




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 24 October 2017

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

Second Reading

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (3.03 pm): I move—

That the bill be now read a second time.

The Penalties and Sentences (Drug and Alcohol Treatment Orders) and Other Legislation Amendment Bill 2017 was introduced into the Queensland parliament on 10 August this year. The bill was referred to the Legal Affairs and Community Safety Committee for its consideration. The committee tabled its report No. 67 on 28 September and made one recommendation, that the Penalties and Sentences (Drug and Alcohol Treatment Orders) and Other Legislation Amendment Bill 2017 be passed.

I thank the Legal Affairs and Community Safety Committee for its consideration of the Penalties and Sentences (Drug and Alcohol Treatment Orders) and Other Legislation Amendment Bill 2017. I also thank the organisations and members who made submissions to the committee and who participated in the committee's public hearings in Brisbane, Cairns and Mackay. In addition, I thank the members for Mackay and Mirani, who attended the committee's public hearing in Mackay on 12 September and who shared with the committee their concerns about the rise in drug and alcohol related problems affecting their electorates.

Drug and alcohol problems unfortunately exist in every community. Severe drug and alcohol misuse contributes to poor health, education and economic outcomes for individuals and their families and increased levels of criminal activity which negatively impacts on our community's safety. This government recognises that addressing the negative impacts of severe drug and alcohol misuse requires a sophisticated and multifaceted approach consisting of both punitive sanctions and rehabilitative solutions. That is why we made an election commitment to reintroduce diversionary courts and programs which, along with the special circumstances court, court ordered youth justice conferencing and the Murri Court, includes a drug and alcohol court.

As honourable members will remember, the former Queensland Drug Court was established in 2000 under the then Labor government and was expanded upon and rebadged in 2006 under the Drug Court Act 2000. Unfortunately, on 30 June 2013 the former LNP government repealed the Drug Court Act. As noted at page 10 of the committee's report, a number of stakeholders outlined the negative impact of the former Drug Court Act's repeal. I draw the attention of honourable members to the following comments made on behalf of the Queensland Law Society at the committee's public hearing on 6 September. It was stated—

... the abolition of the diversionary programs compromised some of the most vulnerable members of the community. It did not go to hardcore drug traffickers on the Gold Coast. It affected women, it affected children, it affected Indigenous Australians and it

affected people who were chronically addicted to drugs, and the best interests of society was being able to rehabilitate them. It is quite clear from the Law Society's presence today and our previous advocacy on these issues that we consider diversionary programs to be central to a just, functioning criminal justice system.

The Queensland Nurses and Midwives' Union also supported this evidence based policy, submitting—

The QNMU welcomes the primary policy objective of the Bill to insert a new sentencing option into the Penalties and Sentences Act 1992 to respond to certain offenders whose criminal behaviour is linked to their severe drug or alcohol use.

Protect All Children Today added their experience and expertise to the committee process. They stated—

We support the primary policy objectives of the *Penalties and Sentences (Drug and Alcohol Treatment Orders) and Other Legislation Amendment Bill 2017* to include new sentencing options to respond to offenders whose criminal behaviour is linked to their severe drug and alcohol use. Sadly, many of the children PACT support are victims or witnesses of domestic and family violence often attributed to the offender's dependence on alcohol or prohibited substances.

As part of its commitment to reinstate the Drug Court and to ensure that the most relevant and evidence based model could be used, the government established the Drug and Specialist Courts Review to investigate the development of a contemporary best practice model to underpin the reinstatement of a drug court. The Drug and Specialist Courts Review's final report, which was tabled in this Assembly on 13 June 2017, 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.

The recommendations of the Drug and Specialist Courts Review have largely informed the model for the reintroduction of the Drug Court that is found in the bill. The committee's report notes the favourable comments from key stakeholders on the consultation process for the bill, including the Drug and Specialist Courts Review. I am particularly pleased to note the comments from the Queensland Law Society that 'this evidence based and cogent consultation process led to the formulation of well thought out and responsive draft legislation'.

The bill establishes a drug and alcohol treatment order as a new sentencing option that can be used when an offender meets prescribed eligibility criteria. That eligibility criteria includes requirements such as an offender pleading guilty to an eligible offence, an offender having a severe drug or alcohol use disorder that contributed to their offending behaviour, and the court being satisfied that it would otherwise consider it appropriate to sentence the offender to a term of imprisonment.

Significantly, the drug and alcohol treatment order is to be contained in the Penalties and Sentences Act 1992, which fully integrates the Drug Court model into Queensland's justice system and is wholly consistent with the stated purposes of that act, which includes providing for a sufficient range of sentences for the appropriate punishment and rehabilitation of offenders.

The drug and alcohol treatment order consists of two parts—a custodial part and a rehabilitation part. The custodial part of the order provides that a court must sentence the offender to a maximum term of imprisonment for four years. This term of imprisonment is wholly suspended and can be activated at any time during the operational period of the order. Importantly, if the offender commits another offence that is punishable by imprisonment during the operation of the order, the court has a number of options available, including activating the suspended sentence. The rehabilitation part of the order consists of two components—the core conditions and the treatment program. The core conditions will apply to every offender who becomes subject to a drug and alcohol treatment order and include conditions prohibiting the commission of further offences and obligations to report to the court and review team members periodically. The treatment program will be individually tailored to the specific needs of an offender. It can include conditions requiring the offender to submit to medical, psychiatric or psychological treatment, participate in counselling or wear a device monitoring drug and alcohol usage.

To assist the court in the administration of the drug and alcohol treatment order, the bill establishes a multidisciplinary review team. The review team consists of the court and representatives from Queensland Corrective Services, the Department of Justice and Attorney-General, Queensland Health, Legal Aid Queensland and the Queensland Police Service. The review team will assist the court to determine an offender's suitability for a treatment order and monitor and assist the administration of the offender's compliance with conditions contained in the rehabilitative part of their treatment order.

As stakeholders quoted in the committee's report, diversionary measures such as the drug and alcohol treatment order proposed in the bill are not soft options. For an individual who is suffering from a severe drug or alcohol misuse disorder, addressing the causes of that disorder is a difficult and often painful process. The drug and alcohol treatment order proposed in the bill presents an evidence based tool for Queensland's courts to work with offenders to break the vicious cycle of drug and alcohol misuse and criminal offending. As noted in the committee's report, if the bill is passed the drug and alcohol

court is intended to commence as a pilot program in Brisbane in November 2017. As part of the 2017-18 state budget, funding of \$22.7 million over four years has been allocated for the operation of the Brisbane drug and alcohol court program and for court referral and support services in Brisbane, Ipswich and Cairns.

The bill also includes a number of miscellaneous amendments to a variety of legislation that are unrelated to the drug and alcohol treatment order. Amendments to the Evidence Act 1997 will ensure that a complainant witness of an alleged offence against section 315A—‘Choking, suffocation or strangulation in a domestic setting’—of the Criminal Code is afforded appropriate protections in court proceedings. The amendment will prevent a self-represented accused person from directly cross-examining the complainant. This amendment underscores this government’s ongoing commitment to support victims of domestic violence.

Amendments to both the Penalties and Sentences Act 1992 and the Police Powers and Responsibilities Act 2000 will facilitate the use of technology to allow people to comply with drug diversion programs and associated appointments. It is hoped that these amendments will facilitate flexible modes of participation in programs, resulting in increased rates of successfully completed drug diversion courses. Amendments to the Drugs Misuse Act 1986 will clarify the extended definition of a ‘dangerous drug’ and ensure a more objective definition is used. The amendments in the bill achieve this by establishing scientific parameters around what substances are captured in the extended definition.

As I noted in my explanatory speech for this bill, these amendments are a response to the District Court’s decision in *R v Champion* and also implement outstanding recommendation 3.2 of the Queensland Organised Crime Commission of Inquiry report. The amendment of the Criminal Law (Rehabilitation of Offenders) Act 1986 will clarify when a rehabilitation period under this act applies to a conviction of a person for an offence. This proposed amendment responds to the concerns raised by the Court of Appeal in *Dupois v Queensland Television Ltd and Others* about the clarity of the current provisions. The amendment makes it clear that a conviction for an offence that attracts an overall sentence of more than 30 months imprisonment falls outside the scope of the spent conviction scheme in this act and must always be disclosed.

I again thank the members of the Legal Affairs and Community Safety Committee for genuine engagement in this process and to those stakeholders and front-line staff who dedicate themselves to this challenging area. Thank you for dedicating yourselves to tackling such a difficult issue—not just the police, Corrective Services, those in the court system and in my Department of Justice and Attorney-General but also acknowledging those who are in the health system. I am sure that the Minister for Health would agree that they have a very difficult job in trying to support people with drug and alcohol abuse disorders. We know that these reforms can change individual lives. We know that the work that these front-line staff do can change lives, and through that we can create a safer environment for families and our broader community. I commend the bill to the House.