Speech By

Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 10 August 2017

PENALTIES AND SENTENCES (DRUG AND ALCOHOL TREATMENT ORDERS) AND OTHER LEGISLATION AMENDMENT BILL

Introduction

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (3.08 pm): I present a bill for an act to amend the Criminal Code, the Criminal Law (Rehabilitation of Offenders) Act 1986, the Drugs Misuse Act 1986, the Evidence Act 1977, the Justice and Other Information Disclosure Act 2008, 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: Penalties and Sentences (Drug and Alcohol Treatment Orders) and Other Legislation Amendment Bill 2017 [1301].

Tabled paper: Penalties and Sentences (Drug and Alcohol Treatment Orders) and Other Legislation Amendment Bill 2017, explanatory notes [1302].

I am pleased to introduce the Penalties and Sentences (Drug and Alcohol Treatment Orders) and Other Legislation Amendment Bill 2017. This bill provides the legislative framework to support the reintroduction of a Drug Court program. This delivers on the Palaszczuk government's election commitment to reintroduce court diversionary processes and programs, which to date have included the establishment of the Queensland Integrated Court Referrals program in five locations across Queensland and the rollout of the Murri Court in 14 locations across the state.

As part of the 2017-18 state budget, funding of $22.7 million over four years has been allocated for the operation of a drug court program based in Brisbane, and for court referral and support services in Brisbane, Ipswich, Southport and Cairns. This government is committed to introducing criminal justice responses to tackle drug and alcohol substance misuse, which has contributed to the commission of offences, and so turn people away from crime and create a safer community for everyone. The bill also introduces several miscellaneous amendments to a variety of acts that are aimed at clarifying and improving the operation of the criminal justice system in Queensland.

I turn firstly to the amendments in the bill that establish a Drug and Alcohol Court. Queensland's former Drug Court was established as a pilot in 2000 by the then Labor government and was expanded upon and made permanent in 2006 under the Drug Court Act 2000. On 30 June 2013, the former LNP government discontinued the operation of the Drug Court by repealing the Drug Court Act with no consideration of the evidence underpinning the court and no understanding of the link between substance misuse and offending.

The reinstatement of the Drug Court has been informed by a comprehensive review of the former Drug Court's operation and a review of best practice in diversionary courts and drug courts, both nationally and internationally. The review was supported by the Department of Justice and Attorney-General and led by Emeritus Professor Arie Freiberg AM, Dr Karen Gelb, Dr Jason Payne, Emeritus Professor Toni Makkai, and Mr Anthony Morgan. The review's final report, which I tabled in

the Legislative Assembly on 13 June 2017, included 39 recommendations and found that a drug court forms an integral part of a criminal justice system to address high-risk and high-needs offenders and concluded that this must form part of a broader justice system response to substance fuelled crime. As noted in the final report—

> Drug courts provide a number of cost-related and social benefits to the community, operating as an alternative to imprisonment and addressing the underlying issues related to their offending. Although difficult to quantify, the health and social benefits of drug courts, not just for the offender but for their family and community, are equally important. These benefits include reductions in drug use and associated health issues, easing the burden these offenders place on the health system, the reunification of families, babies born drug-free, the retention of stable accommodation, engagement of offenders in employment, education and training, and a reduction in offending.

Importantly, recommendation 13 of the review is that a drug court program should be legislatively enshrined. However, the recommendation contemplates either a stand-alone act, as was the former approach to the Queensland Drug Court and in New South Wales, or an amendment to existing sentencing legislation, as in Victoria. The bill adopts the approach taken in Victoria and inserts a new part into the Penalties and Sentences Act 1992, which will provide the legislative framework for the administration and management of a new sentencing option, called a drug and alcohol treatment order, or 'treatment order' in short.

Providing for a new sentencing option in the Penalties and Sentences Act integrates the principles of a drug and alcohol program into the existing tried and tested sentencing framework for Queensland. The treatment order comprises integrated punitive and rehabilitative elements that are clearly directed at the offending behaviour, as well as the offender's severe substance use disorder arising from their drug and alcohol use. In other words, the treatment order is an option for the court to directly respond to the link between substance misuse and offending, and provides a suitable mechanism to punish the behaviour in accordance with community expectations, as well as treat the cause of the antisocial behaviour.

As part of its strictly punitive element, the court must record a conviction against the person and the offender is sentenced to a term of imprisonment of four years or less which is suspended for a designated period up to five years. In addition, as a part of its rehabilitative element, the offender is required to be subject to an intensive treatment program supported by a range of conditions for a minimum of two years. I would like to emphasise that undertaking a treatment program is not a soft or easy option for an offender and will require the offender to comply with stringent conditions designed to address the person's substance use disorder and ensure compliance with the treatment order. This treatment program is an integral part of the treatment order and can include, for example, medical, psychiatric or psychological treatment that is aimed at the offender's rehabilitation; submission to frequent drug or alcohol testing; or participation in relevant counselling or other programs designed to assist the person's rehabilitation.

The bill provides that, in the administration and management of a treatment order, the court will be assisted by a review team that will be constituted by representatives from the Queensland Police Service, Queensland Corrective Services, Queensland Health, the Department of Justice and Attorney-General and Legal Aid Queensland. As such, the court will have the assistance of a highly professional body that can assist both the court and the offender to achieve the purposes of the treatment order, which, as stated in the bill, include reducing the level of the offender's severe substance use disorder, the level of criminal activity associated with that disorder and assisting the offender's integration into the community.

The introduction of the treatment order represents a smart approach to dealing with criminal offending and provides an opportunity to punish an offender for their crime, assist them to address the underlying causes of their offending behaviour and commit to programs that will help them reintegrate into society. This bill and this treatment order represents the smart-on-crime approach adopted by this government which addresses both criminal offending and the causes of that criminal offending.

Complementary amendments are being made to both the Penalties and Sentences Act 1992 and the Police Powers and Responsibilities Act 2000 to provide that the requirement to attend a drug diversion assessment program or a drug diversion program is replaced with the requirement to participate in the respective program. The effect of these amendments will enable a person to use electronic means to participate in and complete the required programs.

I now turn to the other unrelated criminal law amendments in the bill. The bill will also amend the Criminal Law (Rehabilitation of Offenders) Act 1986, which provides the framework to allow persons convicted of certain criminal offences to lawfully deny or not be required to disclose those convictions after a specific rehabilitation period has passed. The proposed amendment will clarify that a conviction involving a head sentence of more than 30 months imprisonment can never be a spent conviction and must, therefore, be disclosed. This amendment is a direct response to the concerns raised in the recent Court of Appeal decision of Dupois v Queensland Television Ltd & Ors.

The bill also amends the Drugs Misuse Act to recast the definition of 'dangerous drug' to better clarify and prescribe the substances intended to be captured under the extended definition of 'dangerous drug'. This will be achieved by placing established scientific parameters around what substances are captured within the extended definition. The bill amends section 4(c) of the Drugs Misuse Act to omit the existing extended definition of 'dangerous drug' and to replace it with the concept of a drug analogue, which provides a more objective and scientific approach to defining substances to be captured under the legislation. This proposed amendment responds appropriately to the recent District Court decision of R v Champion and will also implement outstanding recommendation 3.2 of the Queensland Organised Crime Commission of Inquiry report, which recommended that the government review the efficacy of the extended definition of dangerous drug under the Drugs Misuse Act in facilitating prosecutions.

Finally, consistent with the government's ongoing commitment to ensuring the highest degree of protection for victims of domestic and family violence, the bill makes an amendment to the Evidence Act 1977 to provide that the alleged victims of the offence of choking, suffocation or strangulation in a domestic setting under section 315A of the Criminal Code will be treated as protected witnesses for purposes of part 2, division 6 of the act. This will ensure that an unrepresented accused is prohibited from personally cross-examining the victim of the choking offence. 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) (3.18 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

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

Portfolio Committee, Reporting Date

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (3.18 pm), by leave, without notice: I move—

That under the provisions of standing order 136 the Legal Affairs and Community Safety Committee report to the House on the Penalties and Sentences (Drug and Alcohol Treatment Orders) and Other Legislation Amendment Bill by 28 September 2017.

Question put—That the motion be agreed to.

Motion agreed to.