



Speech by

Hon. M. FOLEY

MEMBER FOR YERONGA

Hansard 23 November 1999

DRUG REHABILITATION (COURT DIVERSION) BILL

Hon. M. J. FOLEY (Yeronga—ALP) (Attorney-General and Minister for Justice and Minister for The Arts) (2.30 p.m.): I move—

"That the Bill be now read a second time."

The drug scourge has afflicted so many Queenslanders from so many walks of life for so long and to such an extent that it has become almost cliché to mention it. The Beattie Government has said, "Enough!" The passing of this Bill will allow a trial of a new approach to the way our criminal justice system deals with drug addiction and drug-related criminal activity. This trial will be carefully evaluated to assess its effectiveness. The planning and preparation associated with this Bill has paved the way for a new partnership between the criminal justice system, health professionals, police and corrections personnel. This partnership will bring together a team of professionals with the expertise and dedication to offer the right kind of help and treatment to drug dependent offenders.

Just as the drug problem affects all of the community, our Government recognises that drug addiction is not just a criminal justice issue, but one for the whole of Government. This new partnership will be achieved by the establishment of a pilot drug court, which will operate in a limited number of courts to be prescribed for that purpose, with the power and discretion to make an intensive drug rehabilitation order for individual offenders who are eligible under the criteria listed in the Bill.

Traditional methods of law enforcement and punishment of drug offenders may have had some success in deterring some individuals, but it has had little effect on substance abuse generally. Consequently, this Bill lists a number of objectives. They are to reduce—

- (a) the level of drug dependency in the community; and
- (b) the level of criminal activity associated with drug dependency; and
- (c) health risks to the community associated with drug dependency; and
- (d) pressure on resources in the court and prison systems.

This Government's "drug court" is not designed as a new court as such, which would involve new infrastructure and many other expensive establishment costs; rather, the Bill is designed in such a way that, if it is proved to be successful or that it can achieve its aims with modest modifications, the intensive drug rehabilitation order could become a sentencing option for many other courts in Queensland. At the same time the message will be clear that the Government will not go soft on drugs.

The pilot drug court will give people a chance, but there is only so much you can do to help people and they will need to take some responsibility for themselves. They will be given every assistance to become drug free and to stop supporting their habits by committing criminal offences against innocent householders and others in the community. They will be given every assistance to learn responsibility and to regain their positions in society as dignified, law abiding and gainfully employed citizens. It is intended that the programs will be intensive and will not be a soft option by any means.

Offenders with experience of the drug courts operating in Parramatta, New South Wales and in the United States of America will tell you that it is often harder to do the program than to sit in jail. In the

end, those who fail to attend or to successfully complete the program set and reviewed by the court may still face imprisonment.

The drug court is not an escape clause. For instance, at present it is only those drug offences under the Drugs Misuse Act 1986 which attract a maximum of 15 years' imprisonment that may be dealt with summarily in the Magistrates Court. However, the pilot program magistrate will have discretion to conditionally assume jurisdiction over drug offences for which the maximum penalty is 20 years. The condition will be that the person be eligible for rehabilitation and that the person successfully complete the program.

However, if the person is not suitable for diversion into treatment or if the intensive drug rehabilitation order is terminated for breaching the order, the matter will revert to the Supreme Court. Therefore, while some of those drug offenders who could otherwise be dealt with only in the Supreme Court will be given a chance at rehabilitation, they will not avoid that jurisdiction, and its harsher penalties, if they fail to cooperate with the program. This consequence will be explained to the person at the time the intensive drug rehabilitation order is made.

Offences which can be dealt with conditionally in this way will be prescribed by regulation. Generally, eligibility for entry into the program will be restricted to offenders who—

- are adults;
- are dependent on dangerous drugs;
- are charged with an offence within the Magistrates Court jurisdiction which is not of a sexual nature and does not involve physical violence against any person— except common assault and resist arrest;
- have no such disqualifying offence pending before a court;
- plead guilty to the offence;
- are genuinely facing a sentence of imprisonment; and
- are willing to participate in the program.

The court will also be required to consider whether the drug dependency contributed to the person committing the offence.

If satisfied that the person appears to meet the eligibility criteria, any magistrate in a pilot court will be able to order the person to attend for assessment and refer the case to the pilot program magistrate. One suitably skilled magistrate will be dedicated to conducting and monitoring this intensive trial program. After arrest, once the person comes before the court, an assessment could be ordered at any stage before the person is committed for trial or sentence to another— higher—court. The assessment will be made by an independent drug and alcohol professional who will recommend a rehabilitation program to the court for the offender.

After referral and assessment, the pilot program magistrate will have discretion to make an intensive drug rehabilitation order which will consist of three parts: a suspended sentence, a treatment program and other requirements or conditions of the order. The term of imprisonment will be suspended as long as the person continues on the program. The requirements of the order can include reporting to the court and for regular or random drug testing as frequently as the court and corrective services officers decide. The requirements of the order can also include the making of restitution, payment of compensation and performance of community service.

The initial sentence will be reviewed if the treatment program ends successfully or if it is terminated because of breaches, and a final sentence will be imposed which takes into account the degree of compliance with the intensive drug rehabilitation order. If the offender fails to complete the program, re-offends or otherwise breaches the order—for example, urine tests return relevant positive illicit drug results—he or she will be brought back before the court to show cause why the order should not be terminated or why one of the escalating methods of sanctioning the offender should not be imposed. In such cases the court could—

- allow the offender to continue on the program;
- make the offender serve up to 14 days' imprisonment in respect of any one breach;
- allow the offender to continue on the program but impose one or more of the escalating sanctions such as increased testing or contact with the court; or
- terminate the program and resentence—or affirm the existing sentence.

For successful compliance with the program, the court will also be able to give rewards, such as advancement to the next stage of the program selected for that person, or less reporting to court or for drug testing. The person's program options may include, but would not be limited to, outpatient counselling; opiate substitution treatment, such as methadone maintenance therapy or naltrexone; in-patient therapeutic community placement; and any other treatment, such as medical, psychiatric or

psychological treatment; and any other programs, such as vocational and social services. Other components could include a number of substance abuse programs.

Queensland Health will provide the bulk of the treatment and follow-up services. The Department of Corrective Services will provide the offender's program planning and supervision and, as a component of the order, some of the treatment, including substance abuse educational programs, ending offending programs and substance abuse relapse prevention programs.

The pilot program will run for a period of 30 months—to allow for a full two-year evaluation—and will manage up to 300 offenders for each of the first two years. The last six months of the trial will be used to finalise a planned ongoing evaluation and supervise the orders that remain current at that time. A report of the review of the Act will be tabled in this House.

This is a package which addresses not only the needs of the offender. It also addresses the concerns of ordinary Queenslanders, the mums and dads of drug addicted offenders who deserve more than rhetoric. If this pilot can save the life of just one of their sons or daughters, they will call it a success. We are hopeful, based on the experience of other drug courts, that the pilot can break the cycle of drug-related crime, but it will have to be carefully evaluated. The Bill also addresses the concerns of victims of housebreaking, car theft and other crimes committed to feed the hunger for more and more drugs, because any degree of success in reducing drug dependency will result in there being fewer victims of crime.

Finally, the body of experience and knowledge that will grow out of this pilot study will equip honourable members and the community in general with the means to do even more in the near future to combat this dreadful—but not insurmountable—problem that afflicts society. I commend the Bill to the House.
