



Legislative Council Hansard (Extract)

Correctional Services Legislation Amendment Bill

Extract from NSW Legislative Council Hansard and Papers Wednesday 7 June 2006.

Second Reading

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [3.14 p.m.]: 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.

This Bill introduces amendments to the *Crimes (Administration of Sentences) Act 1999* that were recently foreshadowed by the Premier.

The amendments will prohibit inmates who are serving sentences for serious indictable offences, or who are awaiting sentencing for such offences, from providing their reproductive material for use, or storage, for reproductive purposes at hospitals or other places; and will require inmates who have had their reproductive material stored for reproductive purposes to pay charges for the storage during any period in which they are imprisoned.

The Bill amends the *Crimes (Administration of Sentences) Act 1999* by introducing new section 72B within Division 8 of Part 1 of the Act. Division 8 of Part 1 deals with miscellaneous issues including health related issues affecting inmates.

The Bill also amends the *Children (Detention Centres) Act 1987* to provide that new section 72B of the *Crimes (Administration of Sentences) Act 1999* applies to juveniles subject to control in detention centres.

The Bill therefore applies to males and females, adults and juveniles, who are imprisoned for committing a serious indictable offence.

Application of the amendments to both adult and juvenile offenders is necessary for consistency of operation, particularly in the case of offenders who progress from juvenile detention to adult custody on reaching the statutory age.

Application to both male and female inmates is intended to ensure that the legislation cannot be challenged on the basis of breaching the Commonwealth *Sex Discrimination Act 1984*.

Restricting the prohibition to inmates in full-time custody for committing a strictly indictable offence will ensure that only those inmates convicted of very serious offences will be subject to the ban – inmates whose crimes the community abhors and to whom community concerns apply.

I now turn to the detail of the Bill.

Schedule 1 [1] inserts proposed section 72B into the *Crimes (Administration of Sentences) Act 1999*.

Section 72B (1) defines expressions used in the proposed section.

"Serious indictable offender" is defined to cover inmates serving a sentence of imprisonment for a serious indictable offence, or awaiting sentencing for such an offence.

A "serious indictable offence" is an offence that may only be dealt with on indictment and includes offences committed elsewhere than in New South Wales which, if committed in New South Wales, would be serious indictable offences; and various terrorism offences.

Examples of offences covered by the definition are offences such as murder, sexual assault and kidnapping.

Section 72B (2) prevents the grant of leave of absence to a serious indictable offender for the purpose of the offender providing reproductive material for use, or storage, for reproductive purposes at any hospital or other place.

Section 72B (3) makes it an offence for a serious indictable offender to provide reproductive material for use, or storage, for reproductive purposes at any hospital or other place.

This section imposes a maximum penalty of 100 penalty units or imprisonment for 6 months, or both. 100 penalty units is the maximum penalty applicable under comparable legislation, the *Human Tissue Act 1983*, for obtaining or using a sperm donor's semen for an improper purpose. A custodial sentence is desirable as an alternative or additional penalty for an inmate who may not be deterred by the prospect of facing only a financial penalty.

Section 72B (4) requires prisoners other than serious indictable offenders, who have their reproductive material stored for reproductive purposes at hospitals or other places, to pay a charge for storage of the material.

Section 72B (5) requires serious indictable offenders whose reproductive material was stored for reproductive purposes before the commencement of the proposed section to pay a charge for storage of the material.

Schedule 2 amends section 29 of the *Children (Detention Centres) Act 1987* to apply the new section to be inserted by Schedule 1 to persons subject to control within the meaning of that Act.

I commend the Bill to the House.