




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 1 December 2015

YOUTH JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

Introduction

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (12.47 pm): I present a bill for an act to amend the Penalties and Sentences Act 1992, the Public Guardian Act 2014, the Youth Justice Act 1992 and the acts mentioned in schedule 1 for particular purposes. I table the bill and explanatory notes and I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Youth Justice and Other Legislation Amendment Bill 2015 [[1766](#)].

Tabled paper: Youth Justice and Other Legislation Amendment Bill 2015, explanatory notes [[1767](#)].

I am pleased to introduce the Youth Justice and Other Legislation Amendment Bill 2015. The bill will give effect to the first stages of amendments to the Youth Justice Act 1992 to deliver on the government's commitment to repeal non-evidenced and ineffective amendments made to the Youth Justice Act by the former Liberal National Party government. In 2014 the previous government implemented a sweeping set of amendments to the Youth Justice Act and Children's Court Act 1992 to introduce stronger penalties and harsher consequences on the premise that these would reduce offending and deter children and young people from repeat offending.

In 2014 the previous government not only repealed legislative recognition of the common law sentencing principle that imprisonment is a sentence of last resort but also completely ousted the application of the common law in this regard for all offenders. As a result Queensland became the only Australian jurisdiction to no longer apply this fundamental sentencing principle. The government's commitment to repeal the 2014 retrograde reforms reflects international evidence that increasing the severity of punishment is ineffective in reducing recidivism particularly by children and young people. Repealing these reforms will serve to reduce involvement of children and young people in the justice system rather than lead to their future entrenchment within it. Legal and community sector stakeholders, including the Queensland Law Society, the Bar Association of Queensland, the Youth Advocacy Centre and Amnesty International, were strongly opposed to the 2014 reforms and have continued to make approaches to government to repeal these.

The bill progresses the first stage of legislative reform by: restoring section 234 of the Youth Justice Act to prohibit the publication of information identifying repeat offenders while maintaining the court's discretion to allow for the publication of identifying information for any particular offender the court deems to have committed particularly heinous and violent offences and where the publication is in the public interest; repealing part 5 division 2 of the Youth Justice Act, resulting in a finding of guilt for an offence committed by a young person while on bail no longer being an offence; restoring section 148 of the Youth Justice Act, making unrecorded childhood findings of guilt inadmissible in the

sentencing of adult offenders, but leaving recorded convictions admissible; amending the sentencing principles in section 150 of the Youth Justice Act to reinstate the principle that a detention order should only be imposed as a last resort and omit the subsection ousting the equivalent common-law principle; the reinstatement of sentence review provisions under the Youth Justice Act, with this provision having previously been removed at the same time as the 2014 reforms in the face of criticism and opposition by the President of the Children's Court and other key legal and youth stakeholders; and removing provisions from the Youth Justice Act relating to the youth boot camp program based on the findings of an independent evaluation to cease and repeal this legislation.

Further, principle 17 of the charter of youth justice principles will also be reinstated, providing that a child should be detained in custody for an offence, whether on arrest or sentence, only as a last resort and for the least time that is justified in the circumstances. This bill also delivers on the government's commitment to return the sentencing regime in Queensland that existed before 2014 by amending the Penalties and Sentences Act 1992 to make it clear that prison is a sentence of last resort for adult offenders and that a penalty that allows for the person to remain in the community is preferable. However, for those offenders convicted of offences of violence, child sexual abuse or offences involving child exploitation material, the sentencing principle will continue to be displaced consistent with the position that existed before the 2014 changes. This recognises the serious and heinous nature of that offending and the need to protect the community. As a direct and immediate outcome of this amendment, courts will once again have a wide sentencing discretion to structure sentences that not only meet the community's need to punish and deter, but also recognise the need to rehabilitate offenders and protect the community through the use of noncustodial penalties. This government has confidence in the ability of the Queensland judiciary in the exercise of this discretion and to impose appropriate sentences.

Remaining government election commitments to repeal legislation relating to open proceedings of the Children's Court, the automatic transfer to adult correctional facilities of 17-year-olds who have at least six months left to serve in detention and the reinstatement of court referred youth justice conferencing require further consultation on enhancements and implementation and are being progressed as a second stage of amendments with targeted stakeholder consultation. Subject to the results of this consultation, the government intends to bring further amendments that give effect to these election commitments in early 2016. Both the bill and the next stage legislative amendments emphasise the government's early intervention and rehabilitative approach to reducing youth offending. These legislative reforms will be complemented by the development of a comprehensive youth justice policy that will be presented for public consultation in 2016. The policy will guide responsible investment in the youth justice system based on evidence of what works to effectively rehabilitate and deter young people from further entrenchment in the criminal justice system.

The future of the youth justice system in Queensland is one that values and supports the future of the children and young people it is responsible for as the most effective way to reduce the impact of offending in our communities, at the same time as acknowledging that young offenders need to be held to account. I believe that this bill gets the balance right and so will our youth justice policy going forward. I commend the bill to the House.

First Reading

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (12.52 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 Legal Affairs and Community Safety Committee

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