Speech by

Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Tuesday, 1 September 2009

DANGEROUS PRISONERS (SEXUAL OFFENDERS) AND OTHER LEGISLATION AMENDMENT BILL

Hon. CR DICK (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (7.30 pm): I move—

That the bill be now read a second time.

This bill is the product of a comprehensive review of Queensland's public protection legislation. The bill amends the Dangerous Prisoners (Sexual Offenders) Act 2003 and provisions of the Penalties and Sentences Act 1992 that deal with the indefinite sentencing regime. These two pieces of legislation are key planks in Queensland's legislative response to the risk posed to the community by dangerous sexual and violent offenders. The amendments contained in the bill are aimed at enhancing the effectiveness of these legislative options.

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 enables the Supreme Court of Queensland to order the continuing detention or supervised release of serious sex offenders beyond the expiry date of their sentence. Under the Dangerous Prisoners (Sexual Offenders) Act, the court must make a determination of whether there is an unacceptable risk that the prisoner will commit a serious sexual offence if they are released from custody, or released from custody in the absence of a supervision order. The act states that the paramount consideration for the court in deciding whether to make a continuing detention order or supervision order must be the need to ensure the adequate protection of the community.

The bill amends the threshold test and obliges the court, in considering whether or not to impose a supervision order, to consider not only the need to ensure the adequate protection of the community but also whether the adequate protection of the community can be reasonably and practically managed by a supervision order and whether any appropriate conditions of the supervision order can be reasonably and practically managed by corrective services officers.

This amendment will enhance the ability of corrective services officers to monitor the compliance of released prisoners, as court ordered conditions will be required to reflect what should reasonably be expected in terms of supervision, monitoring and surveillance of offenders living in the community.

The bill will also provide corrective services officers the power to issue binding directions to released prisoners on supervision orders in relation to matters such as where they are to live, if they are required to engage in treatment and restrictions in relation to alcohol and other substance use. This will enable corrective services officers to deal with risk factors that develop in these discrete and common problem areas without necessitating a return to court for an application to amend the conditions of an offender's supervision order.

This new power is not without fetter. Such a direction can only be made if it is not directly inconsistent with a requirement of the existing order. Additionally, the direction must also be considered

reasonably necessary by the corrective services officer to ensure either the adequate protection of the community or the prisoner's rehabilitation or care or treatment.

An offender's failure to comply with any such direction would allow a corrective services officer to commence a formal contravention process under division 5 of the Dangerous Prisoners (Sexual Offenders) Act which results in the offender's immediate detention and appearance before the Supreme Court. There is currently no limit on the length of a supervision order that may be imposed by the court.

The bill amends the Dangerous Prisoners (Sexual Offenders) Act to limit the maximum period of supervision orders to five years. It is considered that the highest risk period for offenders is the first few years after their release from custody. In order to effectively supervise the increasing number of released prisoners, it is considered that a limit is required to the length of supervision orders and that a period of five years supervision should provide adequate protection to the community. This proposed amendment will, however, allow for unlimited applications for further supervision orders where risk factors remain.

Currently, continuing detention orders are reviewed annually. The bill increases the interval for the first review to two years but retains an annual review mechanism for all subsequent reviews. An initial review period of two years will ensure that prisoners have enough time to complete rehabilitation programs. Generally this period represents a more appropriate interval to allow prisoners to demonstrate a reduction in their risk of reoffending.

The bill also amends the Dangerous Prisoners (Sexual Offenders) Act to better serve victims who have an interest in the Dangerous Prisoners (Sexual Offenders) Act, including the option for victims to opt out if they do not wish to be notified about contravention proceedings.

The bill amends part 10 of the Penalties and Sentences Act, which provides for a regime of indefinite sentencing. Currently, an indefinite sentence may only be imposed for Queensland Criminal Code offences carrying a maximum penalty of life imprisonment where the offence involves violence or is one of five specified sexual offences. The bill expands the range of offences for which an indefinite sentence may be imposed. A specific schedule of offences, carrying maximum penalties ranging from 10 years to life imprisonment, is inserted into the Penalties and Sentences Act containing sexual and violent offences where the risk posed by the offender to the community is likely to be most acute. New offences included by virtue of the amendments include torture, maintaining a sexual relationship with a child and indecent treatment of a child under 16.

Currently, pursuant to section 174 of the Penalties and Sentences Act, an offender who has been discharged from an indefinite sentence and sentenced to a finite term is liable to five years parole supervision, regardless of the time remaining on their sentence. For example, a prisoner serving a 20-year nominal sentence who applies for and is granted parole at 18 years would be subject to up to five years parole, notwithstanding that he or she only had two years of their sentence remaining. Incongruously, this five-year supervision period only applies where the offender submits an application for parole and is approved for release to parole. Offenders who serve their full-time nominal sentence are not subject to any parole upon release.

The bill addresses this inconsistency by amending section 174 to provide that, where an offender has been sentenced under section 173(1)(b) and is not granted parole before the end of the term of their imprisonment, the offender, at the end of that term of imprisonment, must be under the authority of the Queensland Parole Board and the supervision of an authorised corrective services officer for five years.

The Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Bill 2009 is another measure taken by this government to enhance protection of the community from the risk posed by high-risk sexual and violent offenders. I commend the bill to the House.