



Legislative Assembly

Young Offenders Amendment Bill

04/06/2002

Hansard

Extract

Second Reading

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [9.46 p.m.]: I move:

That this bill be now read a second time.

The Young Offenders Act 1997 establishes a scheme that provides an alternative process to court proceedings for dealing with juveniles who commit certain offences through the use of warnings, cautions and youth justice conferences. The Act recognises that underlying social factors contribute to juvenile offending, that children require different treatment by the justice system to adults, that children should generally be imprisoned only as a measure of last resort, and that children who commit offences should bear responsibility for their actions but require guidance and assistance because of their state of dependency and immaturity.

Under the Act, a child is entitled to be dealt with by way of a warning, caution or youth justice conference if he or she meets the relevant criteria under the Act. For example, the offence must be one that is covered by the Act, and in the case of cautions and conferences, the young offender must admit the offence and consent to being cautioned or conferenced. Very serious matters such as murder, manslaughter, sexual assault and drug trafficking offences cannot be dealt with under the Act and must be prosecuted before a court. Where a juvenile commits a serious offence or repeatedly offends, they should be dealt with the appropriate degree of severity under the law.

A number of studies have provided a strong endorsement of the approach the Government has taken under the Young Offenders Act. As honourable members are aware, the Bureau of Crime Statistics and Research [BOCSAR] recently released a report entitled "Reducing Juvenile Crime: Conferencing Versus Court". The report shows that conferencing can be considerably more effective than the court process in reducing reoffending and in increasing the crime-free period for those juveniles who do reoffend. The report found that the risk of reoffending was almost 28 per cent lower for juveniles who were conferenced than for those who went to court.

Another report released by BOCSAR in 2000 found that young offenders and victims who participated in the conferencing process experienced high levels of satisfaction. More than 80 per cent of victims surveyed as part of the study said they were satisfied with the outcome of the conference and with the way their case was handled by the justice system. The report also found that young offenders who attended conferences accepted responsibility for their offence, felt that the offence they had committed was wrong, understood what it felt like for those affected by their actions, and understood the harm they had caused to the victim. These findings stand as irrefutable evidence of the success of the Young Offenders Act.

However, the Government recognises there are things that can be done to improve the effectiveness of the Act and this is why we are introducing the Young Offenders Amendment Bill. The bill contains a number of important reforms to improve and enhance the current scheme and I will deal with each of them in turn. First, the bill limits to three the number of times a young offender can be cautioned under the Act. If a young offender has already received three cautions, a specialist youth officer will determine, in consultation with the investigating officer, whether the offender should be referred to a youth justice conference or whether the matter should proceed to court.

While young offenders should be given sufficient opportunity to mend their ways, it is recognised that three cautions are sufficient and a more intensive form of intervention may be needed. Given the proven success of conferencing in reducing reoffending, there are cases where conferencing a young offender will produce a better outcome than issuing further cautions. In other cases, prosecuting the young offender before the court rather than further cautions or conferencing will be the most appropriate way to deal with a matter. I am aware that there is a perception among some members of the public that juveniles who repeatedly offend are being treated too leniently under the Act. While the Government does not believe there is strong evidence to support this perception, limiting the number of cautions a young offender can receive should address some community concerns in this regard.

The second reform contained in the bill is a requirement for specialist youth officers, conference administrators and the Director of Public Prosecutions to consult with the investigating officer when deciding whether a young offender should be conferenced. Investigating police officers have first-hand knowledge of the circumstances of the case and it is appropriate that they be consulted. The reform recognises the realities of policing by providing that investigating officers must be consulted unless it is impracticable to do so. Matters should not be unduly delayed because investigating officers are on leave, have transferred or resigned, or are otherwise not available or easily contactable.

The third reform contained in the bill provides that if a conference convenor considers it appropriate, he or

she may invite a representative of the young offender's school to attend a youth justice conference. This reform implements a commitment made by the Government arising out of the community, parents and police forum, which was convened by the Minister for Education and Training and the Minister for Police in April. The reform recognises that in certain cases, members of a young offender's school community can make a positive contribution to the conferencing process and the outcome of a conference.

The fourth reform contained in the bill is a requirement for consideration to be given to a young offender's participation in an appropriate program when an outcome plan is being developed at a youth justice conference. The Young Offenders Act presently provides that an outcome plan developed at a conference may include matters such as the offender making an apology to the victim, the offender making reparation to the victim or the community, the offender participating in an appropriate program, and actions aimed at re-integrating the offender into the community. There are many programs offered by government agencies, community organisations and educational institutions that would benefit young offenders. These programs include counselling programs, drug and alcohol rehabilitation programs, educational and other programs aimed at improving a young offender's prospects, and programs offered through organisations such as a police and community youth clubs.

The Government wants to ensure that young offenders who are conferenced are able to access programs that will help them overcome their offending behaviour. The final reform contained in the bill gives each victim who personally attends a youth justice conference a right to veto any outcome plan proposed at the conference. This Government has a strong record of introducing reforms to recognise and enhance the rights of victims in the criminal justice system. As a result of the reforms introduced by the Government, victims are no longer invisible in the criminal justice system. The youth justice conferencing process gives victims a voice, victims are given the opportunity to explain how the crime has impacted on them and they also have a say in how the young offender should make amends for the harm they have caused.

It is important for victims to be satisfied with the outcome plan proposed at a conference, and for victims to have a right to veto a plan if they consider aspects of it to be unsatisfactory. It is equally important for the young offender to agree to the terms of an outcome plan. Securing the young offender's agreement will mean that the offender is more committed to complying with the plan. The reforms I have outlined are important measures that will increase the effectiveness of the Young Offenders Act and build on the positive results the Act has achieved so far. I anticipate that the Government will propose further amendments to enhance the Act following the completion of a review of the Act by my department. I commend the bill to the House.