Speech by

Hon. Jarrod Bleijie

MEMBER FOR KAWANA

Hansard Tuesday, 27 November 2012

YOUTH JUSTICE (BOOT CAMP ORDERS) AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (9.22 pm): I move—

That the bill be now read a second time.

I thank the Legal Affairs and Community Safety Committee for its consideration of the Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012. I note that the committee tabled its report on 22 November 2012. I am pleased now to table a copy of the government's response to that report.

Tabled paper: Legal Affairs and Community Safety Committee: Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012, government response [1729].

The committee made 14 recommendations. These recommendations concern the amendments in the bill that introduce the boot camp order, removal of court referred youth justice conferencing and the amendments that provide for a new exemption in the Anti-Discrimination Act. I will now address each of the committee's recommendations.

The committee's first recommendation, that the use of omnibus bills be limited, is noted. The second recommendation that the Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012 be passed, is welcomed. Similarly, recommendations 12 and 13, which support the passing of those components of the bill which amend the Anti-Discrimination Act 1991 and Fiscal Repair Amendment Act 2012, are also welcomed.

Recommendation 3 is that assurances are given that clear public policies are developed and appropriate guidance is provided to boot camp centre providers in relation to recognising the cultural needs of each child participating in the program. It is acknowledged that this is an important facet in the development and management of the boot camp program. As such, the bill contains a number of protections including that the boot camp program itself must have regard to the cultural needs of the child in accordance with the new section 226E. Further, the tender process undertaken for the selection of the boot camp providers explicitly required submissions to articulate their approach to and experience in meeting cultural needs in the delivery of programs. The successful boot camp centre provider has a demonstrated capability in this critical area. As part of the monitoring and evaluation, specific attention will be focused upon whether the program adequately meets the cultural needs of each participating child.

Recommendation 4 requests that the Attorney-General and Minister for Justice outline the process to be followed upon a child's request for access to a lawyer and how complaints about a response to the provision of access to a lawyer can be made by a young person. While the bill does contain a requirement under new section 282H that the boot camp centre provider helps a young person to access a lawyer, this is only where it is reasonable in the circumstances. That is, where the young person is on a wilderness adventure program for three days where there is limited access to telecommunications, the boot camp centre provider will help the child access a lawyer upon return to the centre.

The processes that the department will be employing are modelled on those currently used for children in youth detention centres. Finally, as well as procedures which will be established to ensure that the child may make complaints to the chief executive, the Community Visitor Program which is managed by the Commission for Children and Young People and the Child Guardian will be operational for the boot camp centres. This will enable children to make complaints directly to the community visitors who will have access to the boot camp centres.

Recommendation 5 requests that the Attorney-General and Minister for Justice set out details of the philosophy to support the proposal of a boot camp order as an option before detention. Research has shown that a share of young offenders sentenced to detention will reoffend after being released to the community suggesting that serving a detention order does not act as a deterrent to future offending for some young offenders. The boot camp order provides a consequence for young people's offending as well as providing access to the boot camp program. This program aims to address the factors associated with young people's involvement in crime and was developed with reference to existing literature and in consultation with key stakeholders and criminal justice experts.

Evaluations of traditional or military style boot camps have shown mixed outcomes on the impact of offending behaviour. Evaluations of wilderness or reform style boot camps, however, demonstrate reduced subsequent offending among participants. These types of boot camps emphasise setting challenging tasks to promote experiential learning and the need to specifically address the causes of crime. The boot camp program in which a child will be required to participate as part of the boot camp order is modelled on the reform style boot camp.

Recommendation 6 is that the Attorney-General and Minister for Justice outline further details relating to the evaluation of the boot camp program. The post-trial evaluation, conducted by criminal justice research within the Department of the Premier and Cabinet, with the support of Youth Justice Services within the Department of Justice and Attorney-General, will be funded by existing resources.

While the evaluation methodology is being currently finalised it will conform with the criminal justice evaluation framework—guidelines for evaluating criminal justice programs initiatives. The methodology will comprise a process and outcome evaluation. A more detailed framework that includes the details of the target outcomes, and data measures to be used to assess them, will be developed prior to the commencement of the trial after consultation with the selected providers and other stakeholders. The interim results of the evaluation will be reported back to cabinet in early 2014 followed by the final report in early 2015.

Recommendation 7 is that the bill include a sunset clause to ensure that no further boot camp orders can be made after the expiration of the trial period, until after appropriate evaluation is conducted and results considered by the Legislative Assembly. An interim evaluation report will be provided to cabinet in early 2014. If this evaluation report indicates that the boot camp order is not or is not likely to achieve government objectives, the inclusion of a sunset clause will be given further consideration. The government will therefore not be adopting this recommendation.

Recommendation 8 is that the Attorney-General and Minister for Justice provide the details of any cost-benefit analysis carried out on both the direct and indirect savings that will result from removing court referred youth justice conferencing. The removal of court referred youth justice conferencing is expected to save more than $11.2 million over the next two full financial years. The cost savings will be monitored by the Department of Justice and Attorney-General to ensure that the decision is an effective fiscal measure.

Recommendation 9 is that court referred youth justice conferencing be retained and the provisions in the bill seeking to remove this option for courts be removed. The Queensland government does not support this recommendation. The removal of court referred youth justice conferencing will provide considerable savings to the government. In addition, given that the option will remain for the Queensland Police Service to refer a child to a youth justice conference, the program will remain a successful early diversion and intervention option to support children at the earliest point in the offending trajectory.

Recommendation 10 is that I clarify the intended operation of proposed section 106C of the Anti-Discrimination Act 1991 to address concerns raised in some submissions about possible unintended consequences. Section 106C makes it clear that, if an accommodation provider has a reasonable belief that a person is using, or intends to use, accommodation for sex work, the provider can discriminate against that other person in various ways without being in breach of the Anti-Discrimination Act. Concerns were raised that the amendment may create a shortage of accommodation available for use for sex work which may, in turn, lead to an increase in illegal sex work.

The accommodation industry is a diverse industry and the government expects there will continue to be accommodation providers willing to meet the demand for every market. The exemption simply ensures accommodation providers are able to choose whether to rent a room to a sex worker to be used for sex work. Concerns were also raised that the exemption may cause sex workers to be subjected to exploitation

and coercion by accommodation providers who demand sexual favours or excessive charges. Mr Deputy Speaker, if there are any children in the public gallery, I would advise them to leave for this discussion.

Section 106C will not override the criminal law or consumer laws—for example, prostitution related offences under the Criminal Code still apply, and consumer laws that protect consumers from exploitative and unfair treatment still apply. Other issues raised include: accommodation providers may start policing all their patrons' behaviour and rush to judgement as to who is a sex worker; and sex workers may be refused accommodation when they are not working.

The accommodation industry, like all service industries, relies on reputation and word-of-mouth recommendation. I consider it highly unlikely the new exemption would cause accommodation providers to act against their own commercial interests by causing unnecessary offence to paying guests.

The new section 106C does not allow discrimination against a person merely because that person is a sex worker but only if the accommodation provider has a reasonable belief that the person intends to use the accommodation in connection with sex work. A concern was also raised that section 106C would allow refusal of accommodation to individuals who may want to engage a sex worker or that they may be evicted if they did. The exemption is drafted broadly to ensure that the intent of the exemption cannot be subverted by allowing people, other than the sex worker themselves, to obtain accommodation for prostitution purposes.

Recommendation 11 is that the Queensland Police Service and the Prostitution Licensing Authority actively monitor any increase in unlawful sexual activity in the sex industry and the number of nuisance complaints relating to unlawful sex work in public places. I will be writing to the Minister for Police and Community Safety and the chairperson of the Prostitution Licensing Authority requesting that they consider this recommendation.

I note that the committee's inquiry involved a detailed consideration of the application of fundamental legislative principles to the bill. In accordance with recommendation 14, the Attorney-General and Minister for Justice is requested to address consistency with fundamental legislative principles as they relate to the amendments to the Youth Justice Act 1992.

The committee notes that the removal of the option for court referred youth justice conferencing, and section 163(4) of the Youth Justice Act 1992 in particular, is likely to have a significant adverse impact on a child's future as this removes an option for a court not to record a conviction. The removal of section 163(4) does not remove the option for a court not to record a conviction against a finding of guilt as proposed by the committee as this discretion is provided for more generally under section 183 of the Youth Justice Act 1992.

It is also proposed by the committee that the combination of a reading of the new section 246A(7) and 246A(8) will expose a child to the possibility of serving longer than the six-month maximum period for a boot camp order. It is noted that these sections replicate those contained in section 246 which relate to conditional release orders and are interpreted in such a way that the child is not required to comply with an order after the program period has expired. The order is then only enlivened for the purposes of the breach proceedings in court and at no time will a child serve more than six months on a boot camp order. This interpretation and current practice based on this interpretation of these sections should allay concerns of the committee that the rights and liberties of a child have not been given sufficient regard.

The committee also questioned the appropriateness of the delegation of administrative power as provided by amendment to schedule 2. This amendment allows the chief executive to make regulations for standards, management, control and supervision of boot camp centres. The committee's view is based on the suggestion that boot camp centres are akin to detention centres and that this power should not therefore be delegated. I bring to the attention of the committee that this power does exist for detention centres and is therefore not an inappropriate delegation of power.

Finally, although it is acknowledged that orders which apply retrospectively must be strongly justified, the government stresses that the boot camp order does not apply or impact upon a child retrospectively as the order cannot be made until after commencement of the relevant provisions of the bill. A boot camp order made by a court after commencement will only require a child to comply with the requirements of the order from that time onwards. The government does not consider then that there is an inconsistency with a fundamental legislative principle in this instance.

I would like to acknowledge those who have made submissions on the bill to the committee. I note that the submissions on the amendments to the Youth Justice Act 1992 have been largely reflected in the thorough recommendations of the committee. As I mentioned at the time I introduced the bill into the Legislative Assembly, the bill delivers on the government's pre-election commitment to introduce youth boot camps to stop the cycle of youth crime and give young offenders a real chance at rehabilitation and the opportunity to make positive life decisions. I commend the bill to the House.