



# Barry O'Farrell MP

## Premier of NSW

### Minister for Western Sydney

---

## MEDIA RELEASE

---

Wednesday 28 November 2012

### **NEW BAIL LAWS TO PUT COMMUNITY SAFETY FIRST**

A new risk management approach for deciding who does and does not get bail will put the safety of the community first, Premier Barry O'Farrell announced today.

The NSW Government will introduce a new, simpler Bail Act that aims to achieve greater consistency by removing complexities such as the presumptions scheme, which have led to so many bail decisions that confound the community.

Mr O'Farrell, Attorney General Greg Smith SC and Police Minister Michael Gallacher today announced the NSW Government's response to the Law Reform Commission's review of the Bail Act.

"We have all been left scratching our heads from time to time about the inconsistency in which the current bail law is applied," Mr O'Farrell said.

"The new, simpler bail law will be applied consistently by police bail sergeants, magistrates and judges – this means police and legal resources can be focused on catching and prosecuting criminals.

"Accused criminals who pose a serious risk to community safety or are likely to commit further crimes will not get bail under this model.

"Under the current law, decisions about bail are made based on the offence a person has been charged with – not the risk they pose to the community. Our reforms will ensure the risk to the community is the first thing taken into account."

Under the government's reforms, when considering bail the police and courts will need to decide if an accused person poses an unacceptable risk of:

- endangering the safety of the community
- committing a serious offence
- interfering with witnesses
- failing to attend court when required

Mr Smith said the government would abolish the system of presumptions for or against bail and replace it with a simpler, risk management approach.

"Anomalies under the existing law mean it can be easier to get bail if a person is charged with possessing an unregistered firearm in a public place than with having a paint ball gun in a public place," Mr Smith said.

"Some sexual offences, including committing an act of indecency against a child under 10, currently carry a presumption in favour of bail, while repeat property offences may carry a presumption against bail.

“Since first being enacted 34 years ago, the Bail Act has been amended on 85 separate occasions, making more than 200 changes to the Act. The previous Labor Government alone amended the Act 57 times in 16 years.

“The Law Reform Commission’s report said, *‘the complexity of the current Act and its language means that it is unintelligible not only to ordinary citizens, but also to legal practitioners’*. It’s little wonder the community feels let down and why a new approach is long overdue.

“The current system of presumptions is inconsistent, resulting in bail decisions which sometimes don’t seem to make sense.

“The government has rejected some of the recommendations of the Law Reform Commission such as its suggestions of a universal presumption in favour of bail, or allowing additional applications for bail for adults.

“However young people, who are more vulnerable, will be allowed a second bail application in some circumstances under the new model.”

Mr Gallacher said bail was designed to ensure alleged criminals did not interfere with witnesses, flee the country or commit further crimes.

“Police and courts can also impose tough conditions on those granted bail to ensure the alleged offenders behave themselves while waiting for their trial,” Mr Gallacher said.

“Police stringently enforce bail conditions and can arrest anyone who breaches them.

“Under these rules everyone’s eligibility for bail will be assessed on a case-by-case basis according to the same rules,” he said.

The chairman of the Law Reform Commission, Justice James Wood AO QC said: “The proposed bail framework builds on the solid foundation of the Commission’s report. It will simplify the law and ensure bail outcomes reflect the circumstances of the accused and the alleged offence.”

Commander Police Prosecutions, Chief Superintendent Tony Trichter, said: “We welcome what is a modernisation of state bail laws. We have been asking for changes to the bail legislation for about five years along the lines we have seen today.

“Today’s announcement ensures the bail laws have moved into the 21st century.

“Previous legislation has served us well but it is now appropriate for matters to be assessed on a risk basis.”

The government plans to introduce the new Bail Act into Parliament next year. It is due to commence operation in 2014, allowing time to adequately train police bail sergeants, magistrates and judges, and to give legal practitioners enough time to become familiar with the new reforms.

The Bureau of Crime Statistics and Research will collect data on the operation of the Act and the legislation will be reviewed after three years.