

DRAFT SECOND READING SPEECH

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Sentencing Amendment (Phasing Out Of Suspended Sentences) Bill 2017

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Madam Speaker, this Bill represents the next step in delivering on the Government's commitment to progressively phase out suspended sentences of imprisonment and replace them with a range of alternative sentencing options.

In 2014, the Attorney-General asked the Tasmanian Sentencing Advisory Council to examine options for phasing out suspended sentences of imprisonment in Tasmania and introducing alternative sentencing options. In March 2016, the Council publicly released its Final Report: Phasing Out of Suspended Sentences.

The SAC Report proposed a new sentencing model, recommending that the Government's reforms to abolish suspended sentences and introduce new sentencing options be phased in over a five-year period

In 2016, the Government brought in legislation to implement the first phase of amendments to progressively phase out suspended sentences of imprisonment. That legislation extended drug treatment orders to the Supreme Court, allowed sentencing to be deferred, and permitted courts to impose fines without recording convictions.

This Bill introduces two new sentencing orders for courts: home detention orders and community correction orders, while removing probation orders and community service orders as sentencing options.

The Bill also limits the circumstances in which sentences of imprisonment can be suspended, and removes probation orders and community service orders as sentencing options.

The two new sentencing orders introduced by this Bill were recommended by the Sentencing Advisory Council in its Report. The Report also recommended the repeal of probation orders and community service orders.

Future legislative reforms to progressively phase out suspended sentences will extend drug treatment orders to accommodate offenders with a history of alcohol abuse and will completely remove suspended sentences of imprisonment as a sentencing option.

There are several specific aspects of the Bill that I will now address.

Clause 14 of the Bill provides for home detention orders.

Home detention orders will require an offender to be at a specified premises during specified times and to comply with strict conditions. The Bill allows a court to impose a home detention order for up to 18 months.

Home detention orders may be a suitable sentencing option in a broad range of circumstances. These orders allow for the punishment of an offender through restrictions on their liberty, while incorporating conditions to protect the public and aid an offender's rehabilitation.

Offenders will not be eligible for these orders if they pose a significant risk of committing a violent or sexual offence during the intended operational period of the order. Additionally, the Bill provides police officers with powers to arrest an offender who breaches a condition of their order.

Core conditions will attach to every home detention order. One of the core conditions will be that the offender must not commit an offence punishable by imprisonment during the operational period of the order.

Other core conditions include conditions designed to effectively supervise and rehabilitate the offender.

Electronic monitoring will be a core condition of a home detention order. However, for 'suitable reasons', a court can dispense with the requirement for the offender to submit to electronic monitoring. This is because it may not always be necessary for an offender on a home detention order to be electronically monitored. For example, where an offender is highly unlikely to breach a condition of their order, or because of immobility or illness they are unable to leave their premises, a court may decide that electronic monitoring is unnecessary.

In addition to core conditions that apply to every home detention order, courts will be able to impose special conditions on a home detention order. Special conditions can apply for the entire period of the order, or for a shorter period.

Breaches of a condition of a home detention order can result in an offender being arrested and brought before a court.

The Bill contains a requirement to cancel the home detention order and re-sentence the offender if the offender commits an offence punishable by imprisonment, unless there are exceptional circumstances that would justify otherwise.

I now turn to clause 15 of the Bill which inserts Part 5B into the *Sentencing Act 1997*. This new Part inserts specific provisions of the Bill relating to community correction orders.

Community correction orders are likely to be an appropriate sentencing order, either alone or in combination with other orders, for a wide range of offending. These orders are likely to be imposed in a broader range of circumstances than either community service orders or probation orders. Depending on the length of the order and the specific conditions imposed, community correction orders can be a highly punitive sentencing option. However, importantly, these orders will also help offenders address the factors that led to their criminal behaviour in the first place.

Many of the conditions that can currently be imposed with community service orders and probation orders will be available under community correction orders. Those conditions will include a requirement to submit to the supervision of a probation officer and/or perform community service for a specified number of hours.

Additional conditions that were not expressly available with community service orders and probation orders, but may be imposed with a community correction order, will include conditions that an offender not associate with specified people, be present at particular places, or be absent from their premises during specified times.

Clauses 8, 10 and 19 of the Bill limit the circumstances in which a court can order that a sentence of imprisonment is suspended.

Clauses 8 and 19 insert section 23A and Schedule 3 into the *Sentencing Act 1997*. In combination, these new provisions set out specific offences and circumstances in which a court can no longer make an order suspending all or part of a sentence of imprisonment. The offences listed in Schedule 3 cover a range of serious violent, sexual and drug offences.

Clause 10 of the Bill will limit the powers of a court to leave a suspended sentence in place, or substitute a further suspended sentence of imprisonment, following a breach of a suspended sentence.

Despite these amendments, if there are exceptional circumstances, courts will still be able to make an order suspending a sentence of imprisonment.

The Government conducted public and targeted consultation with legal and other stakeholders on a draft version of the Bill. A number of submissions received during the consultation process resulted in amendments to the draft Bill and I thank those who provided comments.

Madam Speaker, this Government is acting on a deep concern from sentencing experts and the community regarding suspended sentences.

This Bill, along with previous and planned sentencing reforms, will increase community confidence in sentencing and provide further and better options for our courts to deal with offending behaviour.

I commend the Bill to the House.