



Speech by

Hon. Jarrod Bleijie

MEMBER FOR KAWANA

Hansard Wednesday, 28 November 2012

CRIMINAL PROCEEDS CONFISCATION (UNEXPLAINED WEALTH AND SERIOUS DRUG OFFENDER CONFISCATION ORDER) AMENDMENT BILL

Message from Governor



Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (3.31 pm): I present a message from Her Excellency the Governor.

The Speaker read the following message—

MESSAGE

CRIMINAL PROCEEDS CONFISCATION (UNEXPLAINED WEALTH AND SERIOUS DRUG OFFENDER CONFISCATION ORDER) AMENDMENT BILL 2012

Constitution of Queensland 2001, section 68

I, PENELOPE ANNE WENSLEY AC, Governor, recommend to the Legislative Assembly a Bill intituled—

A Bill for an Act to amend the Crime and Misconduct Act 2001, the Criminal Proceeds Confiscation Act 2002, the Penalties and Sentences Act 1992 and the Police Powers and Responsibilities Act 2000 for particular purposes.

(sgd)

GOVERNOR

Date: 27 NOV 2012

Tabled paper: Message, dated 27 November 2012, from Her Excellency the Governor, recommending the Criminal Proceeds Confiscation (Unexplained Wealth and Serious Drug Offender Confiscation Order) Amendment Bill 2012 [[1742](#)].

Introduction



Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (3.32 pm): I present a bill for an act to amend the Crime and Misconduct Act 2001, the Criminal Proceeds Confiscation Act 2002, the Penalties and Sentences Act 1992 and the Police Powers and Responsibilities Act 2000 for particular purposes. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Criminal Proceeds Confiscation (Unexplained Wealth and Serious Drug Offender Confiscation Order) Amendment Bill 2012 [[1743](#)].

Tabled paper: Criminal Proceeds Confiscation (Unexplained Wealth and Serious Drug Offender Confiscation Order) Amendment Bill 2012, explanatory notes [[1744](#)].

I am pleased to introduce the Criminal Proceeds Confiscation (Unexplained Wealth and Serious Drug Offender Confiscation Order) Amendment Bill 2012. The bill represents the fulfilment of the Queensland government's pre-election pledge to introduce tough new unexplained wealth and drug

trafficker declarations to target the ill-gotten gains of criminals. Serious criminal activity is often motivated by greed and an unwillingness to work hard and be liable for taxation on profits. Engagement in serious criminal activity allows these persons to fund lifestyles which are often beyond the reach of ordinary Queenslanders who earn their incomes and pay their taxes in accordance with the law. They also provide the funds that may underwrite other criminal enterprises in which criminal organisations engage. The ease with which vast sums of money can often be made from serious criminal activity is a 'hook'—

Honourable members interjected.

Madam SPEAKER: Honourable members, please have respect for the member who has the call. Take your conversations outside or sit in silence.

Mr BLEIJIE: Thank you for your protection from my own honourable colleagues, Madam Speaker.

The ease with which vast sums of money can often be made from serious criminal activity is a 'hook' that can be used to convince people that it is worth the 'gamble' of becoming involved in such activity. This is why this bill seeks to increase the risk of involvement in serious criminal activity by increasing the chances that involvement may end up costing a criminal not only their illegally obtained assets but also their legally obtained assets. This bill also acknowledges that those who engage in the trade of illicit drugs are involved in criminal enterprises that carry a high and often tragic cost for the community.

The 2012 health of Queenslanders report from the Chief Health Officer of Queensland estimated that illicit drug use cost Queensland society \$1.6 billion in 2004-05, with an estimated \$39 million spent on health care. There is also a link between drug use and involvement in other criminal activity. The main objective of this bill is to deter serious criminal offending by increasing the personal risk to persons who become involved in serious criminal activity. The bill achieves this objective by creating a new drug trafficking declaration scheme in the form of a 'serious drug offender confiscation order scheme' and introducing 'unexplained wealth' orders.

Under the new serious drug offender confiscation order scheme, the Supreme Court, as a preliminary step, can make restraining orders over property so that the property is preserved for possible future forfeiture under a serious drug offender confiscation order. The bill provides that a court sentencing an offender for a serious drug offence must issue a serious drug offence certificate. A 'serious drug offence' is defined to include a wide range of serious drug offences.

In order to make a serious drug offender confiscation order, the Supreme Court must be satisfied that an offender has been issued with a serious drug offence certificate for a single trafficking offence or three other types of serious drug offences committed within a seven-year period. The Supreme Court must also be satisfied that the state has brought its application within six months of the issuing of the certificate for the qualifying offence. The effect of a serious drug offender confiscation order will be that all property of the person and all the property that was gifted by the person in the six years before the person was charged with the qualifying offence is forfeited to the state. These amendments will enable the community and the justice system to seek compensation for the burden the illicit drug trade places on the community, health and justice systems.

However, the bill does provide for a person against whom a serious drug offender confiscation order is made to retain certain property identified in the bill as 'protected property' with a view to fairness and encouraging the offender's rehabilitation. The bill also amends the Criminal Proceeds Confiscation Act to include 'unexplained wealth' laws that provide that, if the state can prove on the balance of probabilities that there is a reasonable suspicion that an individual has been involved in serious criminal activity or acquired serious crime derived property without providing sufficient consideration and any of the person's current or previous wealth was acquired unlawfully, then that individual must prove the legitimacy of all of their assets. The bill provides that, with respect to both serious drug offender confiscation orders and unexplained wealth orders, the Supreme Court has a discretion to refuse to make the order if it is satisfied it is not in the public interest to do so. Further, the Supreme Court has a discretion to exclude assets from the operation of a serious drug offender confiscation order or reduce the amount that would be payable under an unexplained wealth order if the court is satisfied it is in the public interest to do so.

Under the bill, innocent dependants of persons against whom serious drug offender confiscation orders and unexplained wealth orders are made can make applications for hardship orders with respect to certain property. Currently, dependants of persons against whom proceeds assessment orders are made do not have the ability to apply to the Supreme Court for an order seeking relief from hardship. The bill provides that these dependants will have the same ability to make an application for hardship order as the dependants of persons against whom unexplained wealth orders and serious drug offender confiscation orders are made.

The bill updates the provisions of the Criminal Proceeds Confiscation Act with respect to the issuing of notices to financial institutions. This will allow investigators to obtain the information necessary to allow them to identify and protect property from dissipation in a timely manner. The level of information provided

to investigators and the increased penalty for noncompliance more closely aligns the position in the Criminal Proceeds Confiscation Act with other Australian jurisdictions.

The bill provides an explicit mechanism in the Criminal Proceeds Confiscation Act that will enable Queensland to participate in equitable sharing programs with other jurisdictions. The Commonwealth Parliamentary Joint Committee on Law Enforcement report encouraged the facilitation of equitable sharing programs in order to make cross-jurisdictional work on proceeds of crime matters easier.

The bill provides for other minor amendments in order to assist the Criminal Proceeds Confiscation Act to enhance its operation. The Criminal Proceeds Confiscation (Unexplained Wealth and Serious Drug Offender Confiscation Order) Amendment Bill 2012 ensures that Queensland will not become a safe haven for those wishing to hide their ill-gotten gains. The bill is consistent with the Queensland government's unapologetic commitment to being tough on crime. I commend the bill to the House.

First Reading



Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (3.40 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Legal Affairs and Community Safety Committee

Mr DEPUTY SPEAKER (Dr Robinson): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.