

LEGISLATIVE COUNCIL

CRIMES AMENDMENT (RECRUITMENT OF CHILDREN FOR CRIMINAL ACTIVITY) BILL 2026

(Amendments to be proposed in Committee by MOIRA DEEMING)

1. Clause 1, line 3, omit "**1958**—" and insert "**1958** to enact new provisions relating to the recruitment of children to engage in criminal activity and other forms of the criminal corruption of children."
2. Clause 1, lines 4 to 8, omit all words and expressions on these lines.
3. Clause 1, page 2, lines 1 to 4, omit all words and expressions on these lines.
4. Clause 3, lines 8 to 24, omit all words and expressions on these lines and insert—

'3 Division 11A of Part I substituted

For Division 11A of Part I of the **Crimes Act 1958** substitute—

"Division 11A—Criminal corruption of children

Subdivision 1—Preliminary

321LA Definitions

- (1) In this Division—

adult means a person who is 18 years of age or over;

child means a person aged under 18 years;

coordinate has the meaning set out in section 321LB;

criminal activity means—

- (a) tier 1 criminal activity; or
- (b) tier 2 criminal activity; or
- (c) tier 3 criminal activity;

tier 1 criminal activity means conduct that constitutes an offence punishable on first conviction with imprisonment for life or for a term of 15 years or more;

tier 2 criminal activity means conduct that constitutes an offence punishable on first conviction with imprisonment for a term of 5 years or more (but less than 15 years);

tier 3 criminal activity means conduct that constitutes an offence, other than tier 1 criminal activity or tier 2 criminal activity.

- (2) Conduct by a child may be *criminal activity* even if, under section 10 or 11 of the **Youth Justice Act 2024**, it is presumed that the child cannot commit the offence that the conduct would constitute.

Notes

- 1 It is conclusively presumed that a child who is under 12 years of age cannot commit an offence—see section 10 of the **Youth Justice Act 2024**.
- 2 It is presumed that a child who is 12 or 13 years of age cannot commit an offence—see section 11 of the **Youth Justice Act 2024**.

321LB Meaning of *coordinate*

For the purposes of this Division, a person *coordinates* the participation of a group in a particular activity if the person—

- (a) plans, arranges or organises for some or all of the group to participate in that activity; or
- (b) funds the participation of some or all of the group in that activity; or
- (c) recruits some or all of the group to engage in that activity.

Subdivision 2—Offences committed by adults**321LC Adult criminal corruption of children—recruitment**

- (1) An adult must not recruit a child to participate in tier 1 criminal activity.
Penalty: Level 1 imprisonment (life).
- (2) An adult must not recruit a child to participate in tier 2 criminal activity.
Penalty: Level 4 imprisonment (15 years maximum).
- (3) An adult must not recruit a child to participate in tier 3 criminal activity.
Penalty: Level 6 imprisonment (5 years maximum).
- (4) In a proceeding for an offence against subsection (1), (2) or (3)—
 - (a) it is not necessary for the prosecution to prove that the accused knew, suspected or ought to have known the age of the child; and
 - (b) it is not a defence that the accused believed that the child was an adult; and
 - (c) it does not matter that the accused recruited the child through any other person.
- (5) For the purposes of subsections (1), (2) and (3), the ages of the accused and the child are to be ascertained at the time of the recruitment.
- (6) An adult may be found guilty of an offence against subsection (1), (2) or (3) whether or not the child referred to in that provision—
 - (a) engages in criminal activity; or
 - (b) is prosecuted for, or is found guilty of, any offence.

321LD Adult criminal corruption of children—coordination of criminal activity involving a child

- (1) An adult must not, in respect of a group that includes a child, coordinate the participation, by some or all of that group, in tier 1 criminal activity.
Penalty: Level 1 imprisonment (life).

- (2) An adult must not, in respect of a group that includes a child, coordinate the participation, by some or all of that group, in tier 2 criminal activity.
Penalty: Level 4 imprisonment (15 years maximum).
- (3) An adult must not, in respect of a group that includes a child, coordinate the participation, by some or all of that group, in tier 3 criminal activity.
Penalty: Level 6 imprisonment (5 years maximum).
- (4) In a proceeding for an offence against subsection (1), (2) or (3)—
 - (a) it is not necessary for the prosecution to prove that the accused knew, suspected or ought to have known—
 - (i) that the group included a child; or
 - (ii) that any child in the group was a child; or
 - (b) it is not necessary for the prosecution to prove that the accused performed any particular act in respect of the child specifically (rather than in respect of some or all of the group); and
 - (c) it is not a defence that the accused believed that the child was an adult; and
 - (d) it does not matter that the accused coordinated the participation through any other person.
- (5) For the purposes of subsections (1), (2) and (3), the ages of the accused and the child are to be ascertained at the time of the coordination.
- (6) An adult may be found guilty of an offence against subsection (1), (2) or (3) whether or not the child referred to in that provision—
 - (a) engages in criminal activity; or
 - (b) is prosecuted for, or is found guilty of, any offence.

321LE Adult criminal corruption of children—participation involving a child

- (1) An adult must not participate in tier 1 criminal activity in which a child also participates.
Penalty: Level 1 imprisonment (life).
- (2) An adult must not participate in tier 2 criminal activity in which a child also participates.
Penalty: Level 4 imprisonment (15 years maximum).
- (3) An adult must not participate in tier 3 criminal activity in which a child also participates.
Penalty: Level 6 imprisonment (5 years maximum).
- (4) In a proceeding for an offence against subsection (1), (2) or (3)—
 - (a) it is not necessary for the prosecution to prove that the accused knew, suspected or ought to have known the age of the child; and

- (b) it is not a defence that the accused believed that the child was an adult; and
- (c) it does not matter that—
 - (i) the accused did not recruit the child to participate in the criminal activity; or
 - (ii) there is remoteness of any kind between the accused and the child during the criminal activity.
- (5) For the purposes of subsections (1), (2) and (3), the ages of the accused and the child are to be ascertained at the time of the participation.
- (6) An adult may be found guilty of an offence against subsection (1), (2) or (3) whether or not the child referred to in that provision is prosecuted for, or is found guilty of, any offence.

321LF Adult criminal corruption of children—grooming

- (1) An adult must not expose a child to tier 1 criminal activity intending, by doing so, to foster in the child an ability or inclination to participate, or a familiarity or comfort with participating, in criminal activity.
Penalty: Level 1 imprisonment (life).
- (2) An adult must not expose a child to tier 2 criminal activity intending, by doing so, to foster in the child an ability or inclination to participate, or a familiarity or comfort with participating, in criminal activity.
Penalty: Level 4 imprisonment (15 years maximum).
- (3) An adult must not expose a child to tier 3 criminal activity intending, by doing so, to foster in the child an ability or inclination to participate, or a familiarity or comfort with participating, in criminal activity.
Penalty: Level 6 imprisonment (5 years maximum).
- (4) In a proceeding for an offence against subsection (1), (2) or (3)—
 - (a) it is not necessary for the prosecution to prove—
 - (i) that the accused knew, suspected or ought to have known the age of the exposed child; or
 - (ii) that any ability, inclination, familiarity or comfort referred to in those provisions was fostered in the child; and
 - (b) it is not a defence that the accused believed that the child was an adult; and
 - (c) it does not matter that the accused involved any other person in the exposure of the child to the criminal activity.
- (5) For the purposes of subsections (1), (2) and (3), the ages of the accused and the child are to be ascertained at the time of the recruitment.
- (6) An adult may be found guilty of an offence against subsection (1), (2) or (3) whether or not the child referred to in that provision—
 - (a) engages in criminal activity; or

(b) is prosecuted for, or is found guilty of, any offence.

Subdivision 3—Offences committed by children

321LG Children criminally corrupting other children—recruitment

- (1) A child must not recruit another child to participate in tier 1 criminal activity.
Penalty: Level 4 imprisonment (15 years maximum).
- (2) A child must not recruit another child to participate in tier 2 criminal activity.
Penalty: Level 5 imprisonment (10 years maximum).
- (3) A child must not recruit another child to participate in tier 3 criminal activity.
Penalty: Level 7 imprisonment (2 years maximum).
- (4) In a proceeding for an offence against subsection (1), (2) or (3)—
 - (a) it is not necessary for the prosecution to prove that the accused knew, suspected or ought to have known the age of the child; and
 - (b) it is not a defence that the accused believed that the child was an adult; and
 - (c) it does not matter that the accused recruited the child through any other person.
- (5) For the purposes of subsections (1), (2) and (3), the ages of both children are to be ascertained at the time of the recruitment.
- (6) A child may be found guilty of an offence against subsection (1), (2) or (3) whether or not the recruited child—
 - (a) engages in criminal activity; or
 - (b) is prosecuted for, or is found guilty of, any offence.

321LH Children criminally corrupting other children—coordination of criminal activity involving a child

- (1) A child must not, in respect of a group that includes another child, coordinate the participation, by some or all of that group, in tier 1 criminal activity.
Penalty: Level 4 imprisonment (15 years maximum).
- (2) A child must not, in respect of a group that includes another child, coordinate the participation, by some or all of that group, in tier 2 criminal activity.
Penalty: Level 5 imprisonment (10 years maximum).
- (3) A child must not, in respect of a group that includes another child, coordinate the participation, by some or all of that group, in tier 3 criminal activity.
Penalty: Level 7 imprisonment (2 years maximum).

- (4) In a proceeding for an offence against subsection (1), (2) or (3)—
 - (a) it is not necessary for the prosecution to prove that the accused knew, suspected or ought to have known—
 - (i) that the group included a child; or
 - (ii) that any child in the group was a child; or
 - (iii) that the accused performed any particular act in respect of the included child specifically (rather than in respect of some or all of the group); and
 - (b) it is not a defence that the accused believed that the child included in the group was an adult; and
 - (c) it does not matter that the accused coordinated the participation through any other person.
- (5) For the purposes of subsections (1), (2) and (3), the ages of both children are to be ascertained at the time of the coordination.
- (6) A child may be found guilty of an offence against subsection (1), (2) or (3) whether or not the child included in the group—
 - (a) engages in criminal activity; or
 - (b) is prosecuted for, or is found guilty of, any offence.

321LI Children criminally corrupting other children—participation involving another child

- (1) A child must not participate in tier 1 criminal activity in which another child also participates.
Penalty: Level 4 imprisonment (15 years maximum).
- (2) A child must not participate in tier 2 criminal activity in which another child also participates.
Penalty: Level 5 imprisonment (10 years maximum).
- (3) A child must not participate in tier 3 criminal activity in which another child also participates.
Penalty: Level 7 imprisonment (2 years maximum).
- (4) In a proceeding for an offence against subsection (1), (2) or (3)—
 - (a) it is not necessary for the prosecution to prove that the accused knew, suspected or ought to have known the age of the other child; and
 - (b) it is not a defence that the accused believed that the other child was an adult; and
 - (c) it does not matter that—
 - (i) the accused did not recruit the other child to participate in the criminal activity; or

- (ii) there is remoteness of any kind between the accused and the recruited child during the criminal activity.
- (5) For the purposes of subsections (1), (2) and (3), the ages of both children are to be ascertained at the time of the participation.
- (6) A child may be found guilty of an offence against subsection (1), (2) or (3) whether or not the other child is prosecuted for, or is found guilty of, any offence.

321LJ Children criminally corrupting other children—grooming

- (1) A child must not expose another child to tier 1 criminal activity intending, by doing so, to foster in that other child an ability or inclination to participate, or a familiarity or comfort with participating, in criminal activity.

Penalty: Level 4 imprisonment (15 years maximum).

- (2) A child must not expose another child to tier 2 criminal activity intending, by doing so, to foster in that other child an ability or inclination to participate, or a familiarity or comfort with participating, in criminal activity.

Penalty: Level 5 imprisonment (10 years maximum).

- (3) A child must not expose another child to tier 3 criminal activity intending, by doing so, to foster in that other child an ability or inclination to participate, or a familiarity or comfort with participating, in criminal activity.

Penalty: Level 7 imprisonment (2 years maximum).

- (4) In a proceeding for an offence against subsection (1), (2) or (3)—
 - (a) it is not necessary for the prosecution to prove—
 - (i) that the accused knew, suspected or ought to have known the age of the exposed child; or
 - (ii) that any ability, inclination, familiarity or comfort referred to in those provisions was fostered in the child; and
 - (b) it is not a defence that the accused believed that the exposed child was an adult; and
 - (c) it does not matter that the accused involved any other person in the exposure of the exposed child to the criminal activity.
- (5) For the purposes of subsections (1), (2) and (3), the ages of both children are to be ascertained at the time of the recruitment.
- (6) A child may be found guilty of an offence against subsection (1), (2) or (3) whether or not the accused child—
 - (a) engages in criminal activity; or
 - (b) is prosecuted for, or is found guilty of, any offence.

Subdivision 4—Sentencing

321LK Application of Subdivision

This Subdivision applies despite anything to the contrary in the **Sentencing Act 1991** or the **Youth Justice Act 2024**.

321LM Meaning of *affected child*

In this Subdivision—

affected child means, in relation to an offence committed against this Division, a child who is described by whichever of the following paragraphs relates to that offence—

- (a) a child recruited to participate in criminal activity; or
- (b) a child included in the group whose participation in criminal activity was coordinated by the offender; or
- (c) a child who participated in the criminal activity in which the offender also participated; or
- (d) the child exposed to criminal activity.

321LN Matters the court must regard as serious

In determining what sentence to impose for an offence against this Division, the court must treat the following aspects of the offending as serious—

- (a) the fact that the offender has endeavoured to transfer physical, criminal or legal risk onto a child;
- (b) the fact that the offender retains control, authority or benefit while the child bears that risk.

321LO Aggravating factors

- (1) In determining what sentence to impose for an offence against this Division, the court must treat as an aggravating factor—
 - (a) the participation, by the affected child, in criminal activity;
 - (b) the extent to which the offending was repeated or protracted;
 - (c) whether any of the following was involved in the commission of the offence—
 - (i) force;
 - (ii) threats, coercion, intimidation or blackmail;
 - (iii) deception;
 - (iv) exploitation involving—
 - (A) drugs;
 - (B) debt;
 - (C) homelessness;
 - (D) disability;
 - (E) trauma;

- (F) any other vulnerability;
 - (v) emotional manipulation, including exploiting a child's need for approval, protection, belonging or status;
 - (d) the use of other children in the course of the offending;
 - (e) the extent to which the offender has sought to insulate themselves from risk through the use of other persons in the course of the offending.
- (2) In determining what sentence to impose for an offence against this Division, the court must consider that—
- (a) the aggravation to be accorded is to increase as the age of the affected child decreases; and
 - (b) the aggravation to be accorded is to increase along with the extent to which the affected child participated in criminal activity in connection with the offence for which the sentence is to be imposed.

321LP Characteristics and circumstances of child offender to which the court must have regard

In determining what sentence to impose for an offence against Subdivision 3, the court must have regard to—

- (a) how much authority the offender held over other children;
- (b) the position of the offender within a criminal hierarchy;
- (c) whether the offender acted independently or was directed by an older person;
- (d) whether the offender was being groomed, coerced or exploited.

321LQ Mandatory cumulation

- (1) In this section, each of the following is a *tier 1 or 2 offence*—
- (a) section 321LC(1) or (2);
 - (b) section 321LD(1) or (2);
 - (c) section 321LE(1) or (2);
 - (d) section 321LF(1) or (2);
 - (e) section 321LG(1) or (2);
 - (f) section 321LH(1) or (2);
 - (g) section 321LI(1) or (2);
 - (h) section 321LJ(1) or (2).
- (2) A court that is to sentence an offender for both—
- (a) a tier 1 or 2 offence; and
 - (b) another offence constituted by committing any criminal activity to which the tier 1 or 2 offence relates—
- must do so in accordance with this section.

- (3) If the court is to impose a sentence of imprisonment or detention in respect of each offence, the court must direct that the following period of the sentence imposed in respect of the tier 1 or 2 offence is to be served cumulatively on the sentence imposed in respect of the other offence—
 - (a) if the term of imprisonment to be imposed in respect of the tier 1 or 2 offence is at least 12 months, 12 months; or
 - (b) otherwise, the entirety of the term of imprisonment that is to be imposed in respect of the tier 1 or 2 offence.
- (4) The court must not reduce the term of imprisonment it is to impose in respect of either sentence so as to ameliorate the effect of subsection (3).
- (5) The court must fix a longer period during which the offender is not eligible to be released on parole than the court would have fixed if the offender were not to be sentenced for the tier 1 or 2 offence.

Subdivision 5—Referral to supporting authorities

321LR Chief Commissioner of Police must ensure referral to supporting authorities

- (1) The Chief Commissioner of Police must establish a policy or procedure that provides for suitable public entities, as identified by the Chief Commissioner, to be notified in circumstances where a police officer suspects a child has been—
 - (a) recruited to participate in criminal activity in contravention of this Division; or
 - (b) included in a group whose participation in criminal activity was coordinated in contravention of this Division; or
 - (c) exposed to criminal activity in contravention of this Division.
- (2) The policy or procedure is not to be restricted to circumstances where a person has been charged or found guilty of an offence against this Division.

Subdivision 6—Miscellaneous

321LS Limitation on prosecution

A person is not liable to be convicted in respect of the same conduct of both—

- (a) an offence against this Division; and
- (b) an offence against section 321G(1).".!.

- 5. Clause 4, omit this clause.
- 6. Clause 5, omit this clause.
- 7. Clause 6, omit this clause.
- 8. Clause 7, omit this clause.

9. Clause 8, omit this clause.

AMENDMENT OF LONG TITLE

10. Long title, omit "in relation to" and insert "to enact new provisions relating to".
11. Long title, after "criminal activity" insert "and other forms of the criminal corruption of children".