



Speech by

Peter Lawlor

MEMBER FOR SOUTHPORT

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DRUG LEGISLATION AMENDMENT BILL

Mr LAWLOR (Southport—ALP) (4.42 pm): The Drug Rehabilitation (Court Diversion) Act 2000 established the drug courts in Queensland. Drug courts have been operating in Southport, Beenleigh and Ipswich since 2000. In 2002 the government established drug courts also in Cairns and Townsville. Since that time over 170 participants have graduated from the program. These graduates look forward to a life free of crime and the torment of their drug addiction. Society in general also benefits from the flow-on effects that have come from the vital work of the Drug Court. The health system, corrections system and so on that these people would normally move through and depend upon are avoided and the huge cost to the community is therefore avoided.

The bill changes the status of the drug courts program from a pilot program to a permanent program. As a result, the name of the act will be changed from the Drug Rehabilitation (Court Diversion) Act to the Drug Court Act. Amendments in this bill allow the court to consider whether summary offences involving violence can be referred to the court. At the moment, if the Drug Court finds that a charge for an indictable offence involving violence is pending before a court the offender cannot be referred to the Drug Court. This has been expanded so that the court can also consider this issue for summary offences. An example set out in the bill is a breach of a domestic violence order, where often drugs are involved, where there has been an allegation of wilful injury to a person.

This bill also amends the Drugs Misuse Act. A particular aspect of this bill removes the need for the testing of equipment used in the production of a dangerous drug. As part of the scheme for reducing forensic testing if there is no challenge by the accused, the bill introduces a new provision aimed at reducing the need for forensic testing of seized equipment if there is to be no contest that the equipment was used for the production of a dangerous drug. The new provision allows the court to accept, in the absence of proof to the contrary, that seized equipment has been used for the production of a dangerous drug if there is no notice of challenge from the defence and there is a reasonable basis for the police belief with respect to the equipment. The dangerous drugs that this section applies to will be defined in the schedule to the Drugs Misuse Regulation. That eliminates quite a bit of the delay, the backlog and the cost associated with testing equipment, drugs and so on that have been seized in an operation and which under normal circumstances would be tested, notwithstanding that there is no challenge to the fact that they are used in the production of dangerous drugs. That will be a considerable saving to the criminal justice system and to the community.

In relation to notice provisions for challenging evidence, the bill introduces new section 131B that sets out the notice requirements for section 130 and the new sections 131 and 131A. The prosecution must issue a notice to the accused within 28 days of a charge being laid or a summons being issued. This notice informs the accused of the need to issue a challenge notice if the accused wishes to challenge the prosecution assertion about the contents of the labelled containers, or sealed pharmaceutical containers, or the use of equipment seized by police.

The defendant then has 28 days to serve a notice of challenge on the prosecution. If no challenge notice is received, it is open to the court to accept the police evidence regarding the contents of a sealed pharmaceutical container, the use of seized equipment or the contents of labelled prescribed substances

without receiving forensic test results. If the notice is received by the prosecution, the prosecution must then prove its case in the usual way—in the way that it has done in the past. If the defendant does not challenge the evidence, it is still open to the court to find that the evidence is not proved, as the court must be satisfied that the police have a reasonable basis for holding their belief with respect to the evidence. I commend the bill to the House.