

Western Australia

**Dangerous Sexual Offenders Amendment  
Act 2012**

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As at 11 Dec 2012

No. 58 of 2012

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# Dangerous Sexual Offenders Amendment Act 2012

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## **Dangerous Sexual Offenders Amendment Act 2012**

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**No. 58 of 2012**

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**An Act to amend the *Dangerous Sexual Offenders Act 2006* to provide for the imposition of curfew requirements on, and electronic monitoring of, certain dangerous sexual offenders, and for related purposes.**

*[Assented to 11 December 2012]*

The Parliament of Western Australia enacts as follows:

**s. 1**

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**1. Short title**

This is the *Dangerous Sexual Offenders Amendment Act 2012*.

**2. Commencement**

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

**3. Act amended**

This Act amends the *Dangerous Sexual Offenders Act 2006*.

**4. Section 5 amended**

In section 5(a) after “section” insert:

19C or

**5. Section 18 amended**

(1) In section 18(1):

- (a) in paragraph (d) delete “officer;” and insert:

officer, which includes, comply with any reasonable direction of the officer (including a direction for the purposes of section 19A or 19B); and

- (b) in paragraph (f) delete “order.” and insert:

order; and

(c) after paragraph (f) insert:

(g) be subject to electronic monitoring under section 19A.

(2) Delete section 18(3) and insert:

(3) Without limiting subsection (2), the supervision order may provide that —

- (a) the person be subject to a curfew under section 19B, for the period specified in the order; and
- (b) the photograph and locality of the person are not to be published under the *Community Protection (Offender Reporting) Act 2004* section 85G.

(3) In section 18(1) after each of paragraphs (a) to (c) insert:

and

**6. Sections 19A to 19C inserted**

At the end of Part 2 Division 2 insert:

**19A. Electronic monitoring**

- (1) The purpose of electronic monitoring of a person subject to a supervision order is to enable the location of the person to be monitored.

- (2) For the purposes of the electronic monitoring of a person, a community corrections officer may —
  - (a) direct the person to wear an approved electronic monitoring device;
  - (b) direct the person to permit the installation of an approved electronic monitoring device at the place where the person resides or, if the person does not have a place of residence, at any other place specified by the community corrections officer;
  - (c) give any other reasonable direction to the person necessary for the proper administration of the electronic monitoring of the person.
- (3) In subsection (2) —

**approved** means approved by the chief executive officer.
- (4) A community corrections officer may suspend the electronic monitoring of a person subject to a supervision order —
  - (a) while satisfied that it is not practicable to subject the person to electronic monitoring; or
  - (b) while satisfied that it is not necessary for the person to be subject to electronic monitoring.

**19B. Curfew**

- (1) The purpose of a curfew is to allow for the movements of a person subject to a supervision order to be restricted during periods when there is a risk of the person committing a serious sexual offence.
- (2) The curfew is a requirement that the person must remain at a specified place, for specified periods, subject to subsection (5).



- (3) In subsection (2) —  
*specified* means specified by a community corrections officer from time to time.
- (4) The person is not to be required by the curfew to remain at a place for periods that amount to less than 2 or more than 12 hours in any one day.
- (5) The person may only leave the specified place during a specified period —
- (a) to obtain urgent medical or dental treatment for the person; or
  - (b) for the purpose of averting or minimising a serious risk of death or injury to the person or to another person; or
  - (c) to obey an order issued under a written law (such as a summons) requiring the person's presence elsewhere; or
  - (d) for a purpose approved of by a community corrections officer; or
  - (e) at the direction of a community corrections officer.
- (6) A community corrections officer may give any reasonable direction to the person necessary for the proper administration of the curfew requirement.
- (7) Without limiting subsection (6), if the person is authorised under subsection (5) to leave the specified place, a community corrections officer may give directions as to —
- (a) when the person may leave; and
  - (b) the period of the authorised absence; and
  - (c) when the person must return; and
  - (d) the route and method of travel to be used by the person during the absence; and

- (e) the manner in which the person must report his or her whereabouts.

**19C. Enforcement of electronic monitoring and curfew requirement**

- (1) A community corrections officer may —
  - (a) direct the occupier of a place where an electronic monitoring device has been installed under section 19A(2) to give the device to a community corrections officer within a specified time; and
  - (b) at any time, enter a place where an electronic monitoring device has been installed under section 19A(2) and retrieve the device.
- (2) A person must not —
  - (a) fail to comply with a direction under subsection (1)(a); or
  - (b) hinder a community corrections officer exercising powers under subsection (1)(b).

Penalty: a fine of \$12 000 or imprisonment for 12 months.

- (3) A person must not, without reasonable excuse, unlawfully interfere with the operation of an electronic monitoring device required to be worn or installed under section 19A(2).

Penalty: imprisonment for 12 months.

- (4) If a person is convicted of an offence under subsection (3) committed at a time when the person had reached 18 years of age, then, despite any other written law, the court sentencing the person —
  - (a) must sentence the person to a term of imprisonment of 12 months; and
  - (b) must not suspend the term of imprisonment.

- (5) To ascertain whether or not a person who is subject to a curfew is complying with the curfew, a community corrections officer may, at any time —
- (a) enter or telephone a place specified under section 19B(2) in relation to the person;
  - (b) enter or telephone the person's place of employment or any other place where the person is authorised or required to attend;
  - (c) question any person at any place referred to in paragraph (a) or (b).
- (6) A person must not —
- (a) hinder a community corrections officer exercising powers under subsection (5); or
  - (b) fail to answer a question put under subsection (5)(c) or give an answer that the person knows is false or misleading in a material particular.

Penalty: a fine of \$12 000 or imprisonment for 12 months.

- (7) An act or omission of a person subject to a supervision order that is a contravention of subsection (2), (3) or (6) —
- (a) does not constitute an offence under this section; but
  - (b) is, for the purposes of this Act, to be taken to be a contravention of a requirement of the order (if it is not otherwise).

**7. Section 40A amended**

After section 40A(1) insert:

- (2A) If a person is convicted of an offence under subsection (1) for an act or omission that is also a contravention of section 19C(3) then, despite any other written law, the court sentencing the person —
- (a) must sentence the person to a term of imprisonment of at least 12 months; and
  - (b) must not suspend the term of imprisonment.

**8. Schedule 1 clause 2 inserted**

After Schedule 1 clause 1 insert:

**2. Provisions for *Dangerous Sexual Offenders Amendment Act 2012***

- (1) In this clause —  
*commencement day* means the day on which the *Dangerous Sexual Offenders Amendment Act 2012*, other than sections 1 and 2, comes into operation.
- (2) The validity of any requirement, under a supervision order, in the nature of a curfew or electronic monitoring that was in effect before commencement day is not affected by the commencement of the *Dangerous Sexual Offenders Amendment Act 2012*.
- (3) If a person is subject to a supervision order that was in effect immediately before commencement day then, on and from commencement day, the person is subject to electronic monitoring under section 19A during the remainder of the term of the order, as if the person were required to be subject to electronic monitoring by the order.

- (4) Subclause (3) does not prevent a community corrections officer from exercising his or her discretion under section 19A(4) in relation to a person referred to in subclause (3).

