



NSW Legislative Council Hansard

Juvenile Offenders Legislation Amendment Bill

Extract from NSW Legislative Council Hansard and Papers Thursday 9 December 2004.

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [3.35 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Government is pleased to introduce the Juvenile Offenders Legislation Amendment Bill 2004.

This Bill amends the Children (Criminal Proceedings) Act 1987, the Children (Detention Centres) Act 1987 and the Crimes (Administration of Sentences) Act 1999 to allow better management of young offenders, and where appropriate, their transfer to a juvenile correctional centre.

The Bill reflects recognition by the Government that some older detainees are better suited to the environment of the Department of Corrective Services, either due to the seriousness of their offence or because of their behaviour.

The Bill also reflects the significant changes in the profile of juvenile offenders over the past 10 years. That profile is of more sophisticated, more hardened and violent individuals, with criminal records including gang rape, aggravated assault and murder.

The proposals in the Bill reflect the Government's ongoing commitment to the rehabilitation of young offenders by ensuring that well behaved offenders, who have committed less serious offences, are not tainted by association with older, more sophisticated offenders.

Further, it is the Government's view that those older, more serious offenders are best managed in the secure disciplined environment of Corrective Services. That is the reason for the recent decision to transfer the administration of the Kariong Juvenile Justice Centre to the Department of Corrective Services.

The detainees located at Kariong are the worst behaved in the juvenile justice system. They are there either due to the severity of their offending, or due to a history of disruption or violence in the juvenile justice system. A significant number is aged over the age of eighteen.

They belong in the adult system—however, because they offended as juveniles the Government has taken steps to introduce particular arrangements for them.

The proposals outlined in the Bill will facilitate the smooth functioning of the new Kariong—which will be known as a "Juvenile Correctional Centre".

Kariong Juvenile Correctional Centre will be a specialist facility for offenders in the sixteen to twenty one years category. The Centre will accept transfers from the Department of Juvenile Justice of those older detainees who no longer fit into the juvenile system.

These individuals have either—

previously been in the adult prison system

been charged with a serious children's indictable offence

or are detainees whose behaviour is such that the Director General of the Department of Juvenile Justice is satisfied that it warrants their transfer to the adult prison system.

The Department of Corrective Services already has specialist expertise in dealing with offenders in the eighteen to twenty one year age group—it operates the John Moroney Correctional Centre specifically for such offenders.

The Kariong centre will be staffed by 38 uniformed Department of Corrective Services officers who have a wealth of experience in the custodial management of difficult offenders, violent and dangerous young offenders.

The Department of Corrective Services will institute a strict discipline system of privileges and sanctions. Officers will have the disciplinary and use of force powers of their counterparts in the adult system.

If an inmate threatens staff or other inmates with violence, or poses a threat to the security of the correctional centre, they may be placed in segregation. A new segregation unit will be built for this purpose.

A strict system of a hierarchy of sanctions and privileges has been instituted that requires inmates to behave appropriately, comply with directions and undertake necessary education and programs to earn privileges. Should inmates act up they will lose the privileges they have earned.

Those offenders whose behaviour is modified to the point where they are no longer required to be held in a juvenile correctional centre may be transferred back to the Department of Juvenile Justice. An interdepartmental committee will be established to facilitate such transfers.

Honourable members will recall that the previous Minister for Juvenile Justice, the Hon. Carmel Tebbutt, brought forward legislation in 2001 that amended s19 of the Children (Criminal Proceedings) Act 1987.

The amendment at that time, set out in the Children (Criminal Proceedings) Amendment Bill, provided that Courts had to find that "special circumstances" existed if a court sought to order an offender to serve their time in a detention centre beyond the age of 18. These are young people convicted of a serious children's indictable offence—offences such as homicide, aggravated sexual assault, violent robbery and serious drug offences.

That bill also provided that any person sentenced under section 19 was not eligible to serve a term of imprisonment in a detention centre beyond their twenty-first birthday, unless their date of release was within six months of them attaining that age.

That Act became law on 25 January 2002.

The amendments outlined in the current bill further amend s 19. In particular, the section will be amended to provide for new sentencing arrangements that will provide that young people subject to s 19 orders will be required to serve their order as a "juvenile offender", in contrast to the current situation of serving a s 19 order in "a detention centre".

This allows for such a sentence to be served in either a juvenile justice centre, or a juvenile correctional centre. To reflect the primary role of the Department of Juvenile Justice in managing young offenders, all young offenders sentenced by Courts to orders pursuant to section 19 orders will be sent in the first instance to the Department of Juvenile Justice.

A revised section 28 Children (Detention Centres) Act 1987 will allow the Director General of Department of Juvenile Justice, in consultation with the Commissioner for the Department of Corrective Service to administratively transfer appropriate young offenders to a "juvenile correctional centre".

Various safeguards are built into the Bill—

The Department of Corrective Services will implement the same standards as those applied to other juvenile custodial facilities, the Australasian Standards for Juvenile Custodial Facilities, with only slight variations.

Juvenile inmates under the age of eighteen cannot be moved from a juvenile correctional centre to the mainstream prison system without the recommendation of the Serious Offenders Review Council. When hearing such an application, the Review Council is required to co-opt a person who is either a current or former Children's Magistrate, or who is a legal practitioner of at least 7 years standing with experience as an advocate on behalf of children.

Such inmates are permitted to be present at any hearing conducted, and to be legally represented.

Placement is one of the most complex issues in corrections—and it should and will be decided by experienced professionals on a case by case basis. Placing 18 year old offenders with older adult inmates may not always be the best option for their safety and security, education and rehabilitation.

However, I can assure all Honourable members, if an inmate continues to be violent, dangerous and a threat to the security of Kariong then they will find themselves in an adult prison.

In relation to those over the age of eighteen years (which is the usual age that offenders serving sentences of imprisonment enter the adult system) the Commissioner for Corrective Services can move such juvenile inmates to the general prison population in the following circumstances; if the detainee's behaviour warrants it; if the detainee wants to be transferred; if it is in the interests of the inmate to be transferred, or if it is reasonable in all the circumstances.

A further amendment contained in the Bill is to be made to s 28BA of the Children (Detention Centres) Act 1987 to correct an anomaly between detainees on remand and those serving sentences.

Currently, adult aged detainees (those over the age of eighteen) who are serving a sentence as a juvenile and commit an offence in a juvenile justice centre and who are sent to the adult prison system to serve their sentence, are required to serve the balance of any juvenile order in the adult system.

However, those on remand in the juvenile system are not dealt with in the same way. The Bill provides that all detainees—whether on remand, or serving a sentence, will have to remain in the adult system to complete their custody.

The bill will further protect the integrity of our system of juvenile detention centres. This is a system focused on dealing with

younger offenders, who are more amenable to the rehabilitative programs it has to offer.

I commend the bill to the House.