



QUEENSLAND GOVERNMENT

No 18

## ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

In reply please quote: Legal 97/10183

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Received  
28/1/98

Mrs Judy Gamin MLA  
Chairman  
Legal, Constitutional and Administrative Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Ms Gamin

Thank you for your letter of 3 December 1997 requesting comment on the *Criminal Law (Sex Offenders Reporting) Bill 1997*.

Pursuant to the *Criminal Law Amendment Act 1945* (CLAA 1945), a court of trial, or other court of like jurisdiction on the application of the Crown Law Officer, may order an offender who is convicted on indictment of a sexual offence in relation to a child to comply with reporting conditions on release from custody. A court can make such an order if satisfied a substantial risk exists that the offender will again commit a sexual offence against a child.

The legislative scheme in the CLAA 1945 has many advantages when compared to the proposals in the subject Bill. One of the most significant of these is flexibility. For example, a court under the existing legislation may order a reporting period in accordance with the perceived risk and is not artificially limited by statutory maximums.

Further, under the CLAA 1945 a court can order reporting conditions regardless of the sentence imposed on the offender. A difficulty with the *Criminal Law (Sex Offenders Reporting) Bill 1997* is that there appears to be an implicit assumption that the risk to the community is solely linked to the seriousness of the previous offence. This is not always the case and it is possible for an offender to be found guilty of a relatively less serious paedophile related crime but still be an obvious danger to the community. Such persons should clearly be the subject of reporting conditions. Under the Bill offenders falling into this category would not be so subject unless the court sentenced the offender to six months imprisonment.

One of the results of the legislation could be that the potential number of offenders who will be caught by the proposed legislation may result in the reporting register becoming factually inaccurate and tokenistic. It may be preferable to focus attention on and monitor those offenders who represent a substantial risk to the community rather than take a blanket approach. A difficulty with a blanket approach is that resources are inappropriately utilised due to high risk offenders being given the same priority as low risk and no risk offenders. This enhances the potential for high risk offenders to "slip through the cracks".

I note that the penalty in the Bill for non-compliance with reporting conditions is a maximum fine of 30 penalty units. The appropriateness of a monetary only sanction is questionable and it may be suggested that for legislation of this kind to be effective there should be liability to imprisonment for non-compliance. Under the CLAA 1945 the maximum penalty is 6 months imprisonment or 20 penalty units.

I trust this information is of assistance to the Committee in preparing its investigation and report to the Queensland Parliament.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Denver Beanland', written in a cursive style.

**DENVER BEANLAND MLA**  
**ATTORNEY-GENERAL AND**  
**MINISTER FOR JUSTICE**