

DRAFT SECOND READING SPEECH

HON GUY BARNETT MP

Sentencing Amendment (Presumptive Sentencing for Assaults on Frontline Workers) Bill 2024

check Hansard for delivery

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

Our Government was elected on a commitment to introduce legislation, within the first 100 days of government, to protect frontline workers and strengthen penalties for offences causing them serious bodily harm. This Bill fulfils our commitment.

All workers should be safe when carrying out their employment duties. This Bill recognises that some workers are exposed to a greater risk of harm in doing so.

Frontline workers undertake vital roles to keep our communities safe and functioning. They include emergency service officers, health workers, shop workers and transport drivers. They deserve the community's utmost respect and Parliament's protection.

This Bill legislates our Government's expectations as to the appropriate minimum sentence for serious offences against frontline workers that cause them serious bodily harm. That sentence is six months imprisonment.

The Bill contains important safeguards. The presumption of minimum sentencing will not apply where the court considers that such a sentence would be unjust when considering the circumstances of the offence or the offender. The Bill upholds judicial discretion in assessing all of the aspects of an individual case for that purpose.

Of course, a court retains the discretion to impose a sentence higher than the presumed minimum where that is appropriate and commensurate to the seriousness of that offence in its individual circumstances.

The presumptive imprisonment period will not apply to offenders who are under the age of 18 years at the time the crime was committed. It will not apply in certain circumstances to offenders who have impaired mental functioning that is causally linked to the crime.

In consultations on the Bill, retail employer groups reported heightened concerns about aggressive behaviour towards workers. For instance, the Australian Retailers Association's submission stated that:

"Frontline workers within the retail sector encounter multifaceted challenges in their roles, including managing difficult customers, enforcing safety protocols and resolving conflicts.

Unfortunately, instances of verbal abuse, physical assaults and threats against retail employees have become distressingly common, posing significant risks to their safety, wellbeing and morale.”

This is of course very concerning and I am pleased that the Bill sends a strong message that this is unacceptable.

I was pleased by the variety of feedback on the Bill. One stakeholder submission was on the important issue of self-induced intoxication in offending and the scope of the mental impairment exception in the Bill. I am pleased to address the operation of the Bill’s mental impairment provision.

That is, the presumption does not apply if the offender has impaired mental functioning that is both causally linked to the relevant offence and either:

- ought to be regarded as reducing the offender’s culpability for the offence; or
- is likely to result in imprisonment of the offender being more difficult for the offender, or more of a risk to the health or wellbeing of the offender, than would be the case for an offender who did not have such impaired mental functioning.

These provisions provide discretion to the court as to when these thresholds are met. For example, the simple existence of a mental health condition is not necessarily a mental impairment that ought, in the court’s view, reduce culpability or make imprisonment more difficult for the offender. Self-induced intoxication is also not a mental impairment that ought to be regarded as reducing culpability.

Where these exceptions do apply however, the court’s usual sentencing practices continue to apply. For example, the offender may not receive the presumed minimum sentence but is liable to another appropriate sentence or order in the court’s discretion.

I would like to turn to the frontline workers who are covered by the Bill. Our election commitment was that frontline workers would include nurses, orderlies, paramedics, doctors, correctional and child safety workers, transport, hospitality and retail workers.

I thank those stakeholder groups and members of the public who contributed to the development of the Bill through the community consultation process. Some changes were made to the consultation draft in response to feedback, such as the inclusion of security guards generally, and public officers who are undertaking duties that require them to access private premises or public places. Public officers are already protected by offences under the *Police Offences Act 1935*, in the exercise of their important public duties, so they have been included in the Bill. This includes a range of authorised officers, inspectors and others appointed under various Acts.

We consider that these workers exposed to a greater risk of harm in the course of carrying out their employment duties.

The Bill excludes police officers as the Sentencing Act already provides for mandatory imprisonment for offences causing serious bodily harm to police officers.

Our Government rejects any argument that Parliament should not legislate to set a benchmark for penalties that cause serious bodily harm to people carrying out their jobs as frontline workers. It is the role of the Legislature or Parliament, as Tasmania's law-making body, to make our laws guided by community expectations.

By introducing a presumption of minimum sentences of six months imprisonment in this Bill, our Government provides Tasmania's frontline workers with better protection and demonstrates the seriousness with which we view such crimes against frontline workers.

The community expects our frontline workers to be safe in undertaking their work duties. This Bill sends a strong and clear message that assaults on frontline workers causing serious bodily harm will not be tolerated, and conviction will ordinarily result in imprisonment.

Madam Speaker, I commend the Bill to the House.