

## POLICE AMENDMENT BILL

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THIS Bill amends the Police Act 1958.

*Clause 1* relates to the Short Title.

*Clause 2* inserts in the principal Act a new section relating to the power of a member of the Police to search a person who is taken into custody.

In *Rudling v Police* the Supreme Court has recently ruled that the Police have no general right to search a person in such circumstances. The right is limited to cases where there is reason to believe that the person has on him any evidence of the offence with which he is charged, or any weapons.

The proposed *section 57A (1)* confers on a member of the Police a general power to search any person in custody, and to take from him any money or property found during the search.

*Subsection (2)*, in general, requires the return of all such money or property (other than evidence of the offence charged, or any money or property the possession of which by the person constitutes an offence) when the person is released from custody.

*Subsection (3)* provides that where the person is released from Police custody to be detained in a penal institution, any money or property taken from him shall, where practicable, be delivered to the Superintendent of that institution.

*Subsection (4)* requires such searches to be carried out only in police stations, including premises or vehicles being used for the time being for Police purposes.

*Subsection (5)* preserves the powers of search conferred on constables by the common law.

*Hon. T. F. Gill*

## POLICE AMENDMENT

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### ANALYSIS

Title	1. Short Title
	2. General search of person in custody

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### A BILL INTITULED

#### **An Act to amend the Police Act 1958**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Police Amendment Act 1979, and shall be read together with and deemed part of the Police Act 1958\* (hereinafter referred to as the principal Act).
- 10 2. **General search of person in custody**—The principal Act is hereby amended by inserting, after section 57, the following section:
- 15 “57A. (1) Subject to subsection (4) of this section, where any person (in this section referred to as the detainee) is taken into lawful custody, a member of the Police may conduct a search of that person and take from him all money and all or any property found on him or in his possession, and may use or cause to be used such reasonable force as may be necessary to conduct that search or take any money or
- 20 property.

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“(2) Subject to subsection (3) of this section, and to any order of the Court made under section 58 of this Act or section 403 of the Crimes Act 1961, all money and every item of property taken from the detainee under subsection (1) of this section shall, on request, be returned to him when he is released from custody, except— 5

“(a) Any money or property that may be required to be given in evidence in any proceeding arising out of any charge brought against the detainee:

“(b) Any money or property the possession of which by the detainee constitutes an offence. 10

“(3) Where the detainee is released from police custody and taken into custody in any penal institution, all money and every item of property taken from him under subsection (1) of this section (other than money or property referred to in paragraph (a) or paragraph (b) of subsection (2) of this section) shall, where practicable, be delivered to the Superintendent or other officer in charge of that penal institution. 15

“(4) No search shall be conducted under this section unless the detainee is at a police station, or in any other premises or place, or in any vehicle, being used for the time being for Police purposes. 20

“(5) Nothing in this section shall limit or affect the right at common law of a constable to search any person upon that person's arrest.” 25