

Criminal Law (Sex Offenders Reporting) Bill 1997

ISSUES FOR CONSIDERATION - (QHVSG)

* This Act is described as being "to require the notification of information to the police by persons who have committed certain sexual offenses, and other purpose" but **fails to describe or explain the overall purpose** of this "notification of information" by offenders in enhancing the response of the criminal justice system to the needs of both victims and offenders. Is the Act intended to be simply a further means of monitoring offenders, an attempt to deter offenders from re-offending, or perhaps to assist police in their investigations of alleged child sexual abuse? It is not clear how the information provided by offenders to police is going to be utilized.

* The Act **does not include juvenile sexual offenders** even though statistics from the Children's Court would support that there is a concerning increase in the number of offenses of sexual assault committed by juveniles against children. (s.3)

* Does a "term of imprisonment" include a **suspended term of imprisonment**? If an offender is sentenced to 12 months imprisonment to be suspended after three months would this offender still be required to report to police?

* The term "**acquitted of an offense on the ground of unsoundness of mind**" may need clarification - if the offender is deemed unfit to stand trial by the Mental Health Tribunal is this considered an "acquittal" and therefore are they required to report? (s.3(1)(b))

* The Act is retrospective: it will place obligation of notification on all "sex offenders" from its commencement and from ten years prior to its commencement. How is it intended that the large number of **offenders over the previous ten year period would be informed of their obligations** under this legislation? (S.2(b))

* The Act **will increase the workload for court staff** throughout the state. (s.4) What will the Queensland Police Service do with the notifications received by court staff once an offender has been convicted? Record it on the "sex offenders register"? If so, how is this information to be used?

* Section 5 of the Act is applicable to "sex offenders" who are subject to a reporting period, in Queensland and not in custody. **The term "in custody" requires definition.** Does it refer to the meaning of custody as used by the Queensland Corrective Services Commission (secure .v. open .v. supervision), or does it refer to the general use of the meaning of custody used by the community?

ISSUES FOR CONSIDERATION - (QHVS) cont'd....

- * The Act Allows for a large degree of **discretion on the part of the Police Commissioner** to determine the nature of information to be provided by "sex offenders" to police. (s.5(2)(e) and (s.8(2)(e)). Prisoner advocates and civil libertarians may very well object to to such a discretion.
- * The maximum penalty imposed for failure to comply with the obligations of the Act is 30 penalty units. As one penalty unit equals \$75.00, the maximum penalty able to be imposed upon a "sex offender" who fails to provide the prescribed information to police is \$2,250.00 There is wide diversity of opinion on the deterrent and/or punishment value of a fine. Also, with a **fine as the maximum penalty**, the only way an offender would be imprisoned for failure to comply with the Act was if they were in default of their fine.
- * The Act states that an offender must notify police of a prescribed change in circumstances within seven days of that change, **unless the offender has a reasonable excuse**. The term "reasonable excuse" is potentially problematic as, in the first instance, it is the subjective individual opinion of the relevant police officer as to what is considered "reasonable".
- * Implementation of the procedures outlined in the Act will be **highly resource intensive for police officers** throughout the state, including dealing with offenders who attend at a police station, completion of required forms, and investigating offenders who do not report as required. Depending upon the desired outcome of this legislation, is the increased workload for police officers justified when compared with the benefits for the community as a result of this initiative?
- * Does the **reporting period commence** once the order of the court is complete, or once the offender is released from "custody" (secure/open) by the Queensland Corrective Services Commission? Or does the reporting period commence from the date of the conviction? (S.7(1))
- * The Act states that a "sex offender" who is **sentenced to life imprisonment** is subject to an indefinite reporting period. (s.7(1)(b)) It is rarely, if ever, the case that a sexual offender is sentenced to life imprisonment, even when the offense involves use of a weapon. It is even less likely that a child sexual offender would be sentenced to life imprisonment. Therefore it is improbable that this section will ever be applicable.
- * It is clear that this legislation relates only to "serious sex offenses" committed by adults against children. However, **the term "child" requires definition** as the nominated offenses (Schedule 2) each have their own definition for "child". For example, the schedule fails to mention the offenses of Attempted Rape or Indecent Assault or Rape committed against a 16 or 17 year old, the latter of which is legally deemed a child.