

DRAFT SECOND READING SPEECH

HON ELISE ARCHER MP

Sentencing Amendment (Breaches of Home Detention Orders) Bill 2023

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Mr Speaker, I move that the Bill now be read a second time.

In recent years, I have explored ways to improve sentencing outcomes, ensuring that sentencing options strike the right balance between rehabilitation of offenders and community protection, while also reducing the impact on our corrections' resources.

That is why our Government introduced home detention as an additional sentencing option in March 2019. Since its introduction I have been very pleased with its take up by the courts and the important role it plays in our Corrections system.

As Members would be aware, home detention is a sentencing option that provides an alternative to imprisonment and allows offenders to remain living in and contributing to their community. Home detention orders are provided for under Part 5A of the *Sentencing Act 1997* (the Sentencing Act) and require an offender to be detained in a residence. Offenders are usually required to wear an electronic monitoring device throughout the period of the order.

Pleasingly, the number of home detention orders has continued to rise since their commencement. In 2018-19, 31 home detention orders were granted, and this increased to 127 orders in 2019-20, and to 217 orders in 2021-22.

The Sentencing Advisory Council's review of the amendments to the Sentencing Act, which introduced home detention as a sentencing option, was tabled in Parliament in November 2021. In that review, the Sentencing Advisory Council's view was that home detention orders "are a valuable addition to the sentencing options in Tasmania".

As of 31 March 2023, a total of 702 home detention orders with electronic monitoring have been imposed. Only one home detention order has been made that was not subject to electronic monitoring.

The completion rate of home detention orders in 2020-21 was 87.8%, the second highest in comparison with other jurisdictions, and significantly above the national average of 68.9% as reported in the Report on Government Services.

Unfortunately, since the commencement of these provisions in 2019, there have been a small number of offenders who have removed or attempted to tamper with their electronic monitoring device.

Mr Speaker, our criminal justice system needs to provide appropriate mechanisms for dealing with those individuals who do not comply with the requirements of their home detention order.

The amendments introduced in this Bill are intended to ensure more timely and consistent responses to breach of conditions of home detention orders and deter any person from removing or disabling an electronic monitoring device.

Specifically, the Bill enables a magistrate or justice to issue a warrant for arrest of an offender subject to a home detention order if the magistrate or justice believes, on reasonable grounds, that the offender has breached, is breaching or is about to breach a condition of the order. This provides another more efficient avenue for Community Corrections to seek to bring the individual back into custody where there is evidence of a breach of the order.

Mr Speaker, the Bill will also introduce two new offences within Part 5A of the Sentencing Act. Under the amendments, it will be an offence for a person subject to a home detention order to tamper with, damage or disable any device used for the purpose of the electronic monitoring.

It will also be an offence for a third party, not subject to the order, to tamper with, damage or disable any device used for the purpose of the electronic monitoring.

The Bill will also extend the core conditions of home detention, to require a person subject to a home detention order, not to allow another person to tamper with, damage or disable any device used for the purpose of the electronic monitoring, without reasonable excuse.

The Bill also enables applications to vary or cancel the home detention order, as well as applications relating to a breach of the order, to be considered if the person on the order is before a court on another matter. The court may consider such an application if they consider it appropriate in the circumstances, even if they were not the court that originally made the order.

Mr Speaker, the development of this Bill benefited from internal consultation between the Office of Strategic Legislation and Policy within my Department of Justice, Community Corrections, the courts and Tasmania Police.

In addition, the Bill was released for targeted and public consultation during August this year. Five responses were received, all of which were from agencies or authorities within the Tasmanian Government. No opposition or concern was raised to the Bill.

The value of home detention as an alternative sentencing option should not be downplayed, with Tasmania seeing very positive results from many of these orders. However, it should be acknowledged that this value is undermined if those who do not comply with the requirements of their orders are not able to be effectively managed in a timely way.

I am, therefore, pleased that this Bill will enhance our home detention framework, particularly in relation to electronic monitoring requirements, to ensure it continues to function effectively.

Mr Speaker, I commend the Bill to the House.