

LEGISLATIVE COUNCIL

JUSTICE LEGISLATION AMENDMENT (COMMUNITY SAFETY) BILL 2025

(Amendments and New Clauses to be proposed in Committee by RACHEL PAYNE)

1. Clause 1, page 2, after line 19 insert—
 "(ca) to amend the **Criminal Procedure Act 2009** to provide that a child convicted by the County Court in respect of certain offences has a right to an appeal on which the Court of Appeal must order that there be a new trial conducted by the Trial Division of the Supreme Court; and".
2. Clause 2, line 24, omit "3 and 4" and insert "3, 4 and 4A".
3. Clause 2, line 27, omit "3 and 4" and insert "3, 4 and 4A".
4. Clause 2, line 29, omit "3 or 4" and insert "3, 4 or 4A".

NEW CLAUSES

5. Insert the following New Part to follow Part 4—

'Part 4A—Appeals

Division 1—Amendment of Criminal Procedure Act 2009

25A New Part 6.2A inserted

After Part 6.2 of the **Criminal Procedure Act 2009** insert—

**"Part 6.2A—Appeal against conviction
imposed by County Court following uplift from
Children's Court**

273A Meaning of *applicable offence*

In this Part—

applicable offence means—

- (a) a designated offence, within the meaning of section 516 of the **Children, Youth and Families Act 2005**, committed by a child aged 15 years or over; or
- (b) an offence the charge for which the Children's Court has determined, under section 356(6), (7A) or (7C) of the **Children, Youth and Families Act 2005**, not to hear and determine summarily.

273B Right of appeal against conviction

A person convicted by the County Court of an applicable offence may appeal to the Court of Appeal against the conviction.

273C How appeal is commenced

- (1) An appeal under section 273B is commenced by filing a notice of appeal in accordance with the rules of court within 28 days after the day on which the sentence of the County Court is imposed or any extension of that period granted under subsection (3).
- (2) The Registrar of Criminal Appeals must provide to the respondent a copy of the notice of appeal within 7 days after the day on which the notice is filed.
- (3) The Court of Appeal or, in accordance with the rules of court, the Registrar of Criminal Appeals at any time may extend the time within which a notice of appeal may be—
 - (a) filed under subsection (1); or
 - (b) provided to the respondent under subsection (2).

273D Determination of appeal

- (1) The Court of Appeal must allow an appeal under section 273B and—
 - (a) set aside the conviction and sentence imposed by the County Court; and
 - (b) order a new trial be conducted by the Trial Division of the Supreme Court.
- (2) On ordering the new trial, the Court of Appeal must order that the appellant attend on a specified date before the Trial Division of the Supreme Court.
- (3) If the Court of Appeal sets aside the conviction for an offence (the **base offence**), it may vary a sentence that—
 - (a) was imposed for another offence at the time when the appellant was sentenced for the base offence; and
 - (b) took into account the sentence for the base offence.
- (4) A power of the Court of Appeal under this section to impose a sentence in substitution for the sentence imposed by the County Court may still be exercised even if the sentence imposed by the County Court is an aggregate sentence of imprisonment.
- (5) If at the conclusion of the appeal the appellant remains convicted of more than one offence, the Court of Appeal may either—
 - (a) impose a separate sentence in respect of each offence; or
 - (b) impose an aggregate sentence of imprisonment in respect of all offences or any 2 or more offences.
- (6) Sections 323, 324 and 325 apply in relation to the appeal as if it were an appeal under Part 6.3.

273E Abandonment of appeal

An appeal under section 273B may be abandoned in accordance with the rules of court."

25B Right of appeal against conviction

At the end of section 274 of the **Criminal Procedure Act 2009** insert—

"(2) Subsection (1) does not apply to a person convicted by the County Court of an applicable offence within the meaning of Part 6.2A."

25C Consequential amendments

- (1) In section 3 of the **Criminal Procedure Act 2009**, in the definition of *appeal period*, for "Part 6.3" (where twice occurring) **substitute** "Part 6.2A or 6.3".
- (2) In section 409(a) of the **Criminal Procedure Act 2009**, after "Part" **insert** "6.2A,".

Division 2—Amendment of Youth Justice Act 2024

25D New section 1045A inserted

After section 1045 of the **Youth Justice Act 2024** insert—

'1045A Meaning of applicable offence

In section 273A of the **Criminal Procedure Act 2009**, in the definition of *applicable offence*, in paragraph (b), for "section 356(6), (7A) or (7C) of the **Children, Youth and Families Act 2005**," **substitute** "section 157A or 157B of the **Youth Justice Act 2024**,"'.

6. Clause 29, after line 28 insert—

"(1A) On and after the commencement day, Part 6.2A applies in relation to a conviction on an old charge in the same way that it applies in relation to a charge that the Children's Court has determined, under section 157A or 157B of the **Youth Justice Act 2024**, not to hear and determine summarily."