

Criminal Justice (Boards) Bill

No.

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By Authority Jean Gordon Government Printer Melbourne

LEGISLATIVE ASSEMBLY

Read 1° 26 October 1989

(Brought in by Mr McCutcheon and Ms Kirner)

A BILL

to establish a Judicial Studies Board and a Bureau of Crime Research
and Statistics and for other purposes

Criminal Justice (Boards) Act 1989

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purpose

- 5 1. The purpose of this Act is to establish a Judicial Studies Board
and a Bureau of Crime Research and Statistics.

Commencement

- 10 2. This Act comes into operation as follows:
- (a) Part 1 on the day on which this Act receives the Royal Assent;
 - (b) Part 2 on a day to be proclaimed;
 - (c) Part 3 on a day to be proclaimed.

Definitions

- 15 3. In this Act—
- “**Board**” means Judicial Studies Board established by Part 2.
 - “**Bureau**” means Bureau of Crime Research and Statistics established by Part 3.

PART 2—JUDICIAL STUDIES BOARD

Establishment of Judicial Studies Board

4. (1) There is established by this Part a body to be known as the Judicial Studies Board.

- (2) The Board— 5
- (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and
 - (c) may sue and be sued in its corporate name; and
 - (d) is capable of taking, purchasing, leasing, improving, holding, selling and disposing of real and personal property for the purpose of performing its functions and exercising its powers; and 10
 - (e) is capable of doing and suffering all acts and things which bodies corporate may by law do and suffer and which are necessary or convenient to be done or suffered by the Board for the purpose of performing its functions and exercising its powers. 15

(3) The common seal must be kept as directed by the Board and must only be used as authorised by the Board.

(4) All courts must take judicial notice of the imprint of the common seal on a document and, until the contrary is proved, must presume that the document was properly sealed. 20

Functions of Board

5. The Board has the following functions:
- (a) To conduct seminars for judges and magistrates on sentencing matters; 25
 - (b) To conduct research into sentencing matters;
 - (c) To prepare sentencing guidelines and circulate them among judges and others;
 - (d) To develop and maintain a computerised statistical sentencing database for use by the courts; 30
 - (e) To provide sentencing statistics to judges, magistrates and lawyers;
 - (f) To monitor present trends, and initiate future developments, in sentencing; 35
 - (g) To assist the courts to give effect to the principles contained in the *Penalties and Sentences Act 1989*;
 - (h) To consult with the public, government departments and other interested people, bodies or associations on sentencing matters; 40
 - (i) To advise the Attorney-General on sentencing matters.

Powers of Board

6. The Board has power to request any body, governmental or non-governmental, to supply it with any information needed by the Board to enable it to perform its functions.

5 Membership of Board

7. (1) The Board consists of 7 members appointed by the Governor in Council of whom—

- 10 (a) one is the Chief Justice of the Supreme Court or another Judge of that Court nominated by the Chief Justice, who is to be the chairperson; and
- (b) one is another Judge of the Supreme Court nominated by the Chief Justice; and
- 15 (c) one is the Chief Judge of the County Court or another judge of that Court nominated by the Chief Judge; and
- (d) one is another judge of the County Court nominated by the Chief Judge; and
- (e) one is the Chief Magistrate or another magistrate nominated by the Chief Magistrate; and
- 20 (f) two are persons nominated by the Attorney-General of whom at least one is, or has at any time been, employed by a tertiary institution as a member of the academic staff at a level not lower than senior lecturer.

(2) Service by a judge or magistrate as a member of the Board must be taken to be service as a judge or magistrate, as the case requires.

25 Terms and conditions of office of members

8. (1) A member of the Board holds office for the term, not exceeding 3 years, that is specified in his or her instrument of appointment, and is eligible for re-appointment.

30 (2) A member is not, in respect of the office of member, subject to the *Public Service Act* 1974.

(3) A member may resign from office by delivering to the Governor in Council a signed letter of resignation.

(4) A member is entitled to be paid the travelling and other allowances fixed from time to time by the Governor in Council.

35 (5) A member is appointed subject to any terms and conditions that are specified in the instrument of appointment and that are not inconsistent with this Act.

Director of Board

40 9. (1) The Governor in Council may appoint a person as Director of the Board.

(2) The Director is responsible for the management of the affairs of the Board.

(3) The Director holds office for the term, not exceeding 3 years, that is specified in his or her instrument of appointment, and is eligible for re-appointment.

(4) The Director is not, in respect of the office of Director, subject to the *Public Service Act 1974*.

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(5) The Director may resign from office by delivering to the Governor in Council a signed letter of resignation.

(6) The Director is entitled to be paid—

(a) the remuneration fixed from time to time by the Governor in Council; and

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(b) the travelling and other allowances fixed from time to time by the Governor in Council.

(7) The Director is appointed subject to any terms and conditions that are specified in the instrument of appointment and that are not inconsistent with this Act.

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Staff of Board

10. Subject to the *Public Service Act 1974*, there are to be appointed to the Board as many research officers and other persons as are necessary for the proper functioning of the Board.

Meetings of the Board

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11. (1) The chairperson must preside at any meeting of the Board at which he or she is present.

(2) If the chairperson is absent, a member elected by the members present must preside.

(3) A majority of members in office at the time constitutes a quorum for a meeting of the Board.

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(4) A question arising at a meeting of the Board must be determined by a majority of votes of the members present and voting on that question and, if the votes are equal, the person presiding has a casting vote as well as a deliberative vote.

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(5) The Board must meet at any time and place determined by the Board or directed by the chairperson.

(6) Subject to this section, the Board may regulate its own procedure.

Validity of acts or decisions of Board

12. An act or decision of the Board is not invalid only because—

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(a) of a vacancy in the office of a member; or

(b) of a defect or irregularity in or in connection with the appointment of a member.

Accounts and records

5 **13.** (1) The Board must ensure that there are kept proper accounts and records of the transactions and affairs of the Board and any other records that sufficiently explain the financial operations and financial position of the Board.

(2) The Board must do all things necessary to—

- (a) ensure that all money payable to the Board is properly collected; and
- 10 (b) ensure that all money expended by the Board is properly expended and properly authorised; and
- (c) ensure that adequate control is maintained over assets owned by, or in the custody of, the Board; and
- (d) ensure that all liabilities incurred by the Board are properly authorised; and
- 15 (e) ensure that the Board achieves efficiency and economy of operations and that it avoids waste and extravagance; and
- (f) develop and maintain an effective budgeting and accounting system; and
- (g) develop and maintain an effective internal audit system.

20 **Annual report**

14. (1) The Board must, in respect of each financial year, prepare an annual report containing—

- (a) a report of the Board's operations during the financial year; and
- 25 (b) financial statements for the financial year—

and submit the report to the Minister not later than 3 months after the end of the financial year, or any later date that the Minister approves.

(2) The report of operations referred to in sub-section (1) (a)—

- 30 (a) must be prepared in a form and contain information determined by the Board to be appropriate; and
- (b) must contain any further information required by the Minister.

(3) The financial statements referred to in sub-section (1) (b)—

- 35 (a) must contain information determined by the Treasurer to be appropriate; and
- (b) must be prepared in a manner and form approved by the Treasurer; and
- 40 (c) must present fairly the results of the financial transactions of the Board during the financial year to which they relate and the financial position of the Board as at the end of that year; and

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- (d) must be signed by the principal accounting officer (by whatever name called) of the Board and by the chairperson and another member of the Board who must—
 - (i) state whether, in their opinion, the financial statements present fairly the results of the financial transactions of the Board during the financial year to which they relate and whether they sufficiently explain the financial position of the Board as at the end of the financial year; and
 - (ii) state whether, at the date of signing the financial statements, they were aware of any circumstances that would render any particulars included in the statements misleading or inaccurate and, if so, particulars of the circumstances; and
- (e) be audited as required by section 15.

(4) The Minister must cause each annual report submitted to him or her under this section to be laid before the Legislative Council and the Legislative Assembly within 7 sitting days of the Legislative Council or the Legislative Assembly, as the case may be, after the annual report has been received by the Minister.

- (5) If the Board fails to submit an annual report to the Minister—
 - (a) if an extension has not been granted under sub-section (7)—within 3 months after the end of the financial year; or
 - (b) if such an extension has been granted—by the date to which the extension was granted—

the Minister must report or cause to be reported that failure and the reasons for the failure to each House of Parliament.

(6) The Board may apply in writing to the Minister for an extension of the day by which an annual report is to be submitted to the Minister.

(7) The Minister may in writing grant to the Board an extension to such date as the Minister determines.

(8) The Minister must advise or cause to be advised each House of Parliament of each extension granted under this section and the reasons for the extension.

(9) This section does not apply to the Board if, as a result of an order made under the *Annual Reporting Act* 1983, the Board is required to submit an annual report under that Act.

Audit

15. (1) The financial statements referred to in section 14 (1) (b) must be audited by the Auditor-General.

(2) The Auditor-General has, in respect of the audit of the financial statements, all the powers conferred on the Auditor-General by any law relating to the audit of the public accounts.

(3) Without limiting sub-section (2), the Auditor-General and the officers of the Auditor-General—

(a) have right of access at all times to the accounts and records of the Board; and

5 (b) may require from a member of, or person employed by, the Board any information, assistance and explanations necessary for the performance of the duties of the Auditor-General in relation to the audit.

10 (4) The Board must pay to the Consolidated Fund an amount determined by the Auditor-General to defray the costs and expenses of any audit by the Auditor-General under this section.

Financial year

16. The financial year of the Board is the year commencing on 1 July.

15 **PART 3—BUREAU OF CRIME RESEARCH AND STATISTICS**

Establishment of Bureau of Crime Research and Statistics

17. (1) There is established by this Part a body to be known as the Bureau of Crime Research and Statistics.

(2) The Bureau—

20 (a) is a body corporate with perpetual succession; and

(b) has an official seal; and

(c) may sue and be sued in its corporate name; and

25 (d) is capable of taking, purchasing, leasing, improving, holding, selling and disposing of real and personal property for the purpose of performing its functions and exercising its powers; and

30 (e) is capable of doing and suffering all acts and things which bodies corporate may by law do and suffer and which are necessary or convenient to be done or suffered by the Bureau for the purpose of performing its functions and exercising its powers.

(3) The official seal must be kept as directed by the Bureau and must only be used as authorised by the Bureau.

35 (4) All courts must take judicial notice of the imprint of the official seal on a document and, until the contrary is proved, must presume that the document was properly sealed.

Functions of Bureau

18. The Bureau has the following functions:

40 (a) To monitor changing patterns of criminality and the impact of those changes on the criminal justice system;

- (b) To monitor the effects of the implementation of important criminal justice initiatives;
- (c) To undertake research on criminal justice matters at the request of the Attorney-General, the Minister administering the *Corrections Act* 1986 or the Minister administering the *Police Regulation Act* 1958 and to report to the relevant Minister or Ministers; 5
- (d) To co-ordinate the collection of criminal justice statistics with the co-operation of existing criminal justice agencies;
- (e) To develop and implement, in consultation with relevant Commonwealth and State agencies, a system for the definition and collection of criminal justice statistics; 10
- (f) To provide statistical information on the criminal justice system to judges, magistrates and other interested people, bodies or associations; 15
- (g) To publish statistical reports on the criminal justice system and bulletins on issues of current importance.

Powers of Bureau

19. The Bureau has power to request any body, governmental or non-governmental, to supply it with any information needed by the Bureau to enable it to perform its functions. 20

Director of Bureau

20. (1) The Governor in Council may appoint a person as Director of the Bureau. 25

(2) The Director is responsible for the management of the affairs of the Bureau. 25

(3) The Director holds office for the term, not exceeding 3 years, that is specified in his or her instrument of appointment, and is eligible for re-appointment.

(4) The Director is not, in respect of the office of Director, subject to the *Public Service Act* 1974. 30

(5) The Director may resign from office by delivering to the Governor in Council a signed letter of resignation.

(6) The Director is entitled to be paid—

(a) the remuneration fixed from time to time by the Governor in Council; and 35

(b) the travelling and other allowances fixed from time to time by the Governor in Council.

(7) The Director is appointed subject to any terms and conditions that are specified in the instrument of appointment and that are not inconsistent with this Act. 40

Staff of Bureau

21. Subject to the *Public Service Act* 1974, there are to be appointed to the Bureau as many research officers and other persons as are necessary for the proper functioning of the Bureau.

5 Advisory committee

22. (1) The Minister must appoint a committee to advise the Bureau on research priorities.

(2) The members of the Bureau of Crime Research and Statistics Advisory Committee shall be—

- 10 (a) the Director of the Bureau, who is to be the chairperson; and
- (b) the Director of the Judicial Studies Board; and
- (c) four other persons appointed by the Minister of whom—
 - 15 (i) one must be a person nominated by the Attorney-General; and
 - (ii) one must be a person nominated by the Minister administering the *Corrections Act* 1986; and
 - (iii) one must be a person nominated by the Minister administering the *Police Regulation Act* 1958; and
 - 20 (iv) one must be a person nominated by the Chief Commissioner of Police.

(3) The committee may regulate its own procedure.

Accounts and records

23. (1) The Director must ensure that there are kept proper
25 accounts and records of the transactions and affairs of the Bureau and any other records that sufficiently explain the financial operations and financial position of the Bureau.

(2) The Director must do all things necessary to—

- 30 (a) ensure that all money payable to the Bureau is properly collected; and
- (b) ensure that all money expended by the Bureau is properly expended and properly authorised; and
- (c) ensure that adequate control is maintained over assets owned by, or in the custody of, the Bureau; and
- 35 (d) ensure that all liabilities incurred by the Bureau are properly authorised; and
- (e) ensure that the Bureau achieves efficiency and economy of operations and that it avoids waste and extravagance; and
- 40 (f) develop and maintain an effective budgeting and accounting system; and
- (g) develop and maintain an effective internal audit system.

Annual report

24. (1) The Director must, in respect of each financial year, prepare an annual report containing—

- (a) a report of the Bureau's operations during the financial year; and
- (b) financial statements for the financial year—

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and submit the report to the Minister not later than 3 months after the end of the financial year, or any later date that the Minister approves.

(2) The report of operations referred to in sub-section (1) (a)—

- (a) must be prepared in a form and contain information determined by the Director to be appropriate; and
- (b) must contain any further information required by the Minister.

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(3) The financial statements referred to in sub-section (1) (b)—

- (a) must contain information determined by the Treasurer to be appropriate; and
- (b) must be prepared in a manner and form approved by the Treasurer; and

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- (c) must present fairly the results of the financial transactions of the Bureau during the financial year to which they relate and the financial position of the Bureau as at the end of that year; and

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- (d) must be signed by the principal accounting officer (by whatever name called) of the Bureau and by the Director who must—

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- (i) state whether, in their opinion, the financial statements present fairly the results of the financial transactions of the Bureau during the financial year to which they relate and whether they sufficiently explain the financial position of the Bureau as at the end of the financial year; and

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- (ii) state whether, at the date of signing the financial statements, they were aware of any circumstances that would render any particulars included in the statements misleading or inaccurate and, if so, particulars of the circumstances; and

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(e) be audited as required by section 25.

(4) The Minister must cause each annual report submitted to him or her under this section to be laid before the Legislative Council and the Legislative Assembly within 7 sitting days of the Legislative Council or the Legislative Assembly, as the case may be, after the annual report has been received by the Minister.

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(5) If the Director fails to submit an annual report to the Minister—

- (a) if an extension has not been granted under sub-section (7)—within 3 months after the end of the financial year; or
- (b) if such an extension has been granted—by the date to which the extension was granted—

5 the Minister must report or cause to be reported that failure and the reasons for the failure to each House of Parliament.

(6) The Director may apply in writing to the Minister for an extension of the day by which an annual report is to be submitted to the Minister.

10 (7) The Minister may in writing grant to the Director an extension to such date as the Minister determines.

(8) The Minister must advise or cause to be advised each House of Parliament of each extension granted under this section and the reasons for the extension.

15 (9) This section does not apply to the Bureau if, as a result of an order made under the *Annual Reporting Act* 1983, the Bureau is required to submit an annual report under that Act.

Audit

20 25. (1) The financial statements referred to in section 24 (1) (b) must be audited by the Auditor-General.

(2) The Auditor-General has, in respect of the audit of the financial statements, all the powers conferred on the Auditor-General by any law relating to the audit of the public accounts.

25 (3) Without limiting sub-section (2), the Auditor-General and the officers of the Auditor-General—

- (a) have right of access at all times to the accounts and records of the Bureau; and

30 (b) may require from the Director or a person employed in the Bureau any information, assistance and explanations necessary for the performance of the duties of the Auditor-General in relation to the audit.

(4) The Bureau must pay to the Consolidated Fund an amount determined by the Auditor-General to defray the costs and expenses of any audit by the Auditor-General under this section.

35 **Financial year**

26. The financial year of the Bureau is the year commencing on 1 July.

