



Speech by

Hon. Kerry Shine

MEMBER FOR TOOWOOMBA NORTH

Hansard Tuesday, 17 April 2007

DANGEROUS PRISONERS (SEXUAL OFFENDERS) AMENDMENT BILL

Second Reading

Hon. KG SHINE (Toowoomba North—ALP) (Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland) (12.50 pm): 1 move—

That the bill be now read a second time.

The Dangerous Prisoners (Sexual Offenders) Act 2003 was a groundbreaking piece of preventative detention legislation that paved the way for other states in Australia to introduce similar laws. The act allows the Supreme Court to order the continuing detention or supervised release of serious sex offenders beyond the expiry date of their sentence. Since the act commenced in June 2003 over 40 applications have been made to the Supreme Court. The majority of these applications have been for the continuing detention of dangerous sex offenders.

In that time Attorneys-General have been successful in applications to detain five sex offenders past their sentence expiry date. A further 28 offenders have had supervision orders made by the Supreme Court. Of these 28 released prisoners, one has died, two have been returned to custody and one has not yet reached the end of his custodial sentence. The remaining 24 released prisoners are subject to supervision orders for periods ranging between five and 20 years.

A prisoner who is released on a supervision order is a person who has previously committed a serious sexual offence that the Supreme Court has determined is an unacceptable risk of committing a further serious sexual offence if released from custody without a supervision order being made. Supervision orders must contain a number of mandatory conditions as provided in the act and any other conditions the court considers appropriate to ensure the adequate protection of the community.

The purpose of these conditions is to provide protection to the community by minimising the risk of the released prisoner reoffending. In applying the conditions the court will target specific elements of the prisoner's offending profile—for example, abstaining from drugs and alcohol, not forming sexual relationships, not having contact with young children and making sure these offenders keep Corrective Services informed of their accommodation, employment and vehicle details. For the supervision order to be an effective protection to the community, it is essential that the released prisoner complies with all conditions attached to the order.

The dangerous prisoners legislation has a contravention process for those released prisoners who breach the conditions of their supervision orders. The current process is tailored towards the released prisoner remaining in the community pending the court's final determination as to whether to rescind the supervision order and continuously detain the released prisoner.

In response to concerns identified in the application of the current breach process, the bill significantly amends that process to provide better protection to the community. Currently, if a police officer or Corrective Services officer reasonably suspects a released prisoner is contravening a supervision order, they apply to a magistrate for a summons to bring the released prisoner before the Supreme Court. A warrant for the arrest of the released prisoner can only be issued if the released prisoner is considered a

flight risk. The bill removes the requirement to apply for a summons. Instead, where a police officer or Corrective Services officer reasonably suspects a contravention, they will apply to a magistrate for a warrant for the arrest of the released prisoner to bring the released prisoner before the Supreme Court.

Further, upon being brought back before the Supreme Court under the warrant the released prisoner will be detained until the court's final determination, unless the released prisoner satisfies the court that his or her detention is not justified because exceptional circumstances exist. Currently, the act provides that when the Supreme Court is satisfied that a released prisoner has breached a supervision order the Attorney-General still carries the onus of proving that the offender is a serious danger and should be detained. The Attorney-General is asked to satisfy this test, despite having satisfied the same test at the original application and despite the released prisoner having contravened the supervision order.

The bill amends this test and places the released prisoner in a show cause situation. The amendments will provide that, if the court is satisfied as to the alleged contravention, the court must rescind the order and make a continuing detention order unless the released prisoner satisfies the court that the adequate protection of the community can, despite the contravention, be ensured by a supervision order. Finally, in order to provide a deterrent to breaching behaviour, the bill inserts a simple offence carrying a maximum penalty of two years imprisonment which will apply to a released prisoner who contravenes, without reasonable excuse, a condition of a supervision order.

The Dangerous Prisoners (Sexual Offenders) Amendment Bill is another measure taken by the government to protect the community from the risk posed by dangerous sexual offenders. I commend the bill to the House.