



Queensland

# **Criminal Code and Other Legislation (Mason Jett Lee) Amendment Bill 2019**





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# Criminal Code and Other Legislation (Mason Jett Lee) Amendment Bill 2019

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	6
<b>Part 2</b>	<b>Amendment of Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004</b>	
2	Act amended . . . . .	6
3	Amendment of sch 1 (Prescribed offences) . . . . .	6
<b>Part 3</b>	<b>Amendment of Corrective Services Act 2006</b>	
4	Act amended . . . . .	6
5	Amendment of s 181 (Parole eligibility date for prisoner serving term of imprisonment for life) . . . . .	7
<b>Part 4</b>	<b>Amendment of Criminal Code</b>	
6	Code amended . . . . .	7
7	Amendment of s 17 (Former conviction or acquittal) . . . . .	7
8	Amendment of s 286 (Duty of person who has care of child) . . . . .	7
9	Amendment of s 300 (Unlawful homicide) . . . . .	8
10	Insertion of new s 302A . . . . .	8
	302A Definition of child homicide . . . . .	8
11	Amendment of s 303 (Definition of manslaughter) . . . . .	9
12	Amendment of s 304 (Killing on provocation) . . . . .	9
13	Amendment of s 304A (Diminished responsibility) . . . . .	9
14	Amendment of s 304B (Killing for preservation in an abusive domestic relationship) . . . . .	10
15	Amendment of s 305 (Punishment of murder) . . . . .	10
16	Amendment of s 307 (Accessory after the fact to murder) . . . . .	10
17	Insertion of new s 309A . . . . .	11
	309A Punishment of child homicide . . . . .	11
18	Amendment of s 576 (Indictment containing count of murder or	

Contents

---

	manslaughter) . . . . .	11
19	Amendment of s 678B (Court may order retrial for murder—fresh and compelling evidence) . . . . .	12
20	Amendment of s 678D (Fresh and compelling evidence—meaning) . . . . .	12
<b>Part 5</b>	<b>Amendment of Criminal Law Amendment Act 1945</b>	
21	Act amended . . . . .	12
22	Amendment of s 18B (Parole orders under Corrective Services Act 2006) . . . . .	12
<b>Part 6</b>	<b>Amendment of Criminal Practice Rules 1999</b>	
23	Rules amended . . . . .	13
24	Amendment of sch 3 (Forms for indictments, informations and complaints—statement of offences under the Code) . . . . .	13
<b>Part 7</b>	<b>Amendment of Criminal Proceeds Confiscation Act 2002</b>	
25	Act amended . . . . .	13
26	Amendment of sch 2 (Offences) . . . . .	13
<b>Part 8</b>	<b>Amendment of Disability Services Act 2006</b>	
27	Act amended . . . . .	14
28	Amendment of sch 2 (Current serious offences) . . . . .	14
29	Amendment of sch 4 (Current disqualifying offences) . . . . .	14
30	Amendment of sch 6 (Offences that may form basis of investigative information) . . . . .	14
<b>Part 9</b>	<b>Amendment of Mental Health Act 2016</b>	
31	Act amended . . . . .	15
32	Amendment of s 21 (Mental Health Court) . . . . .	15
33	Amendment of s 110 (When reference may be made) . . . . .	15
34	Amendment of s 116 (Decision about unsoundness of mind and diminished responsibility) . . . . .	15
35	Amendment of s 120 (Diminished responsibility—discontinuance of proceeding) . . . . .	16
36	Amendment of s 181 (Application of div 1) . . . . .	16
37	Amendment of s 789 (Publication of reports and decisions on references—Mental Health Court and Court of Appeal) . . . . .	16
38	Amendment of sch 3 (Dictionary) . . . . .	16
<b>Part 10</b>	<b>Amendment of Penalties and Sentences Act 1992</b>	
39	Act amended . . . . .	17
40	Amendment of s 171 (Review—periodic) . . . . .	17
41	Amendment of sch 1 (Serious violent offences) . . . . .	17
42	Amendment of sch 1C (Prescribed offences) . . . . .	17

43	Amendment of sch 2 (Qualifying offences) . . . . .	17
<b>Part 11</b>	<b>Amendment of Transport Operations (Passenger Transport) Act 1994</b>	
44	Act amended . . . . .	18
45	Amendment of sch 1A (Driver disqualifying offences) . . . . .	18
<b>Part 12</b>	<b>Amendment of Victims of Crime Assistance Act 2009</b>	
46	Act amended . . . . .	18
47	Amendment of sch 3 (Dictionary) . . . . .	18
<b>Part 13</b>	<b>Amendment of Weapons Act 1990</b>	
48	Act amended . . . . .	19
49	Amendment of s 53 (An unlicensed person may use a weapon at an approved range) . . . . .	19
50	Amendment of sch 2 (Dictionary) . . . . .	19
<b>Part 14</b>	<b>Amendment of Working with Children (Risk Management and Screening) Act 2000</b>	
51	Act amended . . . . .	19
52	Amendment of sch 2 (Current serious offences) . . . . .	19
53	Amendment of sch 4 (Current disqualifying offences) . . . . .	20
54	Amendment of sch 6 (Offences that may form basis of investigative information) . . . . .	20
<b>Part 15</b>	<b>Amendment of Youth Justice Act 1992</b>	
55	Act amended . . . . .	20
56	Amendment of s 176 (Sentence orders—life and other significant offences) . . . . .	20



# 2019

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## A Bill

for

**An Act to amend the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, the *Corrective Services Act 2006*, the Criminal Code, the *Criminal Law Amendment Act 1945*, the *Criminal Practice Rules 1999*, the *Criminal Proceeds Confiscation Act 2002*, the *Disability Services Act 2006*, the *Mental Health Act 2016*, the *Penalties and Sentences Act 1992*, the *Transport Operations (Passenger Transport) Act 1994*, the *Victims of Crime Assistance Act 2009*, the *Weapons Act 1990*, the *Working with Children (Risk Management and Screening) Act 2000* and the *Youth Justice Act 1992* for particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Criminal Code and Other  
Legislation (Mason Jett Lee) Amendment Act 2019*. 4  
5

**Part 2 Amendment of Child Protection  
(Offender Reporting and  
Offender Prohibition Order) Act  
2004** 6  
7  
8  
9

**Clause 2 Act amended** 10

This part amends the *Child Protection (Offender Reporting  
and Offender Prohibition Order) Act 2004*. 11  
12

**Clause 3 Amendment of sch 1 (Prescribed offences)** 13

Schedule 1, item 9(a), entry for section 300, after ‘murder’— 14  
*insert—* 15  
or child homicide 16

**Part 3 Amendment of Corrective  
Services Act 2006** 17  
18

**Clause 4 Act amended** 19

This part amends the *Corrective Services Act 2006*. 20



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<b>Clause 5</b>	<b>Amendment of s 181 (Parole eligibility date for prisoner serving term of imprisonment for life)</b>	1
		2
	Section 181(2)(c) and (d)—	3
	<i>omit, insert—</i>	4
	(c) if the Criminal Code, section 305(4A) applied on sentence—25 years or the longer time ordered under that section;	5
		6
		7
	(d) if the prisoner is serving a term of imprisonment for life for an offence of murder and paragraphs (a), (b) and (c) do not apply—20 years;	8
		9
		10
	(e) if the Criminal Code, section 309A applied on sentence—15 years or the longer time ordered under that section;	12
		13
		14
	(f) otherwise—15 years.	15

## **Part 4                      Amendment of Criminal Code**                      16

<b>Clause 6</b>	<b>Code amended</b>	17
	This part amends the Criminal Code.	18

<b>Clause 7</b>	<b>Amendment of s 17 (Former conviction or acquittal)</b>	19
	Section 17, note, after ‘murder’—	20
	<i>insert—</i>	21
	or child homicide	22

<b>Clause 8</b>	<b>Amendment of s 286 (Duty of person who has care of child)</b>	23
		24
	Section 286(1), ‘under 16 years’—	25
	<i>omit.</i>	26

[s 9]

---

<b>Clause 9</b>	<b>Amendment of s 300 (Unlawful homicide)</b>	1
	Section 300, ‘or manslaughter,’—	2
	<i>omit, insert—</i>	3
	, child homicide or manslaughter,	4
<b>Clause 10</b>	<b>Insertion of new s 302A</b>	5
	After section 302—	6
	<i>insert—</i>	7
	<b>302A Definition of <i>child homicide</i></b>	8
	(1) A person who unlawfully kills another person	9
	under such circumstances as to not constitute	10
	murder but under all of the following	11
	circumstances—	12
	(a) the person killed was a child at the time the	13
	act or omission that caused the person’s	14
	death was done or made;	15
	(b) the person did the act or made the omission	16
	that caused the person’s death when the	17
	person knew or ought reasonably to have	18
	known that the person killed was a child;	19
	(c) the act or omission that caused the person’s	20
	death—	21
	(i) involved violence; or	22
	<i>Examples, which are not exclusive examples, of</i>	23
	<i>acts involving violence—</i>	24
	vigorous shaking, punching, kicking,	25
	stamping, throwing, squeezing, suffocating	26
	or strangling	27
	(ii) was an offence of a sexual nature; or	28
	(iii) was a breach of a duty stated in section	29
	285 or 286;	30
	is guilty of <i>child homicide</i> .	31

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	(2) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	1 2 3 4 5
<b>Clause 11</b>	<b>Amendment of s 303 (Definition of <i>manslaughter</i>)</b>	6
	Section 303(1), after ‘murder’—	7
	<i>insert</i> —	8
	or child homicide	9
<b>Clause 12</b>	<b>Amendment of s 304 (Killing on provocation)</b>	10
	Section 304(1), (9) and (10), after ‘murder’—	11
	<i>insert</i> —	12
	or child homicide	13
<b>Clause 13</b>	<b>Amendment of s 304A (Diminished responsibility)</b>	14
	(1) Section 304A(1), after ‘murder’—	15
	<i>insert</i> —	16
	or child homicide	17
	(2) Section 304A(2), after ‘murder’—	18
	<i>insert</i> —	19
	or child homicide	20
	(3) Section 304A(3), from ‘shall not’—	21
	<i>omit, insert</i> —	22
	does not affect the question whether the unlawful killing amounted to murder or child homicide in the case of the other person or persons.	23 24 25

[s 14]

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<b>Clause 14</b>	<b>Amendment of s 304B (Killing for preservation in an abusive domestic relationship)</b>	1 2
	Section 304B(1), after ‘constitute murder’—	3
	<i>insert—</i>	4
	or child homicide	5
<b>Clause 15</b>	<b>Amendment of s 305 (Punishment of murder)</b>	6
	Section 305—	7
	<i>insert—</i>	8
	(4A) If—	9
	(a) the person killed was a child at the time the act or omission that caused the person’s death was done or made; and	10 11 12
	(b) the person being sentenced did the act or made the omission that caused the person’s death when the person knew or ought reasonably to have known that the person killed was a child;	13 14 15 16 17
	the court sentencing the person must make an order that the person must not be released from imprisonment until the person has served a minimum of 25 or more specified years of imprisonment, unless released sooner under exceptional circumstances parole under the <i>Corrective Services Act 2006</i> .	18 19 20 21 22 23 24
<b>Clause 16</b>	<b>Amendment of s 307 (Accessory after the fact to murder)</b>	25
	(1) Section 307, heading, after ‘murder’—	26
	<i>insert—</i>	27
	<b>or child homicide</b>	28
	(2) Section 307(1), after ‘murder’—	29
	<i>insert—</i>	30

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	or child homicide	1
<b>Clause 17</b>	<b>Insertion of new s 309A</b>	2
	After section 309—	3
	<i>insert—</i>	4
	<b>309A Punishment of child homicide</b>	5
	(1) Any person who commits the crime of child homicide is liable to imprisonment for life, which can not be mitigated or varied under any law or is liable to an indefinite sentence under part 10 of the <i>Penalties and Sentences Act 1992</i> .	6 7 8 9 10
	(2) The court sentencing the person must make an order that the person must not be released from imprisonment until the person has served a minimum of 15 or more specified years of imprisonment, unless released sooner under exceptional circumstances parole under the <i>Corrective Services Act 2006</i> .	11 12 13 14 15 16 17
	(3) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for the crime of child homicide.	18 19 20
<b>Clause 18</b>	<b>Amendment of s 576 (Indictment containing count of murder or manslaughter)</b>	21 22
	(1) Section 576, heading, after ‘murder’—	23
	<i>insert—</i>	24
	<b>, child homicide</b>	25
	(2) Section 576(1), after ‘murder’—	26
	<i>insert—</i>	27
	or child homicide	28

[s 19]

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<b>Clause 19</b>	<b>Amendment of s 678B (Court may order retrial for murder—fresh and compelling evidence)</b>	1 2
	(1) Section 678B, heading, after ‘murder’—	3
	<i>insert—</i>	4
	<b>or child homicide</b>	5
	(2) Section 678B(1) to (4), after ‘murder’—	6
	<i>insert—</i>	7
	or child homicide	8
<b>Clause 20</b>	<b>Amendment of s 678D (Fresh and compelling evidence—meaning)</b>	9 10
	Section 678D(1), after ‘murder’—	11
	<i>insert—</i>	12
	or child homicide	13
<b>Part 5</b>	<b>Amendment of Criminal Law Amendment Act 1945</b>	14 15
<b>Clause 21</b>	<b>Act amended</b>	16
	This part amends the <i>Criminal Law Amendment Act 1945</i> .	17
<b>Clause 22</b>	<b>Amendment of s 18B (Parole orders under Corrective Services Act 2006)</b>	18 19
	Section 18B(1)(a), ‘section 181(2)(d)’—	20
	<i>omit, insert—</i>	21
	section 181(2)(f)	22

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<b>Part 6</b>	<b>Amendment of Criminal Practice Rules 1999</b>	1 2
<b>Clause 23</b>	<b>Rules amended</b>	3
	This part amends the <i>Criminal Practice Rules 1999</i> .	4
<b>Clause 24</b>	<b>Amendment of sch 3 (Forms for indictments, informations and complaints—statement of offences under the Code)</b>	5 6 7
	Schedule 3, part 5, entry for chapter 28—	8
	<i>insert—</i>	9
	<b>Form 151A</b> <b>Child homicide</b>	10
	(Section 302A. Definition of <i>child homicide</i> )	11
	(Section 309A. Punishment of <i>child homicide</i> )	12
	Unlawfully killed EF, a child.	13
<b>Part 7</b>	<b>Amendment of Criminal Proceeds Confiscation Act 2002</b>	14 15 16
<b>Clause 25</b>	<b>Act amended</b>	17
	This part amends the <i>Criminal Proceeds Confiscation Act 2002</i> .	18 19
<b>Clause 26</b>	<b>Amendment of sch 2 (Offences)</b>	20
	Schedule 2, part 1, item 1—	21
	<i>insert—</i>	22
	(aa) child homicide;	23

[s 27]

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<b>Part 8</b>	<b>Amendment of Disability Services Act 2006</b>	1
		2
<b>Clause 27</b>	<b>Act amended</b>	3
	This part amends the <i>Disability Services Act 2006</i> .	4
<b>Clause 28</b>	<b>Amendment of sch 2 (Current serious offences)</b>	5
	Schedule 2, item 4, entry for the Criminal Code, section 300, column 3—	6
		7
	<i>omit, insert—</i>	8
	only if the unlawful killing is—	9
	(a) murder under section 302; or	10
	(b) child homicide under section 302A	11
<b>Clause 29</b>	<b>Amendment of sch 4 (Current disqualifying offences)</b>	12
	Schedule 4, item 4, entry for the Criminal Code, section 300, column 3—	13
		14
	<i>omit, insert—</i>	15
	only if the unlawful killing is—	16
	(a) murder under section 302 and was committed against a child; or	17
		18
	(b) child homicide under section 302A	19
<b>Clause 30</b>	<b>Amendment of sch 6 (Offences that may form basis of investigative information)</b>	20
		21
	Schedule 6, item 4, entry for the Criminal Code, section 300, column 3—	22
		23
	<i>omit, insert—</i>	24
	only if the unlawful killing is—	25



[s 31]

- 
- (a) murder under section 302 and was committed against a child or a person with a disability; or
- (b) child homicide under section 302A

**Part 9** **Amendment of Mental Health Act 2016**

- Clause 31 Act amended**  
This part amends the *Mental Health Act 2016*.
- Clause 32 Amendment of s 21 (Mental Health Court)**  
Section 21(1), after ‘murder’—  
*insert—*  
or child homicide
- Clause 33 Amendment of s 110 (When reference may be made)**  
Section 110(2)(a), after ‘murder’—  
*insert—*  
or child homicide
- Clause 34 Amendment of s 116 (Decision about unsoundness of mind and diminished responsibility)**  
Section 116(1)(b), after ‘murder’—  
*insert—*  
or child homicide

[s 35]

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<b>Clause 35</b>	<b>Amendment of s 120 (Diminished responsibility— discontinuance of proceeding)</b>	1 2
	Section 120, after ‘murder’—	3
	<i>insert—</i>	4
	or child homicide	5
<b>Clause 36</b>	<b>Amendment of s 181 (Application of div 1)</b>	6
	Section 181(1)(b)(ii), after ‘murder’—	7
	<i>insert—</i>	8
	or child homicide	9
<b>Clause 37</b>	<b>Amendment of s 789 (Publication of reports and decisions on references—Mental Health Court and Court of Appeal)</b>	10 11 12
	(1) Section 789(3) definition <i>decision leading to trial</i> , paragraph (c), after ‘murder’—	13 14
	<i>insert—</i>	15
	or child homicide	16
	(2) Section 789(3) definition <i>relevant offence</i> , paragraph (b), after ‘murder’—	17 18
	<i>insert—</i>	19
	or child homicide	20
<b>Clause 38</b>	<b>Amendment of sch 3 (Dictionary)</b>	21
	Schedule 3, definition <i>prescribed offence—</i>	22
	<i>insert—</i>	23
	(aa) sections 302A (Definition of <i>child homicide</i> ) and 309A (Punishment of child homicide);	24 25 26

<b>Part 10</b>	<b>Amendment of Penalties and Sentences Act 1992</b>	1 2
<b>Clause 39</b>	<b>Act amended</b>	3
	This part amend the <i>Penalties and Sentences Act 1992</i> .	4
<b>Clause 40</b>	<b>Amendment of s 171 (Review—periodic)</b>	5
	Section 171(2)(a)(ii), after ‘section 305(4)’—	6
	<i>omit, insert—</i>	7
	or (4A)	8
<b>Clause 41</b>	<b>Amendment of sch 1 (Serious violent offences)</b>	9
	Schedule 1, entry for the Criminal Code—	10
	<i>insert—</i>	11
	14C sections 302A (Definition of <i>child homicide</i> ) and 309A (Punishment of child homicide)	12 13
<b>Clause 42</b>	<b>Amendment of sch 1C (Prescribed offences)</b>	14
	Schedule 1C, entry for the Criminal Code—	15
	<i>insert—</i>	16
	• sections 302A (Definition of <i>child homicide</i> ) and 309A (Punishment of child homicide)	17 18 19
<b>Clause 43</b>	<b>Amendment of sch 2 (Qualifying offences)</b>	20
	Schedule 2, entry for the Criminal Code—	21
	<i>insert—</i>	22
302A, 309A	Child homicide	

[s 44]

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<b>Part 11</b>	<b>Amendment of Transport Operations (Passenger Transport) Act 1994</b>	1
		2
		3
<b>Clause 44</b>	<b>Act amended</b>	4
	This part amends the <i>Transport Operations (Passenger Transport) Act 1994</i> .	5
		6
<b>Clause 45</b>	<b>Amendment of sch 1A (Driver disqualifying offences)</b>	7
	Schedule 1A, part 1, division 1, item 12E, after ‘child’—	8
	<i>insert—</i>	9
	or the unlawful killing is child homicide under section 302A	10
		11
<b>Part 12</b>	<b>Amendment of Victims of Crime Assistance Act 2009</b>	12
		13
<b>Clause 46</b>	<b>Act amended</b>	14
	This part amends the <i>Victims of Crime Assistance Act 2009</i> .	15
<b>Clause 47</b>	<b>Amendment of sch 3 (Dictionary)</b>	16
	Schedule 3, definition <i>more serious act of violence</i> , after ‘murder,’—	17
	<i>insert—</i>	18
	child homicide,	19
		20

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<b>Part 13</b>	<b>Amendment of Weapons Act 1990</b>	1 2
<b>Clause 48</b>	<b>Act amended</b>  This part amends the <i>Weapons Act 1990</i> .	3 4
<b>Clause 49</b>	<b>Amendment of s 53 (An unlicensed person may use a weapon at an approved range)</b>  Section 53(7), definition <i>excluded person</i> , paragraph (a)(i), after ‘murder’—  <i>insert—</i>  , child homicide	5 6 7 8 9 10
<b>Clause 50</b>	<b>Amendment of sch 2 (Dictionary)</b>  Schedule 2, definition <i>prohibited person</i> , paragraph (a), after ‘murder’—  <i>insert—</i>  , child homicide	11 12 13 14 15
<b>Part 14</b>	<b>Amendment of Working with Children (Risk Management and Screening) Act 2000</b>	16 17 18
<b>Clause 51</b>	<b>Act amended</b>  This part amends the <i>Working with Children (Risk Management and Screening) Act 2000</i> .	19 20 21
<b>Clause 52</b>	<b>Amendment of sch 2 (Current serious offences)</b>  Schedule 2, item 4, entry for the Criminal Code, section 300, column 3, after ‘section 302’—	22 23 24

[s 53]

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*insert—* 1  
or child homicide under section 302A 2

**Clause 53 Amendment of sch 4 (Current disqualifying offences) 3**

Schedule 4, item 4, entry for the Criminal Code, section 300, 4  
column 3, after ‘child’— 5

*insert—* 6  
or child homicide under section 302A 7

**Clause 54 Amendment of sch 6 (Offences that may form basis of 8  
investigative information) 9**

Schedule 6, item 4, entry for the Criminal Code, section 300, 10  
column 3, after ‘disability’— 11

*insert—* 12  
or child homicide under section 302A 13

**Part 15 Amendment of Youth Justice 14  
Act 1992 15**

**Clause 55 Act amended 16**

This part amends the *Youth Justice Act 1992*. 17

**Clause 56 Amendment of s 176 (Sentence orders—life and other 18  
significant offences) 19**

(1) Section 176(6), ‘(3) and (4)’— 20

*omit, insert—* 21

(3), (4) and (4A) 22

(2) Section 176— 23

*insert—* 24

- (6A) The *Criminal Code*, section 309A(2) applies to a 1  
court sentencing a child to detention for life on a 2  
conviction of child homicide. 3
- Note—* 4
- For the child’s parole eligibility, see section 233 of this 5  
Act and the *Corrective Services Act 2006*, section 181. 6