Acts.

Report of the Attorney-General under the New Zealand Bill of Rights Act

On 17 September 2024, the Attorney-General presented a report on the bill to the House under section 7 of the New Zealand Bill of Rights Act 1990 (NZBORA) and Standing Order 269. When a provision in a bill appears to be inconsistent with any of the rights and freedoms contained in NZBORA, section 7 and Standing Order 269(1) require the Attorney-General to bring the provision to the attention of the House of Representatives.

The Attorney-General concluded that the bill was inconsistent with two of the rights affirmed by NZBORA:

- the retrospective application of the reporting requirements to pre-existing registrable offenders would be inconsistent with freedom from double jeopardy (section 26(2) of NZBORA)
- amending and inserting additional reporting requirements would constitute a greater penalty, which would be inconsistent with the right to a lesser penalty when penalties change (section 25(g) of NZBORA)
- similarly, changes to the penalty attached to qualifying offences in the principal Act would be inconsistent with the right to the benefit of a lesser penalty where penalties change (section 25(g) of NZBORA).

Freedom from double jeopardy and retrospectivity

Schedule 1 of the bill, new Part 3, states that the additional reporting requirements would apply to pre-existing registrable offenders. The Attorney-General considers that the retrospective application of this requirement would be inconsistent with section 26(2) of NZBORA. Section 26(2) provides that no one who has been finally acquitted, convicted of, or pardoned for an offence shall be tried or punished for it again. The Attorney-General commented that applying the reporting requirements to pre-existing registrable offenders constitutes a subsequent, additional punishment to that which was given at the time of sentencing.

We were advised that applying the amendments retrospectively is designed to protect children from the risks posed by individuals subject to registration orders. Not applying them retrospectively would also create operational challenges. This is because the two groups of registered offenders would need to be managed differently after the legislation came into force. The Registry staff would be unable to identify or manage the risks presented by pre-existing registrable offenders to the same extent as those registered after commencement.

The Attorney-General said she does not consider that having registrable offenders with different reporting requirements is a compelling argument. She said it is not uncommon for the Police to manage individual reporting requirements, such as in respect of individuals subject to varying bail conditions. The Attorney-General also stated that evidence is limited as to the effectiveness of sex offender registers in improving public safety. Therefore, she considers that the intrusion on the right recognised by section 26(2) would not be in due proportion to the importance of the bill's objective, so could not be demonstrably justified.

Right to benefit from the lesser penalty where penalties change

Section 25(g) of NZBORA affirms that everyone who is charged with an offence has the right to the lesser penalty when the penalty has changed between the commission of the offence and the sentencing. The Attorney-General observed that if a registration order (and the associated reporting obligations) is considered a penalty, then it follows that the reporting requirements inserted by the bill are also a penalty for the purposes of section 25(g). Therefore, she considers the amended and additional reporting requirements to be inconsistent with section 25(g). The Attorney-General concluded that, for the same reasons outlined in respect of section 26(2), the limit on section 25(g) cannot be demonstrably justified under section 5 of NZBORA.

We were advised that offenders currently on the Register are already required to report a range of personal information. Therefore, the additional information requirements are not considered onerous and would not significantly penalise pre-existing registrable offenders. We also received advice that some of the amendments would assist existing registrable offenders to comply more easily with their reporting obligations or would generally benefit them. For example, the bill would enable registrable offenders to receive acknowledgement of receipt of a report electronically.

Our conclusion about the Attorney-General's report

We recognise the tension between balancing rights and freedoms and minimising harm. We understand that the use of registers to monitor offenders reflects the significant harm that child sex offenders inflict on children, their families, and communities. We consider that the retrospective application of the reporting requirements would ensure that the necessary information can be collected to manage risks posed by convicted child sex offenders. We also consider that the additional reporting requirements that the bill proposes would not significantly increase the limitations placed on individuals who are subject to registration.

Appendix

Committee procedure

The Child Protection (Child Sex Offender Government Agency Registration) Amendment Bill was referred to the committee on 24 October 2024. The closing date for submissions was 6 December 2024. We received and considered submissions from 22 interested groups and individuals. We heard oral evidence from 5 submitters.

We received advice on the bill from the New Zealand Police. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office was available to assist with legal drafting.

We considered the bill alongside the Report of the Attorney-General on the Child Protection (Child Sex Offender Government Agency Registration) Amendment Bill.

Committee members

Hon James Meager (Chairperson)
Hon Ginny Andersen
Jamie Arbuckle
Carl Bates (from 29 January 2025)
Cameron Brewer (until 29 January 2025)
Tākuta Ferris
Paulo Garcia (until 29 January 2025)
Dr Tracey McLellan
Rima Nakhle
Tamatha Paul (until 29 January 2025)
Tom Rutherford (from 29 January 2025)
Todd Stephenson
Hon Dr Duncan Webb
Dr Lawrence Xu-Nan (from 29 January 2025)

Related resources

The documents that we received as advice and evidence are available on the [Parliament website](#).