



# Legislative Assembly

## Drug Court Amendment Bill Hansard

### Extract

20/10/1999

#### Second Reading

**Mr WHELAN** (Strathfield - Minister for Police) [9.17 p.m.]:

I move:

That this bill be now read a second time.

The Government is pleased to introduce the Drug Court Amendment Bill. The Government established the first Drug Court in Australia earlier this year. The Drug Court seeks to intensively supervise and manage offenders out of crime. It is an exciting new crime prevention initiative which targets drug dependent offenders who, honourable members will appreciate, are responsible for many crimes in New South Wales. The Drug Court program is a bold attempt to break that cycle. The bill represents the Government's ongoing commitment to this innovative program. It is brought before the House as a result of the experiences of the Drug Court in its first six months of operation.

Honourable members will be aware that the legislation established a new court with unique jurisdiction. Drug Court programs involve intensive judicial supervision and case management of offenders, and such programs depend on intensive expanded treatment, rehabilitation programs and options. The Drug Court has identified a number of areas that require amendment to finetune the mechanisms for dealing with drug offenders. The main purpose of the bill is to make miscellaneous amendments to the Drug Court Act. With one exception, these amendments are essentially of a machinery nature. They will not affect the philosophy or approach of the Drug Court programs.

I turn first to the substantive amendment. New Section 8A is an important amendment. The Drug Court has requested the power to make an order for the court to hold in custody for seven days an offender who has technically breached his treatment plan or where treatment breaks down through no fault of his own. This will allow detoxification and/or reassessment for the purpose of a possible variation of the drug offender's program. It will only be possible to exercise the power where the offender consents and there is no suitable treatment facility available in the community. Section 5 will be amended to change the definition of "eligible person" to exclude situations where imprisonment is simply a possibility or where imprisonment would be considered by way of periodic or home detention.

There is a concern that the current threshold does not carefully delineate the class of persons the

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Drug Court is trying to capture. The Drug Court is a tough option which works best when the threat of full-time imprisonment provides an obvious and powerful incentive for an offender to remain involved in the program. The amendments will also make clear that the Drug Court is empowered to decline to accept a referral. The Drug Court should have the power not to accept a referral when there are not sufficient facilities for placing people in, say, overnight beds for detoxification, or when a person does not live within the geographical bounds of the pilot program. New provisions will also allow the Drug Court to sentence a person against whom a finding of guilt has already been made.

This amendment will increase the flexibility of the Drug Court to sentence a person against whom such a finding has already been made, for example, when a person is convicted in absentia or when a person is appealing to the District Court against a sentence imposed by the Local Court. An amendment to section 7 will allow the Drug Court to delay for 14 days the conditions to be imposed on a person and the order suspending his or her sentence. The Drug Court considers that this amendment is necessary to allow for the person to take time to reflect on whether he or she wants to

be involved in the Drug Court program and to permit further stabilisation before his or her release into the community or to a residential rehabilitation establishment.

The Drug Court may convict and sentence an offender for a range of other offences, apart from those in respect of which he or she has been referred. An amendment will make clear that these matters can also be suspended to form part of the suspended sentence. This will allow for more efficient disposition of matters and give greater substance to the carrot-and-stick philosophy of the Drug Court as offenders will have a suspended sentence and thus a greater incentive to stay with the program.

An amendment to section 8 will allow all matters to be kept together when a person, who does not consent to being dealt with by the Drug Court or is not accepted, has referrals from more than one court. This assessment will provide that the Drug Court is to refer the person back to the referring court or such other Local Court or District Court as the Drug Court considers appropriate. This amendment will facilitate the more expeditious handling of matters against the defendant. An amendment to section 14 will enable the registrar to issue arrest warrants.

This amendment will allow the registrar or his or her delegate to issue a warrant for the arrest of a participant if the registrar suspects that he or she has failed to comply with the program. Amendments to the Periodic Detention of Prisoners Act 1981 will allow the Drug Court to suspend periodic detention orders in place when the Drug Court imposes a suspended sentence on an offender. Some offenders are prevented from entering the Drug Court program by virtue of certain provisions in the Periodic Detention of Prisoners Act 1981.

Specifically, section 24 operates in such a way for offenders who are subject to periodic detention orders when that offender comes before the Drug Court. For prisoners sentenced to more than one month, periodic detention orders must be cancelled and the original sentence served by way of full-time gaol. The Drug Court does not presently have the power to suspend the sentence of periodic detention imposed by the original court. I believe that these amendments will greatly aid the Drug Court to more effectively deal with the matters at hand. I commend the bill to the House.