

SECOND READING SPEECH

Justice and Related Legislation (Further Miscellaneous Amendments) Amendment Bill 2010

Mr Speaker, the purpose of this Bill is to make amendments to provisions of Part 10 of the *Justice and Related Legislation (Further Miscellaneous Amendments) Act 2009* which contains amendments to the *Sentencing Act 1997*.

The amendments in the *Justice and Related Legislation (Further Miscellaneous Amendments) Act 2009* to the *Sentencing Act* were designed to strengthen suspended sentence orders and to streamline the enforcement process for breaches of suspended sentences.

The 2009 amendments introduced, amongst many other things, three mandatory conditions to which all suspended sentences would be subject.

Those conditions were that the offender:

- must report to a probation officer within a limited time after conviction;
- must notify a probation officer of a change in the offender's residence or employment; and
- must not leave, or stay outside, the State without the permission of a probation officer.

In addition to those mandatory conditions, a court could impose a range of other probation and community service conditions.

Commencement of those amendments was delayed due to concerns about the possible resource impost that some of the changes might have on Community Corrections and Prisons.

In particular, modelling indicates that under the 2009 amendment to section 24 of the *Sentencing Act* several

hundreds of additional offenders would be required to make an initial visit to Community Corrections and then keep Community Corrections informed about changes in address, employment and travel arrangements.

Currently, Community Corrections does not have a role in supervising offenders on suspended sentences unless they also have probation or CSO conditions attached to their principal sentencing order.

Therefore the mandatory conditions imposed on all suspended sentences would be additional to current conditions.

On further examination, it is accepted that the mandatory conditions in the 2009 amendments would impose significant workload burdens on Community Corrections while doing little in the way of addressing offending behaviour as they had no real ongoing supervisory role.

For this reason I am satisfied that these mandatory conditions could be removed in some cases without impacting on the policy aims of the 2009 amendments.

Mr Speaker, this Bill amends Part 10 of the *Justice and Related Legislation (Further Miscellaneous Amendments) Act 2009* to remove the three mandatory conditions of suspended sentences.

However if an offenders is subject to community service or probation obligations as a part of their suspended sentence order then the mandatory conditions will still apply.

Some of the other changes to the Sentencing Act contained in the 2009 amendment Bill were aimed at ensuring that suspended sentences were taken seriously and dealt with more expeditiously.

The capacity to make verbal applications to the court in respect of breaches of suspended sentences was introduced in the 2009 Bill so that those applications could be made while an

offender was before the court which was dealing with their further offences.

The later offences themselves are breaches of the standard condition of a suspended sentence that the offender not commit further offences.

Verbal applications will be simpler and easier than the current process for bringing a breach application before the Court.

The 1997 Act allows police officers, probation officers and the Director of Public Prosecutions to initiate written applications for the court to deal with breaches of suspended sentences.

The new process provides for oral applications to be made once the offence which amount to a breach has been dealt with. Obviously the DPP can initiate the written applications but he would not be able to make all the oral applications personally and they should be able to be made by the practitioners conducting the prosecution. Similarly legal practitioners also undertake police prosecutions and need also to be able to make oral applications.

To address this issue it is proposed to extend the definition of the persons able to initiate applications and allow breach applications to be made by any legal practitioner who conducts prosecutions on behalf of the DPP or Tasmania Police.

I commend the Bill to the House.