

DRAFT SECOND READING SPEECH

HON. GUY BARNETT MP

Court Security Bill 2017

check Hansard for delivery

Madam Speaker,

It is a fundamental element of our justice system that the public has a right of access to courts of law. However, it is also imperative that judicial officers are able to fulfil their roles without intimidation or threat and that the legal profession and the public can participate in court processes freely.

This Bill reinforces the public's right to enter and remain on court premises, subject to certain necessary conditions such as compliance with security arrangements. The Bill will ensure greater protection for court facilities and the people who use them.

Courts make decisions about the most important aspects of people's lives – their liberty, their families, their homes, their finances and their employment. It is imperative that there are appropriate security measures in place to ensure the integrity of the justice process.

Presently, security officers rely upon the inherent jurisdiction of the court and limited legislative powers in exercising court security functions.

The *Court Security Bill* confirms the existing powers that security officers exercise as well as providing them with a range of new powers that are specifically directed at ensuring the secure and orderly operation of courts and court premises.

These include powers of search and seizure, a prohibition on bringing certain objects into court premises, a requirement for those entering court premises to provide identification details on request in some circumstances, and the power to give directions where a person's behaviour intimidates or harasses other people in the court or on court premises.

The judiciary has an important role relating to security and the conduct of proceedings in the court room.

The provisions of this Bill do not derogate from the inherent power of the judiciary to control the conduct of proceedings. The power of the court concerning contempt of the court is not diminished by this Bill. Indeed, the Bill bolsters the courts' powers by providing that a judicial officer may order that members of the public, or particular individuals, be denied entry to, or be required to leave the court or court premises. Such an order may be made where it is necessary to secure order and safety in court premises. A penalty of up to 50 penalty units applies for contravening such an order.

The role of the media in reporting court proceedings is also recognised. This Bill accommodates the practice of members of the media of recording interviews on the steps of the court.

Of course, media activities must be conducted with due regard to other people wishing to attend court. While journalists may enter an exterior area of the court premises for the purpose of

making a media report, they must not obstruct or impede access to the court building. This concession does not apply to the use of recording devices inside the court.

In acknowledgement of the prevalence of technology in today's workplace, mobile electronic and recording devices may be used by journalists, court and judicial staff, legal practitioners and others who are granted express permission. The devices may be used to access the internet, send and receive messages and other discrete uses that do not impact upon the operations of the court or court premises.

These changes mean that journalists in Tasmania will now, for example, be able to live Tweet proceedings, a practice that is already permitted in several jurisdictions in Australia.

However, this Bill provides that the use of cameras and mobile telephones to record images or sounds or both inside the court building is an offence. It is paramount that the integrity of court transcripts as the official record of proceedings is not compromised, which is why recording of proceedings by anyone other than the official court services will continue to be prohibited.

Similarly, photographs and recordings taken in the court may pose risks to proceedings, such as compromising closed court proceedings, identifying jurors, de-identified defendants, victims or witnesses, and may also be disruptive. For these reasons, the taking of photographs and the like will continue to be prohibited.

Where a recording device is used in contravention of the proposed Bill, the device and any associated film, tape or other recording medium may be confiscated. Any sounds, images or both taken in contravention of the legislation may be deleted, and the recording device may be retained by security staff for as long as is necessary to achieve this.

This Bill makes it an offence to be in possession of certain prohibited things on court premises. These items include weapons or things that are likely to adversely affect the order or safety in the court or court premises.

This Bill provides a number of exemptions, such as where the prohibited thing may be used as an exhibit in court proceedings.

A person who possesses a prohibited item can be fined up to 100 penalty units or imprisoned for up to six months, or both.

The Government appreciates the need to be proactive about court security. To ensure that the restrictions set out in the Bill can be enforced, security personnel are provided with a range of powers.

When exercising a power under the Act, security officers will be able to use such force and assistance as is reasonably necessary to exercise the power. They may also give such directions as are reasonable to a person entering or on a court premises.

Security personnel may require a person entering or on a court premises to disclose their name, residential address and reason for the person's visit to the court premises and to provide evidence of the person's identity. Certain people such as legal practitioners and police are exempt from this requirement.

This Bill provides the power to search people and their personal effects and to stop and search vehicles entering court premises. Searches of people entering court premises may be conducted using an animal or an electronic or other device designed to locate prohibited items.

A visual inspection or frisk search may also be conducted. Any search must be conducted expeditiously and with regard to decency and self-respect and in a manner that affords reasonable privacy. Special protections are included in the Bill for searching children under the age of ten.

Court security personnel will have the power to seize prohibited items in certain circumstances. The Bill provides court security officers with the power to remove a person from court premises or ask a person not to enter court premises if the person is contravening a provision of the Bill or otherwise acting in a manner that is unlawful, disorderly, menacing or indecorous manner.

This Bill also empowers court security staff to arrest a person in court premises without a warrant if the person is in the act of committing an offence under the legislation or if it is believed on reasonable grounds that the person has committed or is about to commit an offence under the legislation.

This Bill also imposes various obligations on security staff which will serve as safeguards to the exercise of their powers.

An offence of obstructing or impersonating a security officer is also included in this Bill.

This Bill provides that persons licensed under the *Security and Investigations Agents Act 2002* may be appointed as temporary security officers. This provision has been included to cover situations where normal staff numbers become inadequate.

However I must stress that these temporary security guards will undertake appropriate training before being permitted to perform duties pursuant to this Bill.

The proposed legislation is designed to provide a balanced approach to the conduct of court security and is in line with legislative provisions in other Australian jurisdictions.

This Bill has been drafted to encompass the varied needs of the various state courts as well as any tribunals that elect to be covered. There has been extensive consultation with members of the judiciary and the legal profession on this Bill, as well as the media and community groups with an interest in the area.

It is important that the public feel confident that the court facilities operate in a safe and secure manner. The *Court Security Bill* is a significant and positive move towards ensuring the secure and orderly operation of Tasmanian courts.

I commend the Bill to the House.