

DRAFT SECOND READING SPEECH

HON. MATTHEW GROOM MP

Sentencing Amendment (Drug Treatment Orders) Bill 2016

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Madam Speaker, the purpose of the Sentencing Amendment (Drug Treatment Orders) Bill 2016 is to amend the *Sentencing Act 1997* to clarify the operation of the Court Mandated Drug Diversion program and validate drug treatment orders made under Part 3A of the Act after 30 June 2014.

In 2007 the Tasmanian Parliament passed a Bill to provide for a new sentencing order known as the Drug Treatment Order (DTO). The Sentencing Act was amended to include a new Part 3A that provided for DTOs.

The specific purposes of a DTO are to:

- provide an alternative sanction to imprisonment;
- facilitate the offender's rehabilitation and reintegration into the community through an integrated, supervised and reviewable treatment regime;
- reduce the incentive for the offender to resort to criminal activity; and
- reduce risks to the offender's health and well-being.

The provisions clearly focus on the role of offender rehabilitation in protecting the community from people who turn to criminal activities to support their drug habit.

The provisions also recognise that it is not only the drug habit and offending behaviour that should be addressed but that offenders also need support to become productive members of the community.

The Drug Treatment Order is not suitable for all offenders. Other levels of diversion provide similar but less intense programs for offenders. Offenders subject to a DTO will have to have a demonstrable history of drug use and the use must have contributed to the commission of their offence.

The Court Mandated Drug Diversion (CMD) program underpinning the operation Part 3A of the Sentencing Act commenced in July 2007.

At that time the second reading speech reveals that it was intended that the program be conducted as a pilot program until 31 May 2008. It was subsequently extended by regulation on two occasions, most recently in 2009 until 30 June 2014.

There is no doubt that this has been very effective sentencing option to manage offenders whose risk of re-offending relates to illicit substance abuse. The aim of CMD and the DTO provisions is to break the cycle of drug-crime and provide an intensive intervention treatment option for offenders who would otherwise have been sent to prison.

The CMD program supervision is intense and requires offenders to attend frequent urinalysis testing, individual counselling sessions, group counselling through the Getting SMART program, as well as weekly case management meetings with a Court Diversion Officer.

The court monitors and oversees an offender's compliance with the program and progression through the program's stages through regular appearances. The Court has powers to sanction an offender's failure to comply with the program's conditions by short periods of imprisonment. By completing the program an offender has demonstrated they are able to live a drug-free life without crime.

The CMD program has been operated by Community Corrections since July 2010 and is provided annual funding by the Commonwealth Department of Health.

Since the CMD program's introduction in 2007, the program has been refined to maximise the chances of success for program participants, and consequently the community through reduction in crime.

The CMD program is currently limited as a sentencing option to offenders whose matters are dealt with in the Magistrates Court.

Consistent with the CMD program's introduction as a pilot program, section 27Y of the *Sentencing Act 1997* provided for the expiration of the provisions relating to the making of drug treatment orders. Up until 30 June 2014, the power to make drug treatment orders was extended by Regulation. By oversight, the relevant regulation has not been extended and the power to make drug treatment orders expired on 30 June 2014.

Therefore, this Bill is required to validate any drug treatment order or any other actions under Part 3A that have been made since 30 June 2014.

The Government is committed to improving the sentencing responses to criminal conduct and recognises there are a number of underlying causes of criminal behaviour. The CMD program plays an important role in rehabilitating offenders whose offending relates to illicit drug dependence and protecting the community against drug-fuelled crime.

To that end, the Government is considering extending the power to make drug treatment orders to the Supreme Court in relation to indictable crimes. This legislative reform is part of the Government's broader strategy to support enhanced police and legislative responses for dealing with crystalline methamphetamine (commonly referred to as "Ice") and to introduce additional sentencing options as part of the phasing out of suspended sentences.

It was during consideration of this legislative reform to extend drug treatment orders to the Supreme Court that it was discovered that the power to make drug treatment orders had lapsed.

DTOs are an important alternative to imprisonment.

As part of the Government's five year implementation plan to phase out suspended sentences the Government has committed to the introduction of legislation to extend the CMD program to enable drug treatment orders to be issued in the Supreme Court. This will occur in the first year of phase 1 of the plan.

The Government has also announced it will extend the operation of the order to include alcohol related offences. This is planned for year 3, taking into consideration the findings of the Tasmania Law Reform Institute referral examining whether Tasmania should introduce a recidivist drink driving court.

The Bill repeals the expiry provision of the CMD program and ensures that any orders or actions made after 30 June 2014 under Part 3A of the *Sentencing Act 1997* are not invalid.

I commend the Bill to the House.